



**OPINION No 02/2008**

**OF THE EUROPEAN AVIATION SAFETY AGENCY**

**of 15 May 2008**

**for a Commission Regulation amending Commission Regulation (EC) No 1702/2003 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**

**AND**

**for a Commission Regulation amending Commission Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks**

***"Revised Part-M requirements for aircraft not used in Commercial Air Transport and Pilot-owner maintenance"***

## I. General

1. The purpose of this opinion is to suggest the Commission to amend Commission Regulations (EC) No 1702/2003<sup>1</sup> (Part-21) and No 2042/2003<sup>2</sup>. The reasons for this rulemaking activity are described below.
2. The Opinion has been adopted, following the procedure specified by the European Aviation Safety Agency's (the Agency) Management Board<sup>3</sup>, in accordance with the provisions of Article 19 of Regulation (EC) No 216/2008<sup>4</sup> (the Basic Regulation).

## II. Consultation

3. In order to perform an evaluation of the implications of Annex I to Regulation (EC) Regulation No 2042/2003 (Part-M), as required by Article 7(6) of Regulation (EC) No 2042/2003, the Agency organised in 2004 two meetings with commercial and non-commercial aviation industry representatives during which it was recognised that the impact of Part-M on commercial air transport activities was minimal and that the impact assessment had to concentrate on other activities.
4. To perform the impact assessment mentioned above, the Agency signed on 21 September 2004 a contract with the consultant Air EuroSafe. The result was the regulatory impact assessment report 2004/S 122-102598 issued by Air EuroSafe on 21 February 2005, which was published as Appendix II to the NPA07/2005 described below.
5. This report was used by the Agency to propose an amendment to Part-M for aircraft not involved in commercial air transport (rulemaking task M.007). This proposal was published as a Notice of Proposed Amendment (NPA) 07/2005, which was issued on 23 June 2005 and was open for public consultation during a period which was extended to 5 months at the request of a majority of stakeholders. By the closing date of 24 November 2005, the Agency had received 441 comments from national authorities, professional organisations and private persons.
6. Comments received, as well as the conclusions of a workshop organised to explain and discuss the proposal, led the Agency to consider that the envisaged changes had no chance to be accepted if the Agency did not initiate in parallel another rulemaking task (M.017) to develop the related explanatory material (AMCs and GMs), propose further amendments to the rule and present both proposals at the same time so as to give a full overview of the envisaged

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<sup>1</sup> Commission Regulation (EC) No 1702/2003 of 24 September 2003 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 243, 27.9.2003, p. 6*). Regulation as last amended by Commission Regulation (EC) No 287/2008 of 28 March 2008 (*OJ L 87, 29.03.2008, p. 3*).

<sup>2</sup> Commission Regulation (EC) No 2042/2003 of 20 November 2003 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 315, 28.11.2003, p. 1*). Regulation as last amended by Commission Regulation (EC) No 376/2007 of 30 March 2007 (*OJ L 94, 4.4.2007, p. 18*).

<sup>3</sup> Decision of the Management Board concerning the procedure to be applied by the Agency for the issuing of Opinions, Certifications Specifications and Guidance Material. EASA MB 08-2007 of 11.06.2007 ("Rulemaking Procedure").

<sup>4</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, 19.03.2008, p.1*).

changes. This was extensively discussed in late 2005 with representatives of the General Aviation community, who agreed to support that process. Consequently, the rulemaking activity was extended to:

- Evaluate and provide replies to the 441 comments received in response to NPA07/2005, preparing the corresponding Comment Response Document (CRD).
- Discuss and propose further changes to Part-M.
- Produce the related AMC/GM material.

Additionally, the very specific issues related to "Pilot-owner maintenance" were transferred to a separate task (M.005).

7. The work was performed by two rulemaking groups (M.005 and M.017) composed of representatives of the Agency, NAAs, manufacturing and maintenance industry, as well as owners/operators. Based on their input the Agency issued the following documents for public consultation:
  - CRD07/2005 on 26 April 2007 (in response to the comments to NPA07/2005).
  - NPA2007-08 on 28 June 2007 (proposing additional changes to Part-M as well as the corresponding AMC/GM).
8. To support and explain the content of these documents, the Agency organised one workshop in Cologne on 4 July 2007, six workshops in Switzerland, United Kingdom, France, Denmark, Germany and Czech Republic between 28 August 2007 and 13 September 2007 and one workshop in Austria on 13 November 2007.
9. To facilitate the process of approval by the Commission and to allow easier understanding by all involved parties, the Agency decided that its final Opinion should cover the three tasks (M.007, M.005 and M.017) and undertook preparing a common CRD, as well as a single amended text of Part-M.
10. The Agency received 10 reactions to CRD07/2005 and 661 comments to NPA2007-08, whose main messages can be summarised as follows:
  - Doubts were expressed about the need to replace existing national systems by European regulations.
  - Issue a dedicated separate regulation, the "Light" Part M, to address the continuing airworthiness of General Aviation.
  - Integrate outputs of the Rulemaking task MDM.032 on better regulating General Aviation.
  - Combine M.A.Subpart F and M.A.Subpart G (Continuing Airworthiness Management Organisation (CAMO)) approvals.
  - Accept the FAA AC43-13 for repairs and modifications.
  - Accept directly (without dual release) US (FAA 8130-3) and Canadian (TCCA 24-0078) release documents for maintained components.
  - Extend the scope of Pilot-owner maintenance and eliminate self-assessment.
  - Alleviate burdensome oversight requirements (Quality Systems / Organisational Reviews).
  - Allow for initial approval of a CAMO in the absence of an approved maintenance programme.

- Clarify conditions for component maintenance and complex tasks.
  - Allow the transfer of unserviceable components to the owner.
  - Create a new, simpler licence for aircraft maintenance personnel.
  - Issue alleviated requirements for airworthiness review staff and simplified procedures for performance of airworthiness reviews and issuance of airworthiness review certificates (ARC).
  - Provide more time to implement the envisaged changes.
11. In order to review these comments, the Agency created 2 review groups (M.005 and M.017), each one composed of the members of the respective working group plus a person from Standardisation & Approvals (Agency) and a person from industry who had expressed a dissenting opinion to the NPA2007-08. As a result of this review, the Agency issued on 6 March 2008 the CRD2007-08, which contained the responses to each comment; the proposed text for the rule and for the AMC/GM; explanatory material indicating how the most significant issues mentioned above had been addressed; and a guide for owners of private aircraft of 2730 Kg MTOM and below (including balloons of any size) summarising the most simplified procedures allowed by the envisaged rules.
12. As a result of the external consultation of the CRD2007-08, which finished on 6 May 2008, the Agency received reactions from:
- 6 competent authorities: AustroControl-Austria, CAA-Netherlands, CAA-United Kingdom, DGAC-France, ENAC-Italy, FOCA-Switzerland.
  - 12 organisations and associations: Broadland Balloon Flights, British Balloon and Airship Club, GEFA-FLUG, Royal Danish Aeroclub, Europe Air Sports, Deutscher Aero Club, European Gliding Union, European Sailplane Manufacturers, Alitalia Servizi, French Gliding Union (FFVV), Norwegian Air Sports Federation, European Microlight Federation.
  - 27 individual persons.

These reactions are analysed in detail in the Attachment. None of them really affect the substance of the conclusions that the Agency presented in the CRD. However, many of them proposed interesting improvements of the text that the Agency has introduced in the present opinion. Some others cannot be taken into consideration in the context of the present rulemaking activity as they would require a proper open consultation; they will therefore be taken into consideration for future rulemaking.

### **III. Content of the Opinion of the Agency**

13. The present opinion takes into account as much as possible the suggestions made by the many stakeholders who participated in the consultation and reacted to the CRD. It proposes a European approach to the continued airworthiness of aircraft which are not involved in commercial air transport, building on existing national systems, when they provide for equivalent means to provide for the appropriate level of safety, in order to allow some of them to be continued with minimum disruption; by doing so it also permits for those systems that have proven their efficiency to be available to all European citizens.

