

**Comment Response Document (CRD)  
to Notice of Proposed Amendment (NPA) 17-2006**

**for amending Commission Regulation N° 1702/2003  
of 12 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**

**“Continued operation of aircraft designed in the Soviet Union and currently  
registered by Member States”**

## **Explanatory Note**

### **I. General**

1. The purpose of the Notice of Proposed Amendment (NPA) was to propose an amendment to Commission Regulation N° 1702/2003 of 12 September 2003 to provide for the continued operation of aircraft designed in the Soviet Union and currently registered in Member States. According to the regulatory impact assessment contained in this NPA, the most suitable option would be to establish the basis for issuing restricted certificates of airworthiness for such aircraft until the time they can be issued EASA type certificates and normal certificates of airworthiness.

### **II. Consultation**

2. The above mentioned NPA was published on the web site ([www.easa.europa.eu](http://www.easa.europa.eu)) on 14-11-2006.

By the closing date of 25-12-2006, the Agency had received 107 comments from national authorities, professional organisations and private companies.

### **III. Publication of the CRD**

3. All comments received have been acknowledged and incorporated into this Comment Response Document (CRD), which contains a list of all persons and/or organisations that have provided comments and the answers of the Agency.
4. In responding to comments, a standard terminology has been applied to attest EASA's acceptance of the comment. This terminology is as follows:
  - **Accepted** – The comment is agreed by the Agency and any proposed amendment is wholly transferred to the revised text.
  - **Partially Accepted** – Either the comment is only agreed in part by the Agency, or the comment is agreed by the Agency but any proposed amendment is partially transferred to the revised text.
  - **Noted** – The comment is acknowledged by the Agency but no change to the existing text is considered necessary.
  - **Not Accepted** - The comment is not shared by the Agency
5. In view of the urgency of the subject the Agency will issue its Opinion immediately after the publication of this CRD. Reactions of stakeholders regarding possible misunderstandings of the comments received and answers provided can nevertheless still be transmitted to the Agency, which will bring them to the attention of the Commission and the committee it shall consult before adopting its decision.
6. Such reactions should be received by EASA not later than **20 February 2007** and should be sent by the following link: [CRD@easa.europa.eu](mailto:CRD@easa.europa.eu);

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
1.	General	CAA Sweden	<p>Sweden supports the proposed amendment as long as aviation safety is not endangered and market disturbances can be kept to a minimum level. Given this, we assume that with this new regulation:</p> <ul style="list-style-type: none"> <li>the number of eastern built aircraft that will be allowed to be operated within EU is gradually decreasing unless they are shown to comply with the current EASA regulation</li> <li>no new individual eastern built aircraft are allowed to enter on EU aircraft registers unless they comply with the full set of regulations</li> <li>the time period for this special arrangement is time limited and strictly adhered to</li> <li>the geographic operating domain of these specially treated aircraft is not changing so that may pose a threat to current operators with “EASA approved” aircraft.</li> </ul> <p>Furthermore, the issue with lack of proper maintenance for eastern built aircraft according to Regulation 2042/2003 must be clearly addressed by EASA and the Commission. Introducing additional non-compliant aircraft into the common European aviation market will definitely be a threat to the integrity of the EASA system and our faith in creating a high and uniform safety level in the common market.</p> <p>The proposal is based on the assumption that after five years these aircraft will either be shown to comply with the basic regulation, or they will be phased out. Since both of these options imply lots of work and heavy economic impacts on operators, the working arrangements should contain a mid term</p>	<p>Noted</p> <p>The Agency agrees in principle with these assumptions, which underpin indeed the envisaged measure. It can however not subscribe to that related to geographical restrictions. Such an additional restriction could only be justified on safety grounds if the route flown would necessitate specific operational approvals such as use of steep approaches or ETOPS. The suggested measure is therefore, as recognised by the comment, of a trade nature and could be contrary to the objective related to free movement of goods, persons and services specified in Article 2.2(b) of the Basic Regulation. It would also be contrary to the provisions of Article 8 of the Basic Regulation that ensure the free movement of aircraft that have been issued an airworthiness certificate in accordance that regulation and its implementing rules.</p> <p>As explained in the NPA (paragraph 17) the Agency is working with the Polish CAO and expects to be able to find an acceptable way to maintain these aircraft in a framework that provides for an equivalent level of safety. A proposal will be made soon to the Commission for a decision under Article 10.6 of the Basic Regulation.</p> <p>The Agency agrees in principle that the present situation should not happen again at the end of the five years’ period and that aircraft, for which it could not determine an approved design in accordance with Part 21, should not be entitled to be used by EU operators in the territory of Member States any more. It agrees therefore with the suggestion that a review should be</p>	

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			<p>review where an assessment is made of the functioning of these aircraft in their new market environment and of their aviation safety status. The plausibility of successfully entering them into the system after the five year period should also be assessed, as well as the option of phasing them out.</p> <p>The reason for this mid term review is the experience from the past 5 years of trying, without success, to make the type design holders of the affected aircraft to apply for a type certificate. EASA and the Commission should avoid such a trap in the future.</p>	<p>made and published in due time on the state of progress of such a determination to help operators to take the necessary measures. This is however a management issue, not one that requires a legislative measure.</p>	
2.	General	Avioteam Varna	<p>On the strength of Notice of Proposed Amendment (NPA) No 17/2006 and in connection with Draft Opinion of the Executive Director of the Agency about amending Commission Regulations No 1702/2003 of 12 September 2003 we are taking advantage of to send our position on the subject placed into the above documents.</p> <p>We are a group of aviation operators and owners, using helicopters Ka-26 (Kamov 26) for aerial/agricultural works in more then 15 years, without reporting on the period before the changes at 1989 in Bulgaria to begin. In this space of time the main line of our work and activity regarding this type of aircraft was mostly into a direction of a maximum high level of safety and airworthiness, in detail conformity with all requirements and recommends of the producer, the design bureau and Bulgarian CAA. All investments in this line and especially after 2003 are vastly heavy and they can not be ignored. This is a guaranty, that we will continue our activities in the same line, to refund these investments, and respectively not to allow any collapse in all aspects of the aviation activity.</p>	<p>Noted</p> <p>This support to the envisaged action is welcome.</p> <p>The comment is shared by the Agency and it is the reason why the present rulemaking has been initiated.</p> <p>Signs from the TC holder – Kamov – seem to indicate that there are reasonable prospects that the Ka-26 could be issued an EASA type certificate before the end of the envisaged transition period. This would definitely solve the problem by fully integrating such aircraft in the EASA system.</p>	

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			<p>In fact we are continued to stay in permanent contacts with the “Kamov” design bureau; All aircraft and engines maintenance programs, approved from “Kamov” design bureau and Bulgarian CAA are strictly realized; There is no interrupting of the aircraft airworthiness; In 2004 and up to this moment almost all helicopters and engines (more then 80%) are passed and passing a main overhaul, including and now according to schedule, which was approved from the repairing factory; All technical bases are certified from “Kamov” design bureau and are in possession of a JAR145 certificate issued from Bulgarian CAA; We are disposing with an experienced personal, with a long years experience and well trained into the exploitation of this type of aircraft; In minimum 10 years forward spare parts are enough provided; We are putting in common with “Kamov” design bureau into practice the most newest technologies and methods for a control and maintain of the aircraft technical condition and quality.</p> <p>The grounding of this type of aircraft (helicopters Ka-26) on administrative reasons is not acceptable for no one of bought sides, well noted into the above project of document. The option 5 is fully acceptable for us and we are ready to support all efforts for 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 organizations. Everything what is</p>		