14. The need to produce in parallel requirements and their means of compliance, as well as the need to properly involve and consult all stakeholders, explain why this rulemaking tasks, which should have been completed in 2005, could only be finalised now, few months before the end of the temporary report of entry into force of the provisions of Part M applicable to the continued airworthiness of aircraft not involved in commercial air transport. This of course legitimately raised concerns with affected stakeholders. The present opinion takes therefore fully into account these concerns and proposes transitional measures to accommodate them.
15. Taking into account the hierarchy of EASA rules, the present opinion only addresses the changes that the Agency suggests to the applicable Commission regulations (Part M, Part 145 and Part 21); the related means of compliance (AMC) and guidance material (GM), which were detailed in the CRD, can and will only be issued by the Agency when the above mentioned regulations have been adopted by the Commission. It must however be clear that the measures presented in this opinion have to be read in conjunction with the said AMC and GM as part of an agreed package.

**a) Need for common rules**

16. Although many persons and organisations questioned the need for change and supported the continuation of each current national system, it is a fact that the European Parliament and the Council have already decided that the continued airworthiness of all aircraft registered in Member States shall comply with common rules so that citizens benefit of two of the main objectives ascribed to the EASA system:

a) Safety

One of the main objectives is to harmonise the level of safety. Although there is no evidence pointing to the existence of a safety concern with the current national systems, this does not mean that safety cannot be improved. In fact, the level of safety of the national systems varies from country to country, and establishing a common set of rules with the appropriate standards should improve the overall level of safety in Europe.

b) Common market

Another objective of the Community when establishing the EASA system was to facilitate the functioning of the internal market. The free movement of goods, services and persons requires that common rules are adopted to ensure that used aircraft can be sold everywhere in the Common Market; maintenance and continuing airworthiness management organisations can provide their services in all Member States; and EU citizens can freely fly their aircraft in any Member State.

17. As a consequence it is not an option to envisage the removal of Part-M for General Aviation. Moreover doing nothing is not an option either as this would mean implementing Part-M as it is now from 28 September 2008 onwards. The only way to proceed in the current legislative environment is therefore to amend Part M to better meet the needs of the different categories and sizes of aircraft as well as to the different types of operation. When doing so the Agency has addressed in particular the main issues identified during the consultation.

**b) The format of the continuing airworthiness requirements for General Aviation**

18. A number of individuals and organisations considered that the current requirements are too complicated and difficult to read; they called therefore for a separate Part-M dedicated to General Aviation (the so-called "Light Part-M"). The Agency does not disagree that legal texts

are not always easy to use by regulated persons, even if best efforts have been done to produce them in plain language and to organise them in a way that facilitates their use. This is due to the fact that legal texts are not produced to be directly used as manuals for day-to-day activities; their main aim is to create legal certainty when things go wrong. Moreover such texts create rights for the regulated persons who are entitled to interpret them at the best of their interest. Many of the requirements contained in Part-M are indeed of a general nature and can be adapted by each applicant to the size and type of organisation and operation.

19. In this context also, it has to be taken into account that Part M applies to a large variety of aircraft involved in various types of operations:

- Large aircraft (as defined already in Regulation (EC) No 2042/2003);
- Non-large aircraft above 2730 Kg MTOM;
- Aircraft equal or below 2730 Kg MTOM and balloons;
- ELA1 aircraft (as defined in the present opinion anticipating on NPA2008-07 related to "ELA process"; "Standard Changes and Repairs" and "Certification Specifications for Light Sport Aeroplanes"); and
- CS-VLA, CS-22 and LSA aircraft (LSA as defined in the present opinion anticipating on NPA2008-07).

If the logic of a separate Part-M dedicated to General Aviation were to be followed, it is not one but several "light Part M" which would have to be produced to address each aircraft category and possibly also each type of operation. Taking into account the EU Court jurisprudence this would create a lot of confusion as each text would have to be interpreted independently of the others so that identical text could lead to different requirements.

20. As a consequence, legal requirements must be used in conjunction with appropriate interpretative material produced by the regulators and the regulated persons themselves. In the later case, such interpretative material can be issued by trade associations and federations for the benefit of their members.

21. Notwithstanding the above comments, the Agency understands the need for General Aviation stakeholders to be provided with support in the understanding and implementation of the requirements they have to comply with. The Agency will therefore make all possible efforts to issue users guides as the one it attached to its CRD for owners of balloons and of private aircraft of 2730 Kg MTOM and below. It also will communicate the content and the intention of the rule to competent authorities, regulated persons and organisations through explanatory notes, letters, workshops, etc.

***c) Integrate outputs of the Rulemaking task MDM.032 on better regulating General Aviation.***

22. A number of persons and organisations suggested take into account the simplified procedures for light aircraft envisaged under the rulemaking task MDM.032. While it has to be noted that this task is mainly addressing requirements for air operations, pilot licensing and initial airworthiness, it is right that there is a need to ensure consistency between continued airworthiness requirements and those related to the certification of changes and repairs, as well as those applicable to the certification of replacement parts and appliances. Work done in the context of that task has sufficiently progressed to allow the publication of an NPA2008-07

creating a new process called "European Light Aircraft" with 2 subcategories (ELA1 and ELA2) and proposing a new Certification Specification (CS) for LSA (Light Sport Aeroplanes). Anticipating this development, the present opinion contains further alleviations specific for these aircraft:

- a) The possibility to install components which do not have a release to service, if allowed by Part-21 (see M.A.501(a)). This anticipates on the possibility for the owner to fabricate certain parts without a release to service that has been proposed by MDM.032.
- b) The possibility that independent certifying staff perform component maintenance tasks and complex maintenance tasks on ELA1 aircraft (see M.A.502(d) and M.A.801(c)).
- c) The possibility that independent certifying staff issue recommendations for the issuance of an ARC for ELA1 aircraft (see M.A.901(g)).

**d) Combine M.A. Subpart F + M.A. Subpart G (Continuing Airworthiness Management Organisation (CAMO)) approvals.**

23. It had been suggested to combine the M.A.Subpart F + M.A.Subpart G approvals, in order to avoid duplication of expositions, investigations, audits, and fees. However the Agency is not convinced that the proposal would produce the expected benefits. First it is clear that separate certificates must be kept in order to cover those organisations that wish to have only one approval. Even if there was a possibility to combine these certificates, this would not guarantee a single certification process because the competent authority may always decide to perform audits in separate events and to have different departments to cover maintenance and continuing airworthiness issues. As a consequence there would be no guarantee of lower fees because the authority may adapt the fees to the level of investigation required, which is higher for a combined approval than for one separate one. In any case, the Agency has no control over the fees charged by competent authorities.

24. Instead of creating a combined approval, the Agency has opted therefore for the following:

- a) AMC M.A.602 and AMC M.A.702 will clarify that an organisation applying for both approvals may use a single EASA Form 2 for the application.
- b) AMC M.B.604(b) and AMC M.B.704(b) will recommend that the competent authority arranges the audits in order to cover both approvals to avoid duplicated visits of a particular area.
- c) AMC M.A.704 will include an example of combined exposition for an organisation that holds both approvals (M.A. Subpart F and CAMO).

It is expected that this provides the basis for adapting the fees to the level of investigation required, regardless of whether there is a final combined certificate or two separate certificates.

**e) Accept the FAA AC43-13 for repairs and modifications**

25. A number of persons and organisations requested to accept the use of the FAA AC43-13 for repairs and modifications. Although the Agency agrees on the need to find simpler ways to address changes and repairs of light aircraft, the Agency does not consider possible to use directly the FAA rule, which was developed in a different regulatory environment where the classification of repairs as "major" or "minor", as well as the sharing of the regulatory roles, are different.

As a consequence, some suggested transposing the process for approval of repairs established by FAA AC43-13 into the EASA system. This is being considered presently in the scope of rulemaking task MDM.032 as it is not a maintenance issue but one related to continuing airworthiness addressed under Part-21 Subpart D and Subpart M, which contain the requirements that must be met by changes and repairs. Appropriate certification requirements are therefore being considered by the Agency, as described in NPA2008-07, which would provide for the same type of flexibilities than the ones included in the AC43-13, but in the EASA context.

***f) Accept directly US and Canadian release documents for maintained components***

26. Many organisations and aircraft owners currently hold in stock components that were released after maintenance with the correspondent FAA 8130-3 or TCCA 24-0078 forms; however these forms were not issued by organisations approved in accordance with Community law and, as a consequence, they cannot be installed after 28 September 2008. Furthermore maintenance organisations in USA and Canada performing maintenance on components installed in General Aviation aircraft do not seem interested in holding a European approval. This could lead to a shortage of approved maintenance organisations to cover the needs of the European General Aviation community.
27. The Agency will therefore clarify in AMC M.A.613(a) that an M.A.Subpart F or Part-145 maintenance organisation (not rated for components) may issue a Form 1 after appropriate checks and verifications, for components that have been released after maintenance with an 8130-3 (FAA) or TCCA 24-0078 (Canada) without dual release. This alleviated procedure is based on the technical capability of these organisations and the confidence we can have in the oversight performed by the American and Canadian competent authorities, based on the assessments made for concluding the pending bilateral aviation safety agreements with these countries.