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			depending of us will be done for continued operation of Ka-26 helicopters designed in the Soviet Union and currently registered in Bulgaria.		
3.	General	CAA-NL	No comments	Noted	
4.	General	C.A.Fuchter	The most fair and easy way to treat this problem is to allow the continued operation of these aircraft as before. They are all very old and are at the limit of commercial viability. In a few years they will naturally be removed from service for economic reasons. The security risk to the community as a whole is minimal and will continually improve with the passage of time. An "exceptional "certificate of airworthiness should be granted to them for their continued operation, however, no more should be allowed into the community. This might seem a drastic measure, in the eyes of some legislators, but there many examples in the EU of that!	Noted  The envisaged measure is based on the same analysis and conclusions than those of the comment. As a first step it is however envisaged to only issue restricted CoA for 5 years. During this period, additional work will be done to verify whether it is possible to extend the validity of such certificates or to transform them into normal CoA (which-h imply that the Agency is able to issue a type certificate with the help of the designer and the representative authority of the State of design).	
5.	General	AVIOSTART	AVIOSTART Ltd. is private Bulgarian airline, licensed for passenger and cargo flights, operating by the two AN-24, reg. LZ-ASZ and LZ-CBB within the European air market during the last seven years, which were enlisted into Attachment 3 of the NPA No 17-2006 as Soviet designed aircraft subject to the Community law. First of all I'd like to express our great concern for these aircraft future, having been completely aware of the difficulties we suffer with the lack of type-certificate and apparant closure of the European market for such aircraft. In the same time we appreciate much the good will of EASA experts and especially of the proposed real options / option 5 is a fresh breath for us/ for finding a clue for legal continued operation and therefore giving us the chance to keep on	Noted  This support to the envisaged action is welcome.  Signs from the TC holder – Antonov – seem to indicate that there are reasonable prospects that the An 24 could be issued and EASA type certificate before the end of the envisaged transition period. This would definitely solve the problem by fully integrating such aircraft in the EASA system and would be consistent with the wish of the Ukrainian Authorities to become full partners in such a system.	

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			<p>flying with An-24 and hopefully being integrated as a licensed air operator in the European community.</p> <p>We are extremely interested to save our good reputation with our partners and clients, as AVIOSTART Ltd. is known as a reliable carrier and will not lose its face with the aviation community entering the new 2007 challenges .</p> <p>We will do our best to meet all new EASA requirements and regulations and in the same time maintaining the status quo for our An-24 will give us the strength to consider and elaborate the best ways for entering alternative aircraft of An-24 in near future.</p> <p>Thank you for your efforts and good suggestions, EASA shared with us in the proposed amendment, as it gave us some more precious advices and time to renew our fleet with adequate and professional behaviour.</p> <p>We'll be grateful to receive more information from EASA about the future certification options to be realized and will remain open to discuss all issues we can answer as air operator.</p>	<p>This will be done when the Commission has taken position on the Agency's Opinion to be issued as a follow up to the present rulemaking task.</p>	
6.	General	Romanian Ass of private operators	<p>As we see in the annexes of NPA 17 there are aprox 657 aircrafts concerned out of which 481 aircrafts are under 5700 kgs .Also more than 63 % of the number of aircrafts involved are mainly used for utilitarian purposes . We think that the content of this OPINION is too general as it tries to clarify both air transport and aerial work / general aviation situations. Maybe we are too subjective in our appreciations as we are only interested in this segment but we feel it should clarify more items related to such aircraft operations ,which is not "air transport " .</p>	<p>Not accepted</p> <p>As recognised by the comment, there is a need to care also of all other cases.</p> <p>It shall be noted also that the Agency will certainly produce guidance and explanations as appropriate to help all stakeholders understanding properly the meaning of the regulation if and when it is adopted.</p>	

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7.	General	ECOGAS	<p>We commend the Agency for “grasping the nettle” on the issue of aircraft designed in the Soviet Union that is of concern to our Members and for proposing solutions for allowing operations of the relevant aircraft to continue. There are a number of points we would like to make for general consideration:</p> <ol style="list-style-type: none"> <li>1. Many of the aircraft concerned are operated by small or very small organizations;</li> <li>2. In several countries of Central Europe representative bodies for operators and the general aviation industry have yet to develop;</li> <li>3. For reasons of history, there is not much experience in representing one’s interests and cases to regulators in a manner familiar in Western Europe – the national voices of the industry may have difficulty in being expressed;</li> <li>4. These voices should not be ignored but it may take more time and effort to ensure they are taken into account properly - we hope the Agency will allow for this;</li> <li>5. There may be difficulties in securing the interest of existing Type Certificate or design authority holders, whether for economic or other reasons, and at no fault of the operators;</li> <li>6. Five years (until 28 March 2012) may seem an adequate period for resolving the issues involved, but it seems reasonable and equitable allow some flexibility in this respect albeit on a case by case basis.</li> </ol> <p><b><u>JUSTIFICATION:</u></b> General economic circumstances and development in Central Europe and in general aviation in particular.</p>	<p>Noted</p> <p>This support to the envisaged action is welcome.</p> <p>The Agency agrees with points 1 to 5. Concerning point 6, the length of the additional transition period is a matter for political decision. It will be for the Commission and the Committee, which assists it, to make such a decision. The suggestion contained in this comment could be considered if the period of 5 years is considered too short.</p>	
8.	01	CAA-UK	Delete ‘and Ukraine’ and ‘and the Ukrainian	Noted	



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			<p>aeronautical authorities'</p> <p>Ukraine is a member of the CIS and its authorised representative is the Interstate Aviation Committee.</p> <p><b><u>JUSTIFICATION:</u></b> CAA understands this to be a fact</p>	<p>It is a subject that will be further discussed with both bodies, which seem to have a different understanding of the legal situation.</p> <p>Se also response to comment 85</p>	
9.	01	ABC AIR Hungary	<p>"Continued operation of aircraft designed in the ex-socialist European countries and currently registered by Member States"</p> <p><b><u>JUSTIFICATION:</u></b> a) There are aircraft types designed in ex-socialist European countries, other than Soviet Union, which are affected by Regulation 1702/ 2003 as well. b) Some of these aircraft types are widely used in commercial operation (for example a/c type LET L 410 UVP, L 410UVP E designed in Czech Republic ). c) Referring the proposed amendment to a/c types designed just in Soviet Union excludes aircraft designed in other ex-socialist European countries (present EU Member States) from the proposed amendments and put them in a discriminated position.</p>	<p>Not accepted</p> <p>As said in the NPA, it is not the intention that aircraft designed in new Member States be eligible to the envisaged measure for the reason explained rightly in the comment.</p> <p>The Agency is currently working on other solutions to provide for the continued operation of aircraft like those mentioned in the comment. Such aircraft will be issued Restricted CoA on a case by case basis if no TC can be determined in due time or if they have become orphan by lack of support of their design holders. The Agency is considering asking for the support of their former States of design to elaborate the necessary SCSs. There will be no discrimination.</p>	
10.	I.1	ECOGAS	<p>"...or their continued operation can no more be justified.." - justified by whom – the Agency? the operator? and on what grounds?</p> <p>Is it a safety issue that their operation may no longer be justified on grounds of safety duly risk assessed?</p> <p><b><u>JUSTIFICATION:</u></b> Clarification needed.</p>	<p>Noted</p> <p>In all cases the Agency will have to approve a design for each of these aircraft. This may take the form of a TC or of SCSs or of limitations for the issue of a permit to fly. If this is not possible, then the continued operation of the aircraft would not be accepted any more on grounds of safety.</p>	
11.	08	Romanian Ass of private operators	<p>While we are not aware of any type of certification for Ka-26, we understand for the</p>	<p>Noted</p>	

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			AN-2 aircraft manufactured in Poland there is a national type certificate recognized by our Civil Aviation Authority. If such certification is recognized even as restricted certification, it may provide a basis for grandfathering.	<p>The Agency considers An-2 aircraft as Annex II aircraft and cannot therefore issue any SCS for them.</p> <p>This should not affect their capacity to be maintained in operation if the States of Registry, eventually supported by the State of design (Poland), accept to maintain the validity of their certificates of airworthiness under national laws. See also response to comment 17</p>	
12.	09.	Romanian Ass of private operators	We feel involved in a situation whose solution does not depend on ourselves, as the Regulation is mainly addressed to the designers and producers of such aircraft. As operators, we did not expect that these strong companies would not put efforts in complying with such requirements. We were mainly concerned with Antonov 2 and Kamov 26, which are not used in Romania for air transport, but solely for aerial work and initiation flights. We were more worried about the Ka-26 and therefore have tried to put pressure on the manufacturer. We certainly did not expect that PLZ Mielec would give up licensing AN-2 after they having certified its engine and propeller, especially that such change of attitude came out just after PZL was bought by EADS, which is the biggest aviation company in the European Union, part of the EASA system.	<p>Noted</p> <p>The envisaged measure, as described in the NPA, would provide for a temporary relief as regards Ka-26 pending the time an EASA TC is issued.</p> <p>As regards An-2 the solution is fully in the hands of the Romanian CAA, PZL and the Polish CAO as the Agency considers this aircraft as an “Annex II” aircraft.</p>	A
13.	09.	ECOGAS	<p>“...limited commercial perspectives...” We wonder whose perspective that might be. We suggest that the commercial perspectives of the various types of aircraft in Attachments 2 and 3 differ quite substantially, especially as regards aerial work.</p> <p><b><u>JUSTIFICATION:</u></b> The fragmented nature of the general aviation industry is also a major factor and</p>	<p>Noted</p> <p>Such statement is not an Agency opinion. It is only one of the possible reasons why designers do not apply for an EASA TC.</p>	

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			together with lack of reliable lines of communication. See also our general comments.		
14.	10 and other paragraphs referring to SCSs	FAA	<p>The term “<i>specific certification requirements</i>” throughout the document.</p> <p>Comment – It is not clear how specific certification requirements will be defined, or the basis for the specific requirements.</p> <p><b><u>JUSTIFICATION:</u></b> Requesting additional information and clarity on the method describing how these requirements will be defined.</p>	<p>Partially accepted</p> <p>The legal basis for restricted certificates of airworthiness is established by Articles 5.3 and 5.4 of Regulation 1592/2002. As explained in response to comment 62, SCSs are individual acts issued by the Agency to satisfy the provisions of Article 5.3(b): “<i>the aircraft shall be shown to comply with specific airworthiness specifications and deviations from the essential requirements ... shall nevertheless ensure adequate safety with regard to the purpose.</i>”</p> <p>These provisions are further developed by Part 21A. 184. The Agency had initiated a rulemaking task to further clarify and refine the content of the provisions of Part 21 related to restricted certificates of airworthiness and permits to fly, but only the work related to permits to fly has progressed sufficiently to envisage amending Part 21 before 28 March 2007. The work on RCoA, which aimed also at deleting the confusion introduced by the change of the terms “specific airworthiness specification” into “specific certification specification”, has been delayed as it was considered there was a sufficient basis in the current text to allow the Agency acting in this field.</p> <p>In the view of this comment and of comment 83, which show that various interpretation are possible, the Agency will accelerate the completion of the rulemaking task referred to above and use the opportunity of the present one to change the terms used in Part 21.</p>	In Part 21A;184, the terms “specific certification specifications” shall be replaced by “specific airworthiness specifications”.

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15.	10.	ECOGAS	<p>“..issuing restricted certificates of airworthiness.” We consider that this is a valuable option and welcome that it is available at any time on a case-by-case basis. In the interest of reasonable flexibility we believe it should continue and should be made as economical as possible in the case of the subject aircraft.</p> <p><b><u>JUSTIFICATION:</u></b> Wherever it is practical to implement it, this seems a fair system for the continuation of operations of the aircraft given the socio-economic conditions of Central Europe.</p>	<p>Noted</p> <p>The comment is supported. The Agency agrees that appropriate funding solutions should be found to limit as much as possible the burden on the aircraft owners. Decisions in that area are however beyond the Agency’s powers.</p>	
16.	11.	Romanian Ass of private operators	<p>The inventory of the aircraft should be corrected for Romania as follows:</p> <ul style="list-style-type: none"> <li>➔ Antonov 2 – 68 aircraft manufactured in Poland</li> <li>➔ Kamov 2 – 25 aircraft</li> <li>➔ YAK 52 – 2 (two) aircraft</li> </ul> <p>There is also a number of 6 Ka-26 registered in Romania but property of certain companies from outside the European Community which we think will have to return to their countries and not be allowed to compete local operators but only in exceptional circumstances. .</p>	<p>Noted</p> <p>This information is useful and welcome.</p> <p>It is to be noted however that the attachments were only provided to help quantifying the magnitude of the issue and do not constitute legal documents</p>	
17.	12.	Romanian Ass of private operators	<p>We are worried that, if AN-2 and Ka-26 were to fall under Annex II/Regulation 1592/2002 (vintage aircraft), even with the goodwill of preserving the continuity of their operations, we may not be permitted to use them commercially anymore (i.e. for aerial work). While we do not perform any air transport services and we limit ourselves to specific utilitarian aerial applications, we perform yet a service that is supposed to be supplied on commercial basis and the companied involved are private companies targeting for</p>	<p>Noted</p> <p>The comment is however not understood.</p> <p>If the Ka-26 can be issued a Restricted CoA under Regulation 1592/2002 allowing for the continuation of the type of operation they are currently engaged in (as this proposed in the current NPA), such a certificate shall be accepted by all Member states (see also response to comment 69). This would apply also if the aircraft is issued an EASA TC.</p>	

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			a profit.	As regards the An-2, which is an Annex II aircraft, they remain under the ICAO regime and Member states are bound to accept that they circulate freely if they meet the applicable ICAO standards, as they currently do. In other words, Regulation 1592/2002 is not applicable to them and the rights and obligation of the State of registry as specified under the Chicago Convention are not affected.	
18.	13.	Romanian Ass of private operators	We hope no gap will be allowed in operation, especially that agriculture work normally starts in March every year and such discontinuity will not only affect our companies but also the agriculture sector in Romania.	Noted  The intention of this envisaged measure is indeed to avoid any discontinuity.	
19.	13.	INVERSIA Latvian Aviation Company Ltd	It is likely however that there will be a gap between the expiration of the transition period specified in the Basic Regulation (28 March 2007) and the time when such Annex II is revised. That could not result in a stop of aircraft operation during this gap.  <b><u>JUSTIFICATION:</u></b> Inability to stop aircraft operation in a few months.	Noted  As explained in the NPA, if there is a gap, the aircraft in question will benefit of the present envisage measure and would be eligible to a restricted certificate of airworthiness under the conditions determined by the new article 2c.	
20.	13.	ECOGAS	It should be noted that a significant number of Antonov AN-2 aircraft are involved in commercial operations, particularly aerial work, and equivalent conditions for operating under a revised Annex II need to be examined.  <b><u>JUSTIFICATION:</u></b> Fairness, especially to small operators.	Noted  The situation for such aircraft are, in principle, not affected by Regulation 1592 and its implementing rules.  As envisaged for aircraft holding a restricted certificate of airworthiness, the provisions of EU-OPS related to the airworthiness of aircraft used, may have to be reviewed before its entry into force (see paragraph 21 of the NPA). Decisions therefore are to be made in accordance with the provisions of Regulation 3922/1991.	