***g) Extend the scope of Pilot-owner maintenance and eliminate self assessment***

28. As regards Pilot-owner maintenance, the Agency agrees that experience in some Member states and in other regulatory systems has demonstrated that more can be made by the aircraft owner as s/he is the most affected by the work done to ensure the safety of the aircraft s/he uses. It has therefore decided to completely review the list of Pilot-owner maintenance tasks, which will be identified per category of aircraft and be transferred to the AMC material (new AMC to Appendix VIII of Part M). Such lists clearly exclude safety critical items. Conversely, for more certainty, Appendix VIII clarifies categories of tasks that do not qualify for Pilot-owner maintenance.
29. To provide for the necessary level of confidence in the competence of the Pilot-owner to undertake such maintenance tasks, Appendix VIII contains the basic principles to be complied with by the Pilot-owner as regards:
- o Competence and responsibilities.
  - o Performance of maintenance and records.

These provisions are based on the concept of "pilot self-assessment". The related risks are mitigated by the fact that the tasks performed by a particular Pilot-owner must be listed in the maintenance programme. As a consequence, when the aircraft is managed by a CAMO, this organisation will verify that the maintenance is properly performed; when the aircraft is not managed by a CAMO, a similar quality check shall be done by the competent authority during

the periodic airworthiness reviews. Accordingly the effectiveness of Pilot-owner maintenance will be evaluated and the maintenance programme will be amended to adapt, if necessary, the Pilot-owner tasks to her/his actual capabilities.

***h) Alleviate burdensome oversight requirements (quality systems / organisational reviews)***

30. CAMO approval requirements, in particular the need for internal / external quality audits or internal organisational reviews, are considered by some as disproportionate since, in their view, CAMOs only deal with bureaucratic functions not involving actual work on the aircraft. As a consequence they suggested that the audits performed by the competent authority should be sufficient. The Agency must first clarify that the continuing airworthiness management of the aircraft is as important for the safety of the aircraft as the actual maintenance performed on it. If continuing airworthiness tasks are not properly executed, the risk clearly exists that not all required maintenance is performed. This must therefore be taken seriously and those in charge may not be given privileges in that field without proper verification that they can exercise them properly.

31. In this context, relying only on the audits performed by the competent authority is not considered acceptable for the following reasons:

- All the privileges granted to a CAMO (the same as the privileges granted to M.A. Subpart F, Part-145 and Part-147 organisations) are based on the fact that there is an internal process that monitors compliance with the regulations. Depending on the size of the organisation this shall be accomplished by organisational reviews or by means of a quality system.
- The quality system is fundamental when the organisation becomes complex, because at that point there are numerous work procedures and there is a need to ensure proper communication between the different departments and functions.
- The organisation is the only one who is continuously aware of the existing problems, difficulties and non-compliances, and the only one that can ensure appropriate corrective action and follow-up.

32. Nevertheless, the Agency recognises that organisational approval requirements shall be proportionate to the size and complexity of the organisation. It will amend accordingly Appendix VIII to AMC M.A.616 and create a new Appendix XIII to AMC M.A.712(f) to adapt their provisions to the lower complexity of small M.A. Subpart F and M.A. Subpart G organisations. In this context the Agency wants also to recall that, contrary to what seems to be understood by many stakeholders, the regulation does not oblige airworthiness review staff to be independent, not even for organisations larger than a one-man CAMO.

***i) Allow for initial approval of a CAMO in the absence of an approved maintenance programme***

33. The initial approval of independent CAMOs (not linked to an AOC holder) has been identified as a possible "chicken an egg issue" when they have no contracts with customers and could not therefore get the necessary approval to offer their services. This problem may be caused by the fact that:

- The Form 14 currently contained in Appendix VI to Part-M includes the reference to the maintenance programme and

- There is no guidance or AMC explaining what is acceptable as a reference for a maintenance programme on the Form 14.

As a consequence some competent authorities consider necessary that the Form 14 contains specific maintenance programmes for each particular aircraft under the oversight of the applicant. This particular interpretation does not recognise the possibility to refer to “generic maintenance programmes” covering different aircraft types and models.

34. The Agency wants to first recall that such interpretation is not supported by the rule or the AMCs. Moreover it is not its intention to impose on independent CAMOs that they shall have concluded a contract with a possible customer before they can apply for an approval. The Agency believes indeed that any organisation should be able to get the approval in order to contact a customer which has a contract with another organisation, so that owners/operators are able to choose between different options. As a consequence:

- M.A.709 is amended to include the concept of “Baseline” and “Generic” maintenance programmes, making clear that the intention is to allow the approval of independent CAMOs without the need for any customers. AMC M.A.709 will be adapted to further clarify this concept.
- Appendix VI to Part-M is amended to:
  - Remove the reference to the maintenance programme in Form 14; the related provisions are transferred to the continuing airworthiness management exposition (CAME).
  - Allow the inclusion of aircraft types, series or groups in Form 14. This will be further clarified in AMC M.B.703.
  - Better adapt the Form 14 to the case where a commercial air transport operator is also performing continuing airworthiness management activities for aircraft not involved in commercial air transport.

***j) Clarify conditions for component maintenance and complex tasks***

35. According to the current rule, maintenance of components should be performed by approved maintenance organisations with the correspondent rating for components. The only exception is the case where a component is maintained while installed on the aircraft or when it is temporarily removed from an aircraft if expressly permitted by the aircraft maintenance manual to improve access, in which case such maintenance can be released by independent certifying staff. In addition, complex maintenance tasks (Appendix VII) must be performed by an approved maintenance organisation.

36. These provisions raise many questions and concerns among regulated persons and competent authorities. In particular:

- There is no mention of whether the maintenance shall be performed in accordance with aircraft or component maintenance data. This may lead to think that any component maintenance may be performed by an independent certifying person if the component remains installed on the aircraft (example: hot section inspection of a turbine engine).
- The text does not indicate which type of licence or qualification (aircraft or component) is required for independent certifying staff when performing component maintenance.
- The text does not make clear which type of release to service is issued in each case (Form 1 or aircraft release).

- There is no distinction in relation to the complexity of the aircraft involved.

37. In order to address these issues, M.A.502, M.A.613(a), M.A.802(a)&(b), Part-M Appendix IV "Approval Ratings" and Part-145 Appendix II "Organisation approval class and rating system" are amended to:

- Permit component maintenance by aircraft rated independent certifying staff and aircraft rated (A-rated) maintenance organisations while the component is installed on the aircraft or is temporarily removed from it, as long as the maintenance is performed in accordance with aircraft maintenance data or, if specifically agreed by the authority, in accordance with component maintenance data (for simple component maintenance). This maintenance will not qualify for the issuance of a Form 1 and will be subject to aircraft release requirements.
- Permit component maintenance by engine/APU rated (B-rated) maintenance organisations while the component is installed on the engine/APU or is temporarily removed from it, as long as the maintenance is performed in accordance with engine/APU maintenance data or, if specifically agreed by the authority, in accordance with component maintenance data (for simple component maintenance).
- Permit for ELA1 aircraft, that aircraft rated independent certifying staff perform:
  - Component maintenance in accordance with component maintenance data while the component is installed on the aircraft or is temporarily removed. This is not applicable to overhaul of components.
  - Complex tasks listed in Appendix VII, subject to prior agreement between the owner and the competent authority.
- Permit for CS-VLA, CS-22 and LSA aircraft, that aircraft rated independent certifying staff perform overhaul of engines, subject to a previous agreement between the owner and the competent authority. This is only applicable to engines temporarily removed from the aircraft for overhaul, which are reinstalled afterwards and released to service together with the aircraft. No EASA Form 1 can be issued.

***k) Allow the transfer of unserviceable components to the owner***

38. The current rule requires unserviceable components to be kept under the control of a component maintenance organisation until a decision is made of whether they will be repaired or scrapped. This requirement is not consistent with the flexibility introduced by the present opinion. It is necessary therefore to extend the custody privileges to any approved maintenance organisation (approved for components or for aircraft) and to the aircraft owner. In this later case, the component must be previously identified as unserviceable and the transfer to the owner must be reflected in the corresponding log book. This amendment has been introduced in M.A.504(b).