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21.	14.	Romanian Ass of private operators	In Romania, we are only concerned with AN-2 and Ka-26 aircraft that are engaged in commercial operations yet only in aerial work and general aviation and not in air transport operations. There are 32 operators of these aircrafts and we think it is correct to assume that it is not their direct fault that designers and manufacturers did not wish to comply with the Regulation.	Noted  It is for this reason that the Agency has initiated the current rulemaking activity. See also responses to comments 2, 11, 12, 17 and 20 as regards possible solutions.	
22.	14.	ECOGAS	<p>Some of the aircraft listed in attachment 3 are well-regarded modern designs, recently built (e.g. Sukhois), and may be involved in aerial work. Such aircraft are not necessarily a lower cost alternative to European or US designs. We hope that every effort will be made by the Agency, with others concerned, to develop a form of type certificate, “restricted” if necessary, that allows aircraft to continue flying for the purposes for which they were designed, including commercial aerial work.</p> <p>Since “there is no immediate safety justification for (grounding these aircraft)” we suggest that their continued operation should not be curtailed and should be deemed to be “justified” unless assessed safety risks supervene.</p> <p>This point would also be relevant for aircraft in attachment 2 which cannot be included in a revised Annex II or for those in operations for which the conditions associated with Annex II are not appropriate.</p> <p><b><u>JUSTIFICATION:</u></b> Reasonable flexibility to allow well-proven types to continue flying unless and until realistic and objective safety risks determine otherwise.</p>	<p>Noted</p> <p>Such is indeed the intention of the Agency. This requires however the full co-operation of the design holder.</p> <p>This is also the point of view of the Agency and is reflected in the envisaged measure.</p> <p>Aircraft in attachment 2 would be eligible for a restricted CoA and should be treated as such.</p>	

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23.	15.	ECOGAS	<p>We agree “that the most practical option is to allow the continued operation ....under restricted certificates of airworthiness”, but subject to clarification of the nature of the restrictions and their appropriateness to the aircraft and operations concerned.</p> <p>It is evident that the level of risk and hence the level of safety (for European citizens at large) varies with nature of the operations, e.g. commercial air transport, aerial work, recreational, etc. This should be suitably reflected to the extent that restrictions should not be too onerous where that is not necessary.</p> <p><b><u>JUSTIFICATION:</u></b> To minimise the disruption and cost to operations, especially those of small operators, who seem likely to be the victims rather than the beneficiaries of any changes.</p>	<p>Noted</p> <p>The Agency agrees with this comment. Such is the reason why the envisaged measure clearly states that “The specific certification specifications referred to in paragraph 1 shall allow the continuation of the type of operations the aircraft is currently entitled to...”.</p>	
24.	15	Romanian Ass of private operators	<p>We do not think that AN-2 and Ka-26 are raising any safety issues for two reasons: (a) they are not involved in passenger transportation and (b) whereas they are they have been operated in Romania for over 30 years, they have a clean record, not having been recorded any crew or third-party casualties.</p> <p>Restricted certificates of airworthiness may be the best solution provided that such restriction is interpreted as concerning passenger transport but it allows commercial operations of utilitarian aerial applications, such as:</p> <ul style="list-style-type: none"> <li>➔ agriculture;</li> <li>➔ forest operations;</li> <li>➔ surveillance;</li> <li>➔ parachuting; and</li> <li>➔ circular flights for initiation and</li> </ul>	<p>Noted</p> <p>This also with this in mind that the Agency considers possible to continue the operation of these aircraft either as Annex II (An-2) or under an EASA certificate (Ka-26). It shall be noted however that the mere fact that such aircraft are mainly engaged in aerial work in Romania is not relevant for several reasons:</p> <ul style="list-style-type: none"> <li>- they are involved on commercial air transport in other Member States;</li> <li>- they still may constitute a threat for persons on the ground; and</li> <li>- their crew is entitled to benefit of a high level of protection.</li> </ul>	

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			fans.		
25.	15	Romanian Association of Private Aviation Operators	<p>If possible we would like to add that we have a local operator that has an Antonov 2 in passenger transport version. While trying to plead only for limited utilitarian work possibility for AN 2 we have learned that in other countries that are in EASA area there are companies that have their AOC s based on Antonov 2 and also maintenance organizations that are authorized Part 145 . We would kindly require that any amendments or restricted operations for Antonov 2 in EASA area be unitary and non discriminatory from country to country. We wonder if it is possible that a “most favoured nation clause” concept be implemented for such aircraft operations and maintenance . That would imply that if such operations and maintenance organizations are approved in one country then they should be authorized in all countries .</p> <p><u>JUSTIFICATION:</u> It would be incorrect to discriminate among operators. They should have equal chances especially that they are now all referred to same authorization system</p>	<p>Noted</p> <p>As an Annex II aircraft, the An-2 is fully under the control of the States of registry, with the help of the State of design, Poland, and the designer. If such aircraft are issued ICAO standard certificates of airworthiness, they shall benefit of the rights granted under the Chicago Convention.</p> <p>See also response to comments 11, 17 and 20.</p>	
26.	16.	ECOGAS	<p>We suggest that the Agency should be prepared to issue restricted certificates of airworthiness, subject to periodic review, but without terminal date if (a) safety has actually been maintained, (b) the restrictions are practical and appropriate and (c) there is adequate analysis and management of the risk.</p> <p><u>JUSTIFICATION:</u> We do not find the argument for a terminal date without exceptions persuasive and consider it could lead to economic injustice</p>	<p>Noted</p> <p>The Agency agrees with this comment. It considers that the affected aircraft will be subject to Part M and that there is no reason to limit the duration of the restricted certificates of airworthiness issued by the Member States (the Agency only issues the SCSs). The periodic review will be that of the Airworthiness Review Certificate.</p>	



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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			to some operators.		
27.	17.	Romanian Ass of private operators	<p>In our interpretation, Regulation 2042/2003 mainly concerns large aircraft and air transport operations. Arguably, the AN-2 and Ka-26 aircraft are not targeted by such Regulation. The Ka-26 may be partly affected as twin-engine helicopter. However, since no passenger transport is involved, we believe that principles of continuous airworthiness may be applied to certain limit and connected to the “grandfathering” / accepting the old maintenance system, perhaps in combination with the continuous airworthiness of such aircraft.</p> <p>The flexibility allowed by art. 10 of Regulation 1592/2002 may permit such ruling, especially since there are no other operators in our country using other types of aircraft hence there would be no unfair competition.</p> <p>However it may be possible that complete acceptance of old maintenance rules/programs may discourage operators from acquiring newer aircraft complying with the Regulation, particularly since there are very few such aerial work aircraft manufactured within the European Union. While considering the principle of avoiding unfair competition, we believe that aircraft registered in non-EU Member States must not be accepted for any operation within the EU on grounds of lack of continuity of airworthiness. Moreover, we consider that on competition grounds such foreign aircraft should not be accepted if EU-registered aircraft are available. We deem appropriate that the national associations of private operators, such as ours, be involved in the process of determining the competitive</p>	<p>Noted</p> <p>The Agency does not agree that Regulation 2042/2003 mainly concerns large aircraft.</p> <p>As An-2 is eligible to Annex II, it is not subject to this regulation and shall remain fully under national rules.</p> <p>The Ka-26 is a complex rotorcraft that needs careful maintenance. Until the time an EASA TC is issued, these aircraft could benefit from an exemption under Article 10.5 and 6 of the Basic Regulation. The Agency has undertaken work with the Polish CAO to find a safe solution for the An-26. Similar principles could apply to other aircraft; it is however to the CAAs of the States of registry to examine how this could be adapted to the specific case of Ka-26.</p> <p>This comment is fully shared by the Agency. Such is reason why the envisaged measure can only be limited in time.</p> <p>As regards competition from non-EU registered aircraft please refer to response to comment 82.</p>	

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			<p>grounds as of March 2007 onwards.</p> <p>Given these circumstances, our members agreed that a period of 5 (five) year's validity for grandfather certification is reasonable and we see several options to pursue during this interval:</p> <ul style="list-style-type: none"> <li>➔ Discuss with designers and manufacturers of Ka-26 and AN-2 and convince them to pursue EASA type certification for these aircraft;</li> <li>➔ Initiate the acquisition process of new aircraft that are in compliance with the EASA rules. We would like to point out that production of aircraft for aerial work is very limited. However, due to significantly higher costs of such aircraft, we will seek to access European funds to help us phase-out the old aircraft. We hope the Agency would support our efforts to obtain such funds;</li> <li>➔ Prevent entrance on the EU market of aircraft from outside the EU (in terms of ownership and registration) to avoid unfair competition and dumping pricing. Approvals for works of such aircraft in the EU area should be granted only by the agency for (i) a limited period of time and (ii) in exceptional situations (i.e. plagues, locusts invasion).</li> </ul>	<p>The support for a period of five years is therefore welcome. The Agency agrees that this will give sufficient time to fully integrate the affected aircraft in the EASA system or find alternative solutions such as those referred to in the comment.</p> <p>As regards competition from non-EU operators, please refer to response to comment 82.</p>	
28.	17.	CityLine Hungary	For those aircraft that will have a Design organization accepted by the Agency, which will undertake the responsibilities of complying with the obligations of a TC holder regarding specific (listed) serial numbers, Type Certification, Operating and	<p>Noted</p> <p>The Agency agrees in principle with the comment. Such is reason why, as stated in paragraph 17 of the NPA, work is in progress with the Polish CAO to develop a maintenance</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>“Maintenance Data” issued and / or approved by the accepted Design organization should be considered a good basis to comply with Commission Regulation 20042/2003 and particularly with Part-M. This means of compliance, in case that the validation of the type is applied for at EASA according to presently agreed requirements, should be accepted as an equivalent safety case, legalizing the Certification, Operational and Maintenance background (documentation) for the aircraft listed by serial numbers.</p> <p><b><u>JUSTIFICATION:</u></b>  The “CIS” built aircraft originally had a very centralized and restrictive system for certification operation and maintenance. These aircraft if they were kept within control of the original Design organization and if the Design organization would be accepted by the Agency (EASA) and the conditions of control are made transparent to the Agency, this system would comply with requirements named as “controlled environment”.</p>	<p>process, using elements of the former soviet regulatory environment, which would provide for an equivalent level of protection as defined in Article 10.5 and 6 of the Basic regulation. While such a system, if accepted by the Commission following the procedure of Article 53 of the Basic Regulation, is initially designed for the maintenance of An-26 aircraft, the model could be used for other types of aircraft.</p>	
29.	17.	INVERSIA Latvian Aviation Company Ltd	<p>Since it will take a certain time to determine the EASA type certificate of these aircraft, the Commission can make an exception and decide that the Member State of registration can regulate airworthiness of these aircraft with a deviation from the European norms beyond 28 March 2007 established by the Basic Regulation.</p> <p><b><u>JUSTIFICATION:</u></b>  - Continued operation experience of the aircraft designed in the USSR;   - Availability of the system similar to the western system of airworthiness Directives.</p>	<p>Not accepted</p> <p>The length of the period during which Member states can continue regulating aircraft covered by the Basic Regulation under national rules was set by the legislator in Article 56 of that regulation. As a consequence, it is not possible for the Commission to do what is suggested in this comment. Such is reason why the measure contained in the NPA has been elaborated.</p>	

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<b>cmt #</b>	<b>Para</b>	<b>Comment provider</b>	<b>Comment/Justification</b>	<b>Response</b>	<b>Resulting text</b>
30.	17.	ECOGAS	<p>(a) "...unfair competition..." : This seems a weak argument. One aspect of a "restricted" certificate of airworthiness is presumably that it may not allow the operational flexibility of a "standard" certificate of airworthiness. There is no immediate safety justification (see paragraph 14) for grounding aircraft and one would therefore assume that present maintenance and operational regulations are adequate to manage risk and they may not inherently be cheaper. If there is a higher economic cost incurred by fitting into the EASA continuing airworthiness system that must surely raise the question for typical general aviation and aerial work operations of whether the possible additional overheads are producing a justifiable economic and/or social benefit.</p> <p>(b) "...validity ...should be limited to five (5) years." : To take account of significant differences in the types, characteristics and typical operations of the aircraft we suggest a case by case treatment should apply:</p> <ul style="list-style-type: none"> <li>i. the 5 year deadline could apply if no evident work has taken place towards a solution;</li> <li>ii. extensions of 2-3 years could be made if work is in progress and a satisfactory solution can be expected;</li> <li>iii. continuing approval for operations under a restricted certificate of airworthiness could be granted without specific limit if regular risk analysis of the relevant type and operations shows an acceptable level of risk.</li> </ul>	<p>Noted</p> <p>This statement is not necessarily the position of the Agency. It only reflects comments we received when preparing for the envisaged measure and also expressed by some of comments contained in this CRD. Current works about a possible alternative system for the maintenance of the affected aircraft show indeed that such system will imply additional costs.</p> <p>The length of the additional transition period is a matter for political decision. It will be for the Commission and the Committee, which assists it, to make such a decision. The suggestion contained in this comment could be considered by them if the period of 5 years is deemed too short.</p> <p>The Agency agrees with this comment. It will be possible during the transition period to review the design on technical grounds and to decide whether the aircraft type is eligible for a TC or a permanent SCS. In such cases there would be no reason to impose a time limit that would not be based on the actual risks related to the design and the type of activity.</p>	