***l) Create a new, simpler licence for aircraft maintenance personnel***

39. Feedback received by the Agency indicated that the qualification requirements for the B1.2 licence are too strict for the lower spectrum (in terms of complexity) of piston engine aeroplanes. In addition, there is no European licence covering sailplanes and balloons. This need for a European licence that is appropriately adapted to the General Aviation community of aircraft was also identified through the A-NPA14/2006.

This is being considered presently in the scope of rulemaking task 66.022, with an NPA2008-03 currently under external consultation.

***m) Issue alleviated requirements for airworthiness review staff and simplified procedures for performance of airworthiness reviews and issuance of airworthiness review certificates (ARC).***

40. The situation of aircraft registered in an EU Member State and operated under the oversight of a third country, where the regulatory safety oversight has not been delegated to the third country, needs to be clarified. Since most of these aircraft are large aircraft they need to be managed by a CAMO, which in most cases will be a third country CAMO; the current provisions of Part M do not allow such CAMOs to issue ARCs. While the Agency considers the possibility to review this restriction in the light of the World Trade Organisation Treaty, this was not part of the current rulemaking task and will be processed under a separate task in due time. As a temporary solution, M.A.901 is amended to allow:

- The CAMO which manages the aircraft to extend the ARC issued by another CAMO or by the competent authority, as long as the aircraft is in a controlled environment. This is applicable even if the CAMO has no privileges to perform airworthiness reviews and issue ARCs. This is based in the fact that it is not required to perform an airworthiness review and have airworthiness review staff in order to extend an ARC. This amendment has been introduced in M.A.711(a)4 and M.A.901(f).
- This measure is based on the fact that, in order to extend an ARC, it is not required to perform an airworthiness review but only to verify that the aircraft stayed in a controlled environment. As a consequence, no airworthiness review staff is required.
- The competent authority to perform the airworthiness review and issue the ARC for aircraft not involved in commercial air transport which are managed by a third country CAMO. This amendment has been introduced in M.A.901(i).

With these measures, the competent authority of the Member State of registry can perform the airworthiness review and issue the ARC. In addition, they only need to do so once every 3 years, because the foreign CAMO may extend the ARC issued by this competent authority if the aircraft is in a controlled environment.

In addition, Article 7, paragraph 3(a) of Regulation (EC) No 2042/2003 has been amended in order to include an opt-out period until 28 September 2009 for the obligation to contract a CAMO for those large aircraft mentioned above (used by third country operators).

41. The Agency notes that the provision introduced in M.A.711(a)4 and M.A.901(f), as indicated above, is applicable to all aircraft, including those used in commercial air transport. The objective is to allow the CAMO which manages the aircraft to extend the ARC issued by the competent authority at the time of issuance of the initial certificate or airworthiness for an aircraft imported into the EU.

42. Clarification and simplification of the provisions related to the performance of airworthiness reviews and the issuance of the airworthiness review certificate (ARC) are a necessary consequence of the increased flexibility introduced in Part M for non-commercially operated aircraft, in particular the small ones. Accordingly the present opinion introduces the following amendments:

- For all new aircraft produced within the EU, the initial ARC shall be issued together with the initial certificate of airworthiness upon compliance with 21A.183, paragraph 1. An airworthiness review is not required. This amendment has been introduced in M.A.901(k).
- For aircraft not used in commercial air transport other than large aircraft, the owner may contract the development and indirect approval of the maintenance programme to any CAMO, even if the airworthiness of the aircraft is not managed by a CAMO. This amendment has been introduced in M.A.201(e).
- For aircraft of 2730 Kg MTOM and below and balloons, not used in commercial air transport:
  - Alleviated requirements for the qualification of airworthiness review staff, both for the CAMO and for the competent authority. This includes reduced experience requirements and the possibility to replace formal training by competence assessment. This amendment has been introduced in M.A.707(a)2 and M.B.902(b)2.
  - The owner may decide to have the airworthiness review performed and the ARC issued by the competent authority or by any appropriately approved CAMO, regardless of the aircraft being or not in a controlled environment. This has been introduced in M.A.901(h)2.
- For ELA1 aircraft:
  - Independent certifying staff, accepted by the competent authority, may issue recommendations for an ARC. This has been introduced in M.A.901(g).

#### ***n) Transitional provisions***

43. This above described amended set of rules can only become effective as soon as it is approved by the Commission. However, considering that:

- the current deadline for implementation of Part-M for aircraft not involved in commercial air transport is 28 September 2008,
- most organisations have withheld their application for M.A.Subpart F and M.A.Subpart G approvals until they have a clear picture of the changes introduced in Part-M for General Aviation, and
- competent authorities will not be able to complete the corresponding investigations and issue the approval certificates before the deadline of 28 September 2008,

the Agency has considered necessary to provide for appropriate transitional arrangements for those provisions that cannot reasonably be implemented before 28 September 2008, so that affected organisations and authorities have time to implement them, while allowing the continued airworthiness of aircraft under national rules.

44. These transitional measures, which are included in the proposed regulation amending the transitional provisions of Regulation (EC) No 2042/2003, provide for:

- a) For aircraft not used in commercial air transport:
  - Possibility for competent authorities and national CAMOs to issue/extend after 28 September 2008 a maximum of two times (in the case of the NAA) or just one time (in the case of a national CAMO), for one year each one, the airworthiness review

certificate following Member State requirements. (Refer to Article 3, point 5 of amended Regulation (EC) No 2042/2003)

- o Possibility for the Member State to opt-out until 28 September 2009 from the obligation to make a contract with a CAMO (for large aircraft used by a third country operator). (Refer to Article 7, point 3(a) of amended Regulation (EC) No 2042/2003)
- b) For aircraft not used in commercial air transport other than large aircraft, until 28 September 2009:
- o Continuing airworthiness management tasks may be performed by a CAMO approved under the Member State requirements. (Refer to Article 3, point 4 of amended 2042/2003)
  - o Maintenance and release to service of aircraft and components may be performed by a maintenance organisation approved under the Member State requirements. (Refer to Article 4, point 4 of amended Regulation (EC) No 2042/2003)
  - o Possibility for the Member State to opt-out from the obligation to make a contract with a CAMO or with an approved maintenance organisation (for aircraft affected by M.A.201(i)). (Refer to Article 7, point 3(a) of amended Regulation (EC) No 2042/2003)
  - o Possibility to use equivalent national maintenance programmes. (Refer to Article 3, point 6 of amended Regulation (EC) No 2042/2003)
  - o Possibility to continue using certifying staff qualified in accordance with Member State requirements. (Refer to Article 5, point 1 of amended Regulation (EC) No 2042/2003)
  - o Certificates of release to service issued by maintenance organisations approved under Member State requirements are considered equivalent to those issued under M.A.801 and M.A.802. (Refer to Article 4, point 4 of amended Regulation (EC) No 2042/2003)

The Agency notes that owners/operators of large aircraft not used in commercial air transport (except third country operators) are required to contract the services of a CAMO as of 28 September 2008.

45. During the NPA comment period a particular Member State requested a 3 year transition period during which certifying staff qualified in accordance with national rules could continue to exercise their privileges so as to smoothen the impact of the retirement of current certifying staff and take into account that the B3 and ELA licence will not be available for some time. The Agency considers that such a specific case shall not be addressed through rulemaking and suggests instead that use be made of the flexibility provisions of Article 14 of the Basic Regulation.

#### **IV. Regulatory Impact Assessment**

46. As it has been already mentioned in chapter II above, the initial Regulatory Impact Assessment of Part M implementation was performed by the consultant Air EuroSafe. The result was the regulatory impact assessment report 2004/S 122-102598 issued by this consultant on 21 February 2005, which was published as Appendix II to the NPA07/2005. This report contained a list of paragraphs to be changed, together with the analysis of the

corresponding impacts. The conclusion was that the envisaged changes had a positive impact on the regulated persons while not affecting the level of safety, and they were proposed as part of the NPA07/2005 (task M.007).