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			<p>(c) "...incentive...": The Agency should try to avoid creating economic disincentives which may discourage some parties, whether manufacturers or operators from collaborating on the common task. We have come across an apparent example of that problem. Also it is evident from recent history that some companies will need time to gain financial strength for development.</p> <p><u>JUSTIFICATION:</u> Avoidance of over-regulation at too heavy a cost for general aviation and aerial work operators.</p>		
31.	18.	ECOGAS	<p>The five year limit should NOT be without the possibility of exceptions. Progress should be reviewed on a regular basis (see our comment on paragraph 17). We are not sure that the Agency has sufficiently considered the difficulties in achieving a position where the designers, owners and operators accept to co-operate, or have the ability to do so. Potential benefits for owners and operators can be envisaged – but not necessarily those for designers and manufacturers where the type(s) are no longer in production. That is the case for some types in quite wide use and would not be the fault of the operators and owners.</p> <p>An early study is needed to see how the costs, caused by the EASA requirements, can be minimized and covered.</p> <p><u>JUSTIFICATION:</u> Practical facilitation of the process and fairness to designers, owners and operators.</p>	<p>Noted</p> <p>The length of the additional transition period is a matter for political decision. It will be for the Commission and the Committee, which assists it, to make such a decision.</p> <p>The difficulty referred to in the comment is also underlined in the NPA. It is therefore envisaged that some aircraft may become orphan if their designers cannot assist the Agency. In such case it would still be possible that the Agency issues on a case-by-case basis restricted certificates of airworthiness or permits to fly if the design meets the conditions of Article 5 of the Basic Regulation. Such actions are not however covered by the present rulemaking task and would require a formal certification/validation. If such process were not successful, the related aircraft would not be entitled to be used by EU operators in the territory of Member States any more.</p> <p>The Agency expects to be able to reduce costs by relying on the support of the State of design.</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
32.	19.	Romanian Ass of private operators	<p>We think that limitation of grandfathering rights should not only apply on registration grounds, but also on ownership grounds, to prevent aircraft owners from non-EU countries to register aircraft in the EU Member States even in cooperation with EU companies. Such action should be approved only on the grounds set by Art. 10.3 and art. 10.4 / Regulation 1592/2002, on a temporary basis and in case of exceptional circumstances (as mentioned above).</p> <p>We believe that the “national” principle should also apply to this aviation category and operators licensed to do aerial work within the EU should be majority owned by EU nationals.</p> <p>It would not be fair to see our aircraft which must comply with higher standards and thus be grounded, while aircraft from outside the EU would be working in our areas, especially since we will contribute financially towards the certification of such aircraft.</p>	<p>Noted</p> <p>Please refer to the response to comment 82.</p>	
33.	19.	CityLine Hungary	<p>For the date to be selected as reference, 01 July 2006 to be considered as deadline for submitting the application for registration would be fair enough and 28 March 2007 should be considered as deadline for registration within the EU.</p> <p><b><u>JUSTIFICATION:</u></b> The registration of “CIS” built aircraft within new EU states is usually a long process involving sometimes heavy investments. So in first case, if the process was started before 01 July 2006 with modifications of these aircraft as required to comply with present operational rules in the EU and 01 July 2006</p>	<p>Not accepted</p> <p>It was clear from the meeting of the EASA Committee referred to in the NPA, that there is a political will to avoid that too many additional aircraft are registered in Member States during the transition period; this is however a political decision that could be left to the Commission and the EASA Committee.</p> <p>When considering the issue, such bodies may want to consider the number of aircraft that would benefit from any date change. It may also take into consideration the arguments presented in this comment.</p>	

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			<p>would be the closing date for registration as well , the investments started before would become a waste of money for several operators not reaching the original goal.</p> <p>In second case 28 March 2007 was originally determined as a deadline for decision making regarding the types in concern, so determining a different shorter deadline now retroactively would not be legally unfair towards operators.</p> <p>Third case, as recognized also by the Authors of NPA 17-2006 in item 37, some of the aircraft in concern have no substitutes presently certified within the EU, so vital services would fall out of some National economies.</p> <p>Fourth case, to apply the date of 01 July 2006 to be registered within EU states would become ambiguous regarding Romania and Bulgaria.</p>	See also response to comment 78.	

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34.	19.	ECOGAS	<p>We understand the need for a reference date. However, to include only aircraft that had already been registered by a Member State on the reference date is too restrictive. That may exclude aircraft in which an owner or operator may already have made an investment in good faith and aircraft that, although present in Member States, had not yet been included on the civil register of a Member State. There are obviously a number of quite innocent reasons why registration on the civil register had yet not taken place.</p> <p>Are we correct in assuming that for these purposes that Bulgaria and Romania are to be included from the reference date?</p> <p>We suggest that the aircraft to be included should be those that were physically present in a Member State on the reference date, or that were the subject of an irrevocable purchase agreement by a purchaser in a Member State prior to the reference date, and are of a type already registered by a Member State.</p> <p><b><u>JUSTIFICATION:</u></b> More equitable arrangements for implementing the desired changes in regulations.</p>	<p>Not accepted</p> <p>It was clear from the meeting of the EASA Committee referred to in the NPA, that there is a political will to avoid that too many additional aircraft are registered in Member States during the transition period; it is now for the Commission and the committee, which assists it, to make a final determination. When doing so they may consider the suggestion made in this comment as regards aircraft already owned by a Community citizen but not registered on 1<sup>st</sup> July 2006. It should however be underlined that the requested flexibility would be difficult to control and may open the door to abuses.</p> <p>The Basic Regulation and its implementing rules are fully applicable in these two countries, including the envisaged measure.</p>	
35.	21.	Romanian Ass of private operators	<p>There should be a solution that allows aircraft with restricted certificates to fly commercial flights. In our case, the AN-2s and Ka-26s perform commercial flights but of utilitarian nature as described above. We think that in this case the restriction should mean that no transport of passengers is allowed except for special interest / events / amateurs – initiation / hobby flights. These flights concern mainly persons with interests</p>	<p>Noted</p> <p>This is possible in both cases.</p> <p>See above response to your comments 24 and 25.</p>	



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			in aviation history, fairs, hobbyists, or curious persons.		
36.	21.	ECOGAS	<p>From the point of view of general aviation, that may include commercial air transport and aerial work, we consider it too restrictive and inflexible to exclude aircraft with restricted certificates of airworthiness from carrying out commercial operations. That should depend upon the specific aircraft type(s) and the operations in question.</p> <p>Evidently, some clarification of the definition of the word “standard” may be needed, but we would strongly oppose the prevention of aircraft in attachments 2 and 3 from carrying out all types of commercial air transport with effect from June 2008 if they have restricted certificates of airworthiness; likewise in the case of commercial aerial work.</p> <p><b><u>JUSTIFICATION:</u></b> Consideration of economic damage to owners and operators.</p>	<p>Noted</p> <p>The Agency agrees with this comment.</p> <p>See also response to comments 87 and 88.</p>	
37.	22.	Romanian Ass of private operators	We praise the initiative of the Agency to find a reasonable solution.	<p>Noted</p> <p>The support to the envisaged measure is welcome.</p>	
38.	25.	Romanian Ass of private operators	<p>“Scale of the issue” – In order to help the Agency see the full and correct picture as far as our area is concerned, we would like to mention that in Romania there are:</p> <ul style="list-style-type: none"> <li>- 20 Ka-26 helicopters used for utilitarian aerial works: agriculture spraying, surveillance works, forest works;</li> <li>- 60 AN-2 aircraft used for agriculture aerial spraying, parachuting, and for special events for short initiation or</li> </ul>	<p>Noted</p> <p>Our data was provided by the Romanian CAA</p>	