47. Nevertheless, since this task was supplemented by tasks M.005 and M.017 in order to propose additional changes to Part-M and to produce AMC/GM material, further regulatory impact assessments were performed on the following subjects:
- Qualification of airworthiness review staff for aircraft of 2730 Kg MTOM and below not used in commercial air transport (both for M.A. Subpart G organisations and competent authorities).
  - Issuance and renewal of the Airworthiness Review Certificate.
  - Subcontracting of specialised services by M.A. Subpart F organisations.
  - Pilot-owner maintenance.
48. These impacts were fully assessed in the NPA2007-08 and the conclusion was that, except in the case of the "Issuance and renewal of the Airworthiness Review Certificate", the envisaged changes had either no impact or a positive impact on all affected sectors.
49. In the particular case of the "Issuance and renewal of the Airworthiness Review Certificate", the option selected was to allow the owner to decide whether the airworthiness review and the issuance of the ARC were performed by a CAMO or by the competent authority. This would apply to aircraft of 2730 Kg MTOM and below not used in commercial air transport. This option was clearly favoured by all representatives of industry. At the contrary, most representatives of competent authorities argued that this would impose an unquantifiable burden on them as they were not in a position to evaluate whether regulated persons would task them or CAMOs for the renewal of the ARCs; as a consequence there was a risk that they hire too many or too few additional staff. However the Agency selected this option because it provides more flexibility to the owner and further promotes general aviation. In addition, it considers that the market should rapidly self-adjust so that competent authorities will be able to properly identify their staffing needs.
50. Regarding the subject of the continuing airworthiness of aircraft registered in an EU Member State and operated under the oversight of a third country, where the regulatory safety oversight has not been delegated to the third country, the Agency found that the vast majority of affected aircraft are registered in France. According to information received from DGAC-France on 16 May 2007, there were 66 large aircraft, operated by 19 third country operators in 16 countries outside the EU.
- This issue has been addressed by the changes proposed to M.A.711(a)4, M.A.901(f), M.A.901(i) and Article 7, paragraph 3(a) of Regulation (EC) No 2042/2003.

Cologne, 15 May 2008

P. GOUDOU  
Executive Director

## **ATTACHMENT: Reactions to CRD2007-08**

### **General reactions:**

- (1) "European Sailplane Manufacturers" and one individual person insisted in the possibility for owners to choose freely between Part-M and national requirements, supporting it by the fact that the national requirements need to be maintained for Annex II aircraft and that the number of Annex II aircraft is not small.

In addition to the replies already provided in the CRD2007-08, the Agency would like to note that the existence of Annex II does not justify the application of national rules for aircraft not included in such Annex.

Furthermore, as stated in recital (5) of the Basic Regulation, *"proportionate measures should be taken to increase generally the level of safety of recreational aviation. Consideration should in particular be given to aeroplanes and helicopters with a low maximum take-off mass and whose performance is increasing, which can circulate all over the Community and which are produced in an industrial manner. They therefore can be better regulated at Community level to provide for the necessary uniform level of safety and environmental protection"*.

As a consequence, it cannot be guaranteed that these Annex II aircraft will remain there permanently.

- (2) Although they are not affected by the current EU regulations, the "European Microlight Federation" (EMF) has expressed their disagreement with the justifications provided by the Agency in CRD2007-08 to support the envisaged amendment of the regulations. In addition to not being satisfied with the envisaged Part-M, the EMF is concerned on the future outcome of task MDM.032.

As a consequence, the EMF has expressed their firm wish that aircraft below 450 kg MTOM stay in Annex II, as they currently do.

The Agency notes that, as already stated in the item above, it cannot be guaranteed that all current Annex II aircraft will remain there permanently.

Nevertheless, the Agency considers that the scheme proposed for Part-M in this opinion may prove with experience attractive to the microlight community. Furthermore, the work related to MDM.032 is still ongoing and every effort will be made to adapt the rules to the lower complexity of General Aviation.

The Agency will provide directly to the EMF a detailed reply to their reaction.

- (3) One individual person commented that his understanding was that the consultation phase of the CRD corresponds to Phase 5 of the Rulemaking Process shown in the Agency website and, as such, the consultation should last 3 months.

The Agency notes that the Phase 5 "Comments and review period" corresponds to the period between the end of the NPA external consultation and the issuance of the CRD.

The reaction period given for the CRD corresponds to Phase 6 "Adoption and publication". The Agency cannot issue the final Opinion/Decision earlier than 2 months after issuing the CRD in order to allow sufficient time for reactions. This was stated in paragraph 6

(page 3) of CRD2007-08 and is an extra step that does not exist in many rulemaking processes.

- (4) One individual person asked where could be found the list of Part-M approved organisations.

The Agency notes that the approval of M.A.Subpart F and M.A.Subpart G organisations located inside the EU is the full responsibility of Member States and, as such, these Member States are responsible for the corresponding lists of approved organisations.

In the case of third country organisations, the responsibility falls within EASA, and the list of approved organisations will be placed on the Agency website.

### **Reactions to Regulation (EC) No 2042/2003 and Implementing Rules:**

- (1) CAA-UK and ENAC-Italy proposed to align Regulation (EC) No 2042/2003 with the Basic Regulation, in particular, the applicability clauses, the regulation number and the reference to *“complex motor-powered aircraft”* rather than *“large aircraft”*.

The Agency notes that this alignment will be performed as part of rulemaking task MDM.044, including the appropriate consultation phases. Some of these changes have an impact that needs to be evaluated and they cannot be introduced now as part of this Opinion.

Nevertheless, the Agency has replaced the reference to Regulation (EC) No 1592/2002 shown in Form 15a and Form 15b by the new reference to Regulation (EC) No 216/2008.

Any other existing references to the Regulation (EC) No 1592/2002 can be addressed in the meantime by the use of Article 69(1) of Regulation (EC) No 216/2008, which establishes that references to the repealed Regulation (EC) No 1592/2002 shall be construed as being made to Regulation (EC) No 216/2008 and should be read in accordance with the correlation table set out in Annex VI of Regulation (EC) No 216/2008.

- (2) FOCA-Switzerland requested EASA to provide an interpretation of whether a balloon can operate under commercial air transport or not, with the purpose to have clear which provisions of Regulation (EC) No 2042/2003 should be complied with.

The position of the Agency is that the key issue is not whether balloons can operate in *“commercial air transport”* or not, but whether the provisions of Regulation (EC) No 2042/2003 relative to *“commercial air transport”* are applicable or not to them.

Article 1, paragraph 3, of Regulation (EC) No 2042/2003 states that *“the provisions of this Regulation related to commercial air transport are applicable to licensed air carriers as defined by Community law”*.

As a consequence, the applicable regulation is Council Regulation (EEC) 2407/92 of 23 July 1992 on licensing of air carriers.

In the particular case of balloons, they are excluded of this regulation 2407/92 by its Article 1, paragraph 2 and, as a consequence, the provisions of Regulation (EC) No 2042/2003 relative to *“commercial air transport”* are not currently applicable to them.

Nevertheless, the situation may change in the near future when Implementing Rules are issued covering operational requirements for aircraft involved in commercial operations. This may lead to the need for amendment of (EC) 2042/2003.

- (3) AustroControl proposed to align the definitions of "ELA1 aircraft" given in CRD2007-08, NPA2008-03 and NPA2008-07. In addition, "European Sailplane Manufacturers", "British Balloon and Airship Club" and two individual persons proposed some amendments to the definition of "ELA1 aircraft".

The Agency notes that the definition of "ELA1 aircraft" that will be introduced in this Opinion, in Article 2 of Regulation (EC) No 2042/2003, is the same as the one proposed in the NPA2008-07 "ELA process, Standard Changes and Repairs and Certification Specifications for Light Sport Aeroplanes". However, in NPA2008-03, the "ELA licence" covers not only ELA1 aircraft but also some ELA2 aircraft.

The Agency recommends that these comments be sent again during the consultation phase of NPA2007-08 which ends on 18 July 2008.

- (4) AustroControl, CAA-UK, DGAC-France, ENAC-Italy and "Deutscher Aero Club" proposed some editorial and clarification changes to the derogations M.A.302(i) and M.A.901(k).

In addition, DGAC-France proposed changes to derogations M.A.606(h) and M.A.801(d) to make sure that they cover all aircraft not used in commercial air transport other than large aircraft, regardless of what type of organisation or person performs the maintenance.

The Agency has reworded these derogations accordingly. In addition, and in order to make the text more clear, all the proposed derogations have been transferred from Part-M to Regulation (EC) No 2042/2003 as follows:

- o M.A.904(f) transferred to Article 3, paragraph 4.
- o M.A.901(k) and M.A.903(c) transferred to Article 3, paragraph 5.
- o M.A.302(i) transferred to Article 3, paragraph 6.
- o M.A.802(c) transferred to Article 4, paragraph 4.
- o M.A.606(h) and M.A.801(d) transferred to Article 5, paragraph 1.