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			curiosity flights.		
39.	25	ECOGAS	<p>Although it is probably correct that a minority of the 86 light aircraft in attachment 3 are involved in commercial operations, many those in attachment 2 (+661) are likely to be so. Antonov AN-2s continue to be involved in various types of aerial work and also commercial air transport.</p> <p><b><u>JUSTIFICATION:</u></b> Clarification of “Scale of the issue”</p>	<p>Noted</p> <p>It is to be noted as well that Annex II aircraft are out of the scope of the Community competence.</p> <p>See also responses to comments 11, 17 and 20.</p>	
40.	27	CAA Bulgaria	<p>DG CAA of Bulgaria fully supports the proposed options 3 and 5.</p> <p>Option 3 - for the eligible aircraft to be added to Annex II.</p> <p>Option 5 - for the others, which do not meet the criteria of Annex II.</p> <p><b><u>JUSTIFICATION:</u></b> Aircraft which have not obtained EASA type certificate until 28 March 2007 should be grounded if no solution is found before this deadline. It would have significant negative social and economic impact on the operators operating such aircrafts and their staff, together with a negative effect on the national market.</p>	<p>Noted</p> <p>This support to the envisaged action, which aims at avoiding the described consequences, is welcome.</p>	
41.	29	FAA	<p>Comment – It is not clear how Option 5 addresses the same question that is raised for Option 4 regarding the consequence of issuing restricted type certificates for aircraft for which a TC holder is not identified. Issuing a restricted type certificate based on specific certification specifications is identified as a means to allow these aircraft to continue to operate, but the responsibilities for continued airworthiness for these aircraft are not addressed in Option 5.</p> <p>Recommend the restricted type certificates</p>	<p>Not accepted</p> <p>There seems to be some misunderstanding about the aim of the envisaged measure. It is not the intention to determine a restricted type certificate as this requires indeed that a design holder is identified and that such body accepts responsibility for the design in accordance with Part 21. We can therefore only determine the SCSs needed to issue individual restricted certificates of airworthiness. Such SCSs are individual acts for each aircraft, even if the same</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>be issued under this provision only when a type certificate holder is identified.</p> <p><b><u>JUSTIFICATION:</u></b>                      Requesting clarity in Option 5 regarding issuing restricted type certificates for aircraft without a type certificate holder identified.</p>	<p>one can be used for several aircraft (see paragraph 20 of the NPA).</p> <p>As explained in the NPA (see paragraph 32) option 5 implies that the Agency takes over responsibility for the continuing airworthiness of the affected aircraft. To minimise the related risk, the envisaged measure would therefore only cover aircraft for which there is a State of design able and willing to share this responsibility; this is the reason why the measure is limited to aircraft designed in countries whose authorised representatives have concluded a working arrangement to that end with the Agency.</p>	
42.	30.	Romanian Ass of private operators	<p>Beyond the direct effects there is a serious consequence for the Romanian agriculture sector. We would like to emphasize that in 2006 alone, which has been a bad year for agriculture in our country, we sprayed over one million hectares of land. The discontinuity of operations with AN-2 and Ka-26 will completely destroy the agricultural sector in Romania, with extremely serious economic consequences. We also have a letter from the Ministry of Agriculture stating clearly that utilitarian aerial works are vital for our agricultural sector.</p>	<p>Noted</p> <p>Everything is done to avoid discontinuity.</p>	
43.	31.	Romanian Ass of private operators	<p><b>Chapter V Item 31</b> – This is the option we have in case that the Regulation 1592/2002 remains unchanged and we will not be allowed to fly under EU/Romanian registration we will have no choice but to seek registration for our aircraft in third countries. We may also have the option of mixing ownership with clients and fly as private. Both situations would produce adverse effects for all stakeholders:</p>	<p>Noted</p> <p>This also something the Agency would like to avoid as this could lead to reduction in the safety levels.</p>	

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			<ul style="list-style-type: none"> <li>➔ reorganization of the domain with less control from any civil aviation authority within the European Union;</li> <li>➔ the market would be flooded with aircraft that are also owned in third countries, outside the EU;</li> <li>➔ the rates charged by the operators may go down, but nobody will be able to capitalize and buy new aircraft;</li> <li>➔ no operator will be interested to put money and efforts into the type certification of AN-2 and Ka-26.</li> </ul>		
44.	33.	Romanian Ass of private operators	The option of doing nothing will lead to wiping out completely our sector of activity, while inviting our competitors from outside the EU to work in our country. There are no aircraft in our region that can do the type of aerial work needed and which could 'escape' the provisions of Regulation 1702. Only operators from outside the EU will be able to perform the jobs we do right now.	Noted	
45.	34.	Romanian Ass of private operators	In our area there are no similar operators with aircraft that would comply with Regulation 1592/2002 as it would read after March 2007, hence we see no possible criticism from anybody should option #5 be approved. The only operators that are affected are the ones from outside the EU that will find much more difficult to enter the EU market with the same type of aircraft and services.	Noted  The comment may be valid for aerial work in some Member states but the situation is different in other area or for other types of operations.	
46.	34.	ECOGAS	Option 5 represents a significant advance. However, as commented in respect of other paragraphs, we do not consider that, in practice, discrimination to the detriment of competing operators is a strong argument. The more modern aircraft can be quite as	Noted  See also response to your previous comment on the same issue.	

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			<p>costly to operate as non-Soviet designed types, regardless of the regulatory system. In commercial activity, we believe elements of aircraft performance and economic efficiency are more likely to determine investment decisions and competitive success.</p> <p>We are not convinced that continued operation of the subject aircraft types, on restricted certificates of airworthiness, would distort competition significantly.</p> <p><b><u>JUSTIFICATION:</u></b> While changes and development of the regulatory system is necessary, we are cautious about the effects of accelerated change on small operators.</p>		
47.	36.	Romanian Ass of private operators	<p>Social impact – It would also be discouraging for the entire aviation sector to see that an entire segment of it is completely wiped out. We are planning to seek national and EU funding for:</p> <ul style="list-style-type: none"> <li>➤ our staff, to find learn more about, and understand, the EASA system;</li> <li>➤ purchase new aircraft;</li> <li>➤ train the staff for the newly purchased aircraft.</li> </ul> <p>We hope that EASA would support our efforts or even obtain funds for such purposes.</p>	<p>Noted</p> <p>The Agency can unfortunately not help in this domain as it is not its task. There are however well established Community mechanisms and procedures applicable in such cases.</p>	
48.	37.	Romanian Ass of private operators	<p>This is exactly our situation, as Option #1 will make utilitarian aerial works disappear completely in Romania. We have to add that, while this ruling was issued in 2002, it was not until October 2006 that Romania received the acceptance to join the European Union. The local political debates were not all positive on our acceptance in the European Union. Should we have not been</p>	<p>Noted</p> <p>The Agency cannot respond to such a comment.</p>	

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			accepted to join the EU, we would not be facing these problems now.		
49.	A. Explanatory Note 38, last sentence.	FAA	<p>Comment – The last phrase of the sentence is unclear “... <i>at a date where no one could expect the measure was going to be adopted.</i>” Recommend inserting the actual date, and the reason for choosing that specific date. i.e., explain why no one could expect the measure was going to be adopted by using that date. It is not clear why states were allowed additional time beyond the date of accession.</p> <p><b><u>JUSTIFICATION:</u></b> Clarify and provide a rationale for using a date later than May 2005 when the European Union admitted the new Member States and the Commission Regulations took effect.</p>	<p>Not accepted</p> <p>The Agency believes that paragraph 19 of the NPA explains why the date of 1 July 2006 was proposed; the decision to explore such solutions was taken on 19 July by the Committee assisting the Commission in adapting regulation 1592/2003.</p> <p>It must be mentioned also that setting such a date is a political decision that the Commission will make after consulting the above mentioned committee.</p>	
50.	38.	Romanian Ass of private operators	<p>There will be no criticism here. There will be only hope and we will pursue two solutions:</p> <ul style="list-style-type: none"> <li>(1) Type certification for AN-2 and Ka-26 with our contribution</li> <li>(2) Look for alternative aircraft and for EU funding to support such restructuring.</li> </ul> <p>We believe that forbidding registration of similar foreign aircraft is a good solution. Furthermore, the rules should be even tougher and accept foreign owned similar aircraft be registered within the EASA space only with EASA approval and only under very special and limited circumstances.</p>	<p>Noted</p> <p>As regards operations by non-EU operators, please refer to response to comment 82.</p> <p>As regards future registration of aircraft, due consideration should be given to the Community basic principles that forbid discrimination.</p>	
51.	38.	ECOGAS	<p>Option 5. represents a significant advance. However, as commented in respect of other paragraphs, we do not consider that, in practice, discrimination to the detriment of competing operators is a strong argument. The more modern aircraft can be quite as</p>	<p>Noted</p> <p>See also response to your previous comment on the same issue.</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>costly to operate as non-Soviet designed types, regardless of the regulatory system. In commercial activity, we believe elements of aircraft performance and economic efficiency are more likely to determine investment decisions and competitive success.</p> <p>We are not convinced that continued operation of the subject aircraft types, on restricted certificates of airworthiness, would distort competition significantly.</p> <p><b><u>JUSTIFICATION:</u></b> While changes and development of the regulatory system is necessary, we are cautious about the effects of accelerated change on small operators.</p>		
52.	A. Explanatory Note 39 regarding the discussion of Option 5.	FAA	<p>Comment – Operation of aircraft with restricted certificates of airworthiness are not universally accepted by the international community, and require each country to evaluate whether the restrictions for a specific aircraft would be allowable for that aircraft to operate into, or through, their airspace. Changing the certificates of airworthiness from standard to restricted for the affected aircraft may affect their operation with the international community in regards to Article 32 of the Chicago Convention, and the applicable International Civil Aviation Organization standards of Annex 8. Suggest a discussion in the NPA regarding the lack of appropriate certification, and recognize that while Option 5 is given as a potential interim step within the EU community, there are some States would be well within their rights to limit or exclude the operation of any aircraft that does not meet international requirements when operating outside the European</p>	<p>Partially accepted</p> <p>While being compliant with the minimum ICAO Standards contained in Annex 8, the EASA system introduces more stringent requirements as the Community considered that ICAO Standards did not to provide for a sufficient level of protection of its citizens. The essential requirements contained in Annex I of Regulation 1592/2002 provide therefore for compliance with ICAO Standards, while the reciprocity may not be true. In such a context aircraft, which do not comply with our essential requirements, nevertheless may meet ICAO Standards and should not therefore be limited in the freedom of movement they are granted under the Chicago Convention. Such is the case of the aircraft covered by the envisaged measure as their States of design have determined that they meet ICAO Standards and no one contested this fact. To avoid the consequence mentioned in the comment, the restricted certificates should bear the mention that they comply with ICAO</p>	