- (5) "Royal Danish Aeroclub", "Europe Air Sports" and "Norwegian Air Sports Federation" requested to extend the transition period until 28 September 2010.

The Agency is of the opinion that a transition period until 28 September 2009 provides enough room for adequate implementation of the proposed amendments.

- (6) AustroControl proposed to define in Regulation (EC) No 2042/2003 the term "*commercial operations*" introduced in M.A.201(i) and also proposed to limit it to aircraft above the category of sailplanes and powered-sailplanes.

The Agency notes that the term "*commercial operations*" is already defined in the Basic Regulation. In addition, this term covers also sailplanes and powered-sailplanes.

- (7) DGAC-France proposed, as they did already in NPA2007-08, that for aircraft not used in commercial air transport, other than large aircraft, the maintenance programme should not be approved, but just be acceptable to the competent authority. The intention of the

proposal is that, except for Airworthiness Limitations (ALIs), Airworthiness Directives and other mandatory data, the content of the maintenance programme for these aircraft should be left to the responsibility of the owner and should not be approved by the competent authority.

The position of the Agency is that before the maintenance programme can be considered as "approved" or "acceptable", the competent authority must have previously determined that the content meets the requirements described in M.A.302, in particular M.A.302(d) and (h). In addition, there must be always a notification of such approval/acceptance.

As a consequence, since the Agency does not see any difference between the terms "approved" and "accepted", the proposed text has not been amended.

- (8) One individual person commented that the resulting text for paragraph M.A.302(g) is different in CRD2007-08 and CRD2007-01 and requested a consolidated resulting text.

The Agency notes that paragraph M.A.302(g) of CRD2007-01 corresponds to paragraph M.A.302(h) in CRD2007-08.

The Agency accepts the comment and amends M.A.302(h) in this opinion to align with the proposal made in CRD2007-01. The Agency notes that the comment period for CRD2007-01 had already finished and there were no adverse reactions to the proposed text.

This amendment renders not necessary to incorporate the proposal made by CAA-UK, requesting to replace in M.A.302(h) the words "*the modification approval holder*" by "*the minor change approval holder*".

- (9) "Deutscher Aero Club" and "Europe Air Sports" requested to modify M.A.403(b) in order to allow the Pilot-owner to decide, for tasks listed in Appendix VIII, whether an aircraft defect hazards seriously the flight safety and therefore decide when and which rectification action shall be taken before further flight and which defect rectification can be deferred. The justification provided is that, until the ELA aircraft maintenance licence proposed by NPA2008-03 is in place, there will be a lack of certifying staff in order to support these issues.

The position of the Agency is that it cannot be guaranteed that the Pilot-owner has the proper competence to decide if a defect can be deferred or not. As a consequence, if the defect found can be rectified by an Appendix VIII task, the Pilot-owner may perform such tasks before flight but s/he cannot defer it.

Furthermore, the Agency does not agree with the justification provided in the reaction, because there is no evidence showing that the future number of ELA licence holders is going to be larger than the current number of certifying staff qualified under national rules. Until the existence of the ELA aircraft maintenance licence, certifying staff for sailplanes and balloons can qualify complying with the Member State requirements as they currently do.

- (10) AustroControl and DGAC-France made comments in relation to the specific provisions for ELA1 aircraft not used in commercial air transport envisaged in M.A.502(d) and M.A.801(c) regarding complex maintenance tasks. In particular, they were concerned about the possible burden placed on the competent authority with the requirement to have an agreement between the owner and the competent authority, and the need for the authority to verify that the independent certifying staff holds appropriate

qualifications and recent experience, the applicable component maintenance data, tools, equipment and materials and has access to proper facilities:

- AustroControl proposed in M.A.801(c) to keep the requirements for qualification, experience, maintenance data, tools, equipment, materials and facilities for the independent certifying staff, but not to require the competent authority to verify it.
- DGAC-France proposed:
  - In M.A.502(d) to exclude the provisions that allow independent certifying staff to perform component complex maintenance tasks and overhaul of engines and propellers.
  - Delete M.A.801(c) and include in M.A.801(b)2 the possibility for independent certifying staff to perform aircraft complex maintenance tasks on ELA1 aircraft without any specific requirement for qualification, experience, maintenance data, tools, equipment, materials and facilities.

The Agency is of the opinion that the proposal made by DGAC-France is not consistent because it does not allow the performance of any component complex maintenance task, but allows the performance of aircraft complex maintenance tasks without any additional requirements.

In addition, the Agency does not agree with the comment made by DGAC-France that these case-by-case approvals are not based on detailed requirements and may lead to liability issues and unfair treatment among users, while at the same time DGAC-France proposes to use the flexibility provisions of Article 14 of the Basic Regulation for these cases.

The Agency proposal already contains requirements and any unfair treatment should be avoided by the competent authority creating the appropriate procedures, regardless of whether it is a case-by-case approval based on the Agency proposal or the issuance of an Article 14 exemption.

Regarding the proposal made by AustroControl, the opinion of the Agency is that removing the requirement for a verification performed by the competent authority, completely eliminates the compensating measure, because the requirement for having the proper qualification, experience, maintenance data, tools, equipment, materials and facilities is already required for all maintenance performed by any person or organisation on any aircraft and component.

Nevertheless, the Agency will introduce AMC material to clarify that the agreement between the owner and the competent authority may include the performance of a series of complex tasks during a prolonged period of time, if such agreement describes the data, tools, equipment, materials and facilities to be used, and the competent authority performs random checks to verify compliance.

- (11) AustroControl and CAA-UK made comments in relation to the specific provisions for ELA1 aircraft not used in commercial air transport envisaged in M.A.901(g).
- AustroControl proposed in M.A.901(g) to allow independent certifying staff, during two consecutive years, not only to issue a recommendation but also to issue and extend the ARC. In addition, AustroControl proposed to eliminate the requirement for the competent authority to assess and accept these certifying staff.

- o CAA-UK proposed to amend M.A.901(g) to state that this provision is not applicable to ELA1 aircraft involved in commercial operations. The justification is that these aircraft are required to contract a CAMO.

The Agency is of the opinion that the proposal made by AustroControl does not provide any control on the airworthiness review process and on the qualification of the personnel. In addition, the issuance of an ARC is not a privilege associated to the holder of a Part-66 qualification.

Regarding the proposal made by CAA-UK, the Agency agrees with it, but instead of referring to "commercial operations" the reference shall be made to aircraft covered by M.A.201(i), because it is possible that for some type of "commercial operations" there is no need to contract an M.A.Subpart G organisation. M.A.901(g) has been amended accordingly.

- (12) "Europe Air Sports" insisted on the possibility to have a combined M.A.Subpart F and M.A.Subpart G approval.

The Agency reaffirms its position expressed in CRD2007-08.

- (13) One individual person requested the possibility that an M.A.Subpart F organisation could also have the privileges of an M.A.Subpart G organisation without complying with the requirements of M.A.Subpart G.

The position of the Agency is that this is not an option since M.A.Subpart F does not include requirements related to continuing airworthiness.

- (14) ENAC-Italy proposed to include some flexibility provisions for M.A.Subpart F organisations maintaining aircraft used for commercial operations other than commercial air transport. These provisions would be similar to the ones currently existing in Part-145.

The Agency has accepted the proposal and has amended its text as follows:

- o A new paragraph M.A.606(h) has been added to include performance of repetitive pre-flight airworthiness directives by the commander and issuance of limited certification authorisations to the commander when operating away from supported locations.
- o M.A.615 has been amended to allow performance of maintenance at any location due to the unserviceability of the aircraft or the need to support occasional maintenance.

- (15) CAA-UK proposed to allow the competent authority in M.B.902(b) the same flexibility to use additional experience in place of qualifications that is given to the industry in M.A.707(a).

The Agency has accepted the proposal.

- (16) AustroControl proposed to delete from M.A.709 the reference to the MPD and the MRB made in the "baseline" maintenance programme, stating that these documents are not used for small aircraft.

The proposal has not been accepted by the Agency because a "baseline" maintenance programme can also be produced by an independent CAMO seeking approval for large aircraft not used in commercial air transport. For these aircraft the MPD and MRB may be applicable.

- (17) ENAC-Italy proposed to include in M.A.711(a), as a privilege, the approval of maintenance programmes through indirect approval procedures.

The Agency does not agree with the proposal because a maintenance programme approved through an indirect approval procedure is still considered to have been approved by the competent authority.

- (18) Some comments from individual persons requested clarification on what is “controlled environment” and its implications. These comments will be replied individually to the commentators.

Nevertheless, the Agency notes that:

- o The definition of “controlled environment” can be found in M.A.901(b).
- o The definition of “controlled environment” is the same for all types of aircraft and all types of operations, even private operations. However, flexibility has been introduced in M.A.901(e)1 to allow for certain aircraft and operations the issuance of the ARC by a CAMO even if the aircraft is not in a “controlled environment”.
- o In order to be considered in “controlled environment”, all maintenance must be performed by M.A.Subpart F or Part-145 organisations. The only exception is Pilot-owner maintenance tasks performed either by the Pilot-owner or by independent certifying staff.

- (19) CAA-UK proposed that the envisaged privilege allowing a CAMO to extend an ARC that has been issued by the competent authority, should be applicable also for commercial air transport. The objective is to permit the extension of those ARC initially issued by the competent authority when the aircraft has been imported into the EU and has remained in a controlled environment.

M.A.901(f) and EASA Form 15a have been amended accordingly.

- (20) “French Gliding Union” requested that M.A.901(g) is modified to allow for ELA1 aircraft that a CAMO issues the ARC based on a recommendation issued by independent certifying staff.

The Agency does not support this proposal. In this case the ARC can only be issued by the competent authority because they are the ones accepting the certifying staff who issues the recommendation.

- (21) One individual person insisted in the need of future action to allow Qualified Entities or Assessment Bodies to perform airworthiness reviews and issue the ARC for ELA aircraft.

The Agency already explained in CRD2007-08 that the current definition of Qualified Entities contained in the Basic Regulation does not allow it. In addition, the Basic Regulation does not contain the concept of Assessment Bodies.

- (22) AustroControl and CAA-UK expressed their disagreement with the obligation for the competent authority to perform the airworthiness review and issue the ARC if selected by the owner, as described in M.A.901(h)2. Both authorities propose to leave to the authority the decision of whether they conduct the airworthiness review or not and, in the case of AustroControl, they propose to eliminate any weight and usage restriction.

The position of the Agency is that leaving the decision to the competent authority would result in unfair treatment in different countries and would have an impact on competition.

- (23) AustroControl proposed to add a new paragraph in M.A.901 to enable the competent authority to issue the ARC based on a Form 52 for new aircraft manufactured within the EU, without requiring an airworthiness review.

The proposal has been accepted and M.A.901(k) has been added.

- (24) ENAC-Italy commented that M.A.903 and M.A.904 refer to transfer of aircraft registration within the EU and airworthiness review of aircraft imported into the EU. They argued that since Norway, Switzerland, Liechtenstein and Iceland are outside the EU this seems to imply that they have to be managed in accordance with M.A.904. As a consequence, they propose to change *“the EU”* by *“EASA Member States”*.

The Agency notes that the Basic Regulation talks about *“Member States”* with the meaning of *“EU Member States”*. Other European countries are considered as *“third countries”*.

Nevertheless, the four countries mentioned above are covered by the corresponding international agreements:

- o The EEA agreement (European Economic Area) in the case of Norway, Liechtenstein and Iceland.
- o The agreement between the EU and Switzerland.

These agreements establish the provisions of EU regulations that are applicable to each country and, as a consequence, the final result is that these four countries use the same transfer procedures as the EU Member States.

In consequence, the Agency does not accept the proposal.

- (25) One individual person requested that all Pilot-owners had the privilege to perform the same tasks, independently of the aircraft category (sailplanes, powered aeroplanes...). The justification provided is that neither group of pilots is more or less experienced.

The position of the Agency is that the tasks allowed to the Pilot-owner are different for each aircraft category because of their different systems and complexity. The differentiation is not related to the pilot-experience.

- (26) DGAC-France commented that following their interpretation of the current rule, in some cases, Part-145 organisations with an A-rating have been allowed in France to perform simple *“on wing”* component maintenance using component maintenance data.

They also commented that in France it is common practice for independent certifying staff to perform some non-complex piston engine maintenance in accordance with engine maintenance data.

In both cases the release is performed at the aircraft level.

Since the text proposed by this opinion in M.A.502(b) and (c) requires that any maintenance performed in accordance with component maintenance data must be released by B/C-rated organisations, DGAC-F has realised that these practices cannot be continued and envisages a significant impact on maintenance organisations, independent certifying staff and owners/operators.

However, they feel that for simple component maintenance not involving the use of specialised expertise, there is no safety impact if this practice were to be allowed.

This position was also shared by "Alitalia Servizi", an Italian A-rated Part-145 organisation, which currently performs certain tasks in accordance with component maintenance data during aircraft line maintenance, for example, replacement of seat arms and galley compartment doors.

The Agency recognises that the current proposal may impose an unjustified burden in the case of simple component maintenance performed during aircraft maintenance (weight check of fire extinguishing bottles, simple repairs of seats and galleys, etc). However, it is not the intention of the Agency to allow any type of "on wing" (or "temporarily removed") component maintenance without the appropriate B/C rating (inspection and repair of engine modules,...).

As a consequence, in line with the proposal made by DGAC-France, the Agency has amended M.A.502(b) and (c) to allow the competent authority to specifically agree when this type of component maintenance can be performed without a B/C rating.

In addition, the Agency will add AMC material to clarify the scope of maintenance that may be approved and the control procedures that should be in place. One of the main objectives of this measure is to make sure that personnel are appropriately qualified for the tasks. In many cases, with complex components, special qualifications are needed and it is not enough with just a B1 or B2 licence.

(27) In addition, the Agency has introduced editorial and minor changes to the following paragraphs:

- o In M.A.201(e) the beginning of the paragraph has been reverted to the original text to read (Proposed by DGAC-France):

*"In order to satisfy the responsibilities of paragraph (a) the owner of an aircraft may contract...."*

The objective of this change is to avoid any ambiguity on the intention of the regulation.

As stated in M.A.201(a), the owner is responsible for the continuing airworthiness of the aircraft, without entering on whether the owner performs the tasks himself or subcontracts someone under the owner's responsibility.

M.A.201(e) provides to the owner the option to contract a CAMO, transferring the responsibility of the accomplishment of the continuing airworthiness tasks to the CAMO.

- o In M.A.201(e) the words *"if the organisation holds the appropriate approved procedures"* have been added. (Proposed by CAA-UK)
- o In M.A.302(d)2 the words *"once they have been approved by the competent authority"* have been replaced by *"once they have been approved in accordance with M.A.302(b) or M.A.302(c)"*. (Proposed by CAA-NL)
- o In M.A.302(i), which has been transferred now to Article 3, paragraph 6 of Regulation (EC) No 2042/2003, the requirement to supplement the national maintenance programme with procedures ensuring compliance with M.A.302(g) and (h) has been removed. (Proposed by CAA-NL)

The Agency notes that Appendix I to AMC M.A.302 and AMC M.B.301(b) does not state that the maintenance programme should include such procedures.

- M.A.502(d) has been reworded to make it easier to understand. (Proposed by AustroControl and CAA-UK)
- In M.A.711(a)3 the word *“contracted”* has been replaced by *“subcontracted”*. (Proposed by CAA-UK)
- In M.A.711(b)1 the words *“and subsequently extend it under the conditions of M.A.901(c)2 or M.A.901(e)2”* have been added. (Proposed by ENAC-Italy)
- In M.A.714(b) the words *“or, as applicable, extended”* have been added. (Proposed by ENAC-Italy).
- In Part-M, Appendix I, paragraph 5.1, a new item 8 has been inserted to introduce the obligation of the CAMO to send within 10 days a copy of any ARC issued or extended to the competent authority of the Member State of registry. (Proposed by ENAC-Italy).
- In Part-M, Appendix VI, condition 6, the word *“contracts”* has been replaced by *“subcontracts”*. (Proposed by CAA-UK)

(28) The following proposals have not been incorporated in this Opinion because the Agency believes that the text is already sufficiently clear:

- AustroControl proposed to include sailplanes and powered-sailplanes in M.A.901(e).  
The Agency notes that M.A.901(e) already mentions *“aircraft of 2730 kg MTOM and below”*. The term *“aircraft”* includes sailplanes and powered-sailplanes.
- CAA-UK proposed to eliminate the condition 7 from the Appendix VI to Part-M, arguing that the suspension of the AOC may have no bearing upon the activities of the organisation under Part-M, Subpart G.