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			<p>Community. Most of the aircraft on the list, for example, are not recognized by the United States.</p> <p><b><u>JUSTIFICATION:</u></b> Additional clarification needed to acknowledge and to address the potential affect of this proposal for international operations.</p>	<p>Standards as this has been attested by their States of design. This should be accepted by other ICAO contracting States as it would be discriminatory that the same type of aircraft be treated differently if it is registered in an EU Member States or in other ICAO Contracting States.</p> <p>To provide better clarity however, this will be explained in the explanatory memorandum that accompanies the suggested legislation.</p>	
53.	39.	Romanian Ass of private operators	While operators are very interested to clarify these matters, we cannot undertake anything in the name of the aircraft manufacturers. We will try to put pressure and become involved more actively towards obtaining the type certificate for the aircraft concerned; however, we are aware that also our colleagues from Bulgaria and our Civil Aviation Authorities have made some efforts even until now but without results.	<p>Noted</p> <p>The support of operators in convincing designers and manufacturers to apply for EASA certificates is welcome and encouraging.</p>	
54.	40.	Romanian Ass of private operators	The solution of “restricted certificates or airworthiness” is welcome, however it should consider the fact that our activities are of commercial nature although not “air transport” type. Therefore we believe it should be clearly stated in the final version of the NPA 17 that commercial activities of the above-mentioned utilitarian aerial works and general aviation <i>are allowed</i> .	<p>Partially accepted</p> <p>The current draft covers the case as it is clear that the SCSs shall allow the continuation of the current operations. It is however impossible to be more specific as the measure covers a wide range of aircraft and many of them are not involved in commercial activities.</p>	
55.	40	Aero-Club of Switzerland	<p>Comment: The Aero-Club of Switzerland supports the proposed “Option 5” and therefore the stipulated formula of “B Draft Opinions”.</p> <p><b><u>JUSTIFICATION:</u></b> The Draft Opinons proposed by the Agency show the best way forward to avoid the proliferation of the fleet of soviet designed</p>	<p>Noted</p> <p>This support to the envisaged action is welcome.</p>	



cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			aircraft on the one hand and leave sufficient time for owners/operators to take the necessary future step.		
56.	42. last sentence.	FAA	<p>While this sentence explains that an “equivalent document” is such a document that existed for these aircraft before the concept for a type certificate existed, it doesn’t explain what would be an acceptable “equivalent document” for these aircraft.</p> <p><b><u>JUSTIFICATION:</u></b> The requirements for an “equivalent document” are unclear. Specific titles or explanation for equivalency are needed.</p>	<p>Accepted</p> <p>The intention is to cover documents issued before the concept of type-certificate existed. A number of aircraft, which are still flying, have indeed only been issued individual certificates of airworthiness to attest compliance with an acceptable design. The Agency agrees that this could be better reflected in the text to avoid grand-fathering designs that did not allow issuing standards certificates of airworthiness as defined in the Commission regulation (which excludes restricted certificates of airworthiness and permits to fly).</p>	In Article 2a paragraph 1, first sentence, the words “ <i>or an equivalent document</i> ”, will be replaced by “ <i>or a document allowing the issuing of a certificate of airworthiness</i> ” .
57.	42. and 43, (Article 2a.1.c Article 2b.1)	EXIN Co. Ltd	<p><b>Amendment 1.</b> Add text: “Issuing of Type Certificate recognition by Agency for proper aircraft type will enable register to EU members’ Registry next aircraft of the same type”.</p> <p><b>Amendment 2.</b> Change date: 28<sup>th</sup> March 2007 instead of 01<sup>st</sup> July 2006.</p> <p><b><u>JUSTIFICATION:</u></b> <b>Amendment 1.</b> The statement will be unequivocal and better understandable for all EU members’ CAA, which, at the moment, has many difficulties with interpretation of documents issued by Commission and Agency. <b>Amendment 2.</b> The date – 28<sup>th</sup> March 2007 – was enclosed in Commission Regulation No. 1702/2003 and was understood by EU members’ CAA as the deadline date till the new aircraft registry decision was within the competence of EU members’ CAA. The date change to 01<sup>st</sup> July 2006 is the example of law retroact.</p>	<p>Amendment 1 is not accepted</p> <p>The redraft is only a re-organisation of the existing text to ease its reading. As regards interpretation, the Agency believes that this part of the regulation was well understood everywhere as nearly all aircraft currently flying do so with a certificate of airworthiness issued or maintained valid on the basis of this grand-fathering provision. The Agency is ready to organise the necessary meetings with the National Aviation Authorities and industry to further explain the content of its rules.</p> <p>Amendment 2 is not accepted</p> <p>It was clear from the meeting of the EASA Committee referred to in the NPA, that there is a political will to avoid that too many additional aircraft are registered in Member States during the transition period; this is however a political decision that could be left to the Commission and the EASA Committee.</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
				When considering the issue, such bodies may want to consider the number of aircraft that would benefit from any date change.	
58.	42. and 44. (new articles 2a and 2c)	DGAC-France	<p>In articles 2a and 2c when reference is made to the status of a product on 28 September 2003, “was” should be used instead of “is”. For example article 2a.1.(b) should start “the design of an individual aircraft which <b>was</b> on the register of a member State before the 28 September 2003 ...”</p> <p><b><u>JUSTIFICATION:</u></b> The paragraphs define rules to be applied to aircraft or parts to be type certificated by the agency from their status on 28 September 2003. That was written in the CE prior to that date. Now that the date is past, it is suggested to replace the present form by the past form.</p>	Accepted	In articles 2a and 2c when reference is made to the status of a product on 28 September 2003, “was” should be used instead of “is”.
59.	42. Article 2a, Paragraph 3.	FAA	<p>Suggest changing the tense of the verb “is” to “was”, to read “... <i>for which a type-certification process was proceeding through...</i>”</p> <p><b><u>JUSTIFICATION:</u></b> The change to the tense of the verb reflects the action that was in place as of 28 September 2003.</p>	<p>Accepted</p> <p>See also response to the previous comment.</p>	
60.	42. Article 2a, Paragraph 5.	FAA	<p>Suggest changing the tense of the verb “is” to “was” in two places, to