The Agency notes that the condition 7 already reads:

*“...unless otherwise explicitly stated by the competent authority”*

This means that the competent authority already has the possibility to maintain the CAMO approval.

- CAA-UK proposed to amend the Appendix VI to Part-M to read:

*“Pursuant to Commission Regulation (EC) No 2042/2003 as amended, and subject to the conditions specified below, the Member State certifies”*

The Agency notes that the current text is correct because it refers to *“....Commission Regulation (EC) No 2042/2003 for the time being in force....”*. This means the regulation being in force at the time when the competent authority issues the approval.

(29) The following proposals have not been incorporated in this Opinion either because they are outside the Terms of Reference of the task or because the subject could generate significant comments and discussions. As a consequence, they need to be formally discussed and consulted, and would need to be covered by a separate rulemaking task. The Agency will incorporate these proposals in the “Rulemaking Inventory”.

- CAA-UK proposed to provide a definition of *“Maintenance Programme”* and *“Maintenance Schedule”*.

- o CAA-UK proposed to require a formal Quality System for large M.A.Subpart F organisations, justifying it by the fact that large M.A.Subpart G organisations managing aircraft not involved in commercial air transport already require it.

- o ENAC-Italy proposed that the persons responsible for the Quality System or the Organisational Reviews, as applicable, in M.A.Subpart F and M.A.Subpart G organisations, should be approved by the competent authority using an EASA Form 4.

The Agency notes that, currently, this is not even required for Part-145 organisations.

- o CAA-UK proposed that the discriminator for related experience shown in M.A.707(a) and M.B.902(b) should be dependent on the aircraft MTOM and not on usage. Thus, they proposed to set the discriminator in 2730 kg MTOM regardless of whether the aircraft is used in commercial air transport or not. The justification provided is that for non-large aircraft, regardless of usage, it is very difficult to find formalised training courses.

Although this proposal has not been incorporated, ENAC-Italy has proposed to amend AMC M.A.606(c), AMC M.A.706, paragraph 4.7, AMC M.A.707(a)(1) and AMC M.A.707(a)(2) in order to further clarify how and where formalized training courses may be performed and when this training may be replaced by assessment by the competent authority for balloons and aircraft below 2730 kg MTOM used in commercial air transport.

This proposal from ENAC will be analysed and the AMC material will be amended, if required, before issuing the Decision.

- o CAA-UK and ENAC-Italy proposed to allow the anticipation of the extension of the ARC without loss of continuity of the airworthiness review pattern. The objective was to provide flexibility for the owner to place the ARC in the aircraft when the aircraft is at the base.

However, CAA-UK proposed 30 days anticipation while ENAC proposed 5 days.

### **Reactions to AMC material:**

The following proposals for changes or additions to the AMC material will be reviewed by the Agency and the text will be modified, as required, before issuing the final Decision (AMC/GM). This Decision will be issued once the present Opinion has been approved by the Commission:

- (1) CAA-NL proposed to remove the weight limitation from AMC M.A.401(c)4.

This has been accepted by the Agency.

- (2) CAA-UK, "Broadland Balloon Flights", "British Balloon and Airship Club", "GEFA-FLUG" and a number of individual persons stated that AMC M.A.605(a) seems to require availability of a hangar for inspection of balloons and airships.

The text will be modified when issuing the final Decision (AMC/GM) as follows:

*"For balloons and airships a hangar may not be required where maintenance of the envelope and bottom end equipment can more appropriately be performed outside, providing all necessary maintenance can be accomplished in accordance with M.A.402. For complex repairs or component maintenance requiring and EASA Form 1, suitable approved workshops should be provided. The facilities and environmental*

*conditions required for inspection and maintenance should be defined in the Maintenance Organisation Manual".*

- (3) ENAC-Italy proposed to amend AMC M.A.606(c), AMC M.A.706, paragraph 4.7, AMC M.A.707(a)(1) and AMC M.A.707(a)(2) in order to further clarify how and where formalized training courses may be performed and when this training may be replaced by assessment by the competent authority for balloons and aircraft below 2730 kg MTOM used in commercial air transport.

This has been accepted by the Agency.

- (4) AustroControl proposed to replace the reference to "Part-66 Level 1 General Familiarization" by "Part-66 Appendix III Level 1 General Familiarization". This applies to paragraphs AMC M.A.706, AMC M.A.707(a)1, AMC M.A.707(a)2, AMC M.B.902(b)1 and AMC M.B.902(b)2.

This has been accepted by the Agency.

- (5) CAA-UK and "British Balloon and Airship Club" proposed to add AMC material clarifying what means "assisted by such qualified personnel" in M.A.710(b) and whether the ARC signatory has to be present during the aircraft survey.

The Agency notes that the airworthiness review includes a documental review and a physical survey. According to M.A.710(c)5, during the physical survey of the aircraft it has to be ensured that no inconsistencies can be found between the aircraft and the reviewed documents.

The position of the Agency is that this can only be achieved if the airworthiness review staff is present during the physical survey. During this survey, the airworthiness review staff may be assisted by Part-66 personnel in order to open panels, perform tests, etc.

AMC M.A.710(b) shall be amended accordingly.

- (6) DGAC-France proposed to add AMC material to clarify the following:
- o How long can an aircraft type be kept in the approved scope of work if the CAMO has no customer under contract for that type.
  - o Is it possible to allow a CAMO to perform airworthiness reviews on a specific aircraft type without having or seeking any customer under contract for that type.

- (7) ENAC-Italy proposed, in relation to the persons that are authorised to extend an ARC based on the new privilege M.A.711(a)4, to introduce AMC material to clarify how such persons are formally accepted by the competent authority and how the authorisation is issued by the organisation.

- (8) ENAC-Italy proposed to introduce in AMC M.A.901(c)2 & (e)2 & (f) further information on how the CAMO can demonstrate that an ARC is not extended if the organisation is aware or has reason to believe that the aircraft is not airworthy. In addition, ENAC-Italy proposes the introduction of an example of "compliance report".

- (9) ENAC-Italy proposed to amend AMC M.A.903(a) and AMC M.B.105(a) in order to make sure that, when transferring an aircraft registration within the EU, the mutual exchange of information includes notification that the ARC has been issued in accordance with national rules.

- (10) AustroControl proposed to include powered sailplanes in AMC M.B.301(b), item 3.
- (11) ENAC-Italy proposed to introduce in AMC M.B.703 further information on how to fulfil the EASA Form 14.
- (12) AustroControl proposed to take into account NPA2007-07, which is currently under review, when defining group ratings in AMC M.B.703.
- (13) CAA-NL proposed to replace the words *“procedures for the escalation of established check periods”* by *“details of or reference to escalation programmes”* in paragraph 1.1.7 of Appendix I to AMC M.A.302 and AMC M.B.301(b).
- (14) CAA-UK proposed to add AMC material to clarify what mean in Appendix VII “Complex Maintenance Tasks” the following terms:
- *“Approved or authorised welder”* in paragraph 3(c).
  - *“Special tooling”* in paragraph 5(a).
- (15) “Deutscher Aero Club” and 2 individual persons proposed amendments to the list of tasks contained in the AMC to Appendix VIII “Limited Pilot-owner maintenance”.
- (16) CAA-UK proposed to incorporate in the Quality Systems of Part-145 and Part-21 a similar requirement to the one proposed in paragraph (e) of Appendix VIII to AMC M.A.616, where the organisation should notify to the competent authority any Level 1 finding discovered during the organisational review.
- (17) CAA-UK proposed to delete the amendment to AMC 145.A.50(a), paragraph 2.8(d), which allows a simplified procedure for issuance of a Form 1 for components maintained in USA and Canada by organisations not approved under Part-145. The justification provided is that this undermines the existing bilateral agreements.
- Nevertheless, they support the similar amendment introduced in AMC M.A.613(a), paragraph 2.8.
- (18) In addition, as a result of the comments placed by AustroControl and DGAC-France on the provisions envisaged in M.A.502(d) and M.A.801(c) for complex maintenance tasks on ELA1 aircraft, the Agency will introduce AMC material to clarify that the agreement between the owner and the competent authority may include the performance of a series of complex tasks during a prolonged period of time, if such agreement describes the data, tools, equipment, materials and facilities to be used, and the competent authority performs random checks to verify compliance.
- (19) Also, because of the comments placed by DGAC-France and Alitalia Servizi in relation to performance of “on wing” component maintenance (M.A.502(b) and (c)), the Agency will add AMC material to explain which is the scope of maintenance that may be approved and which control procedures should be in place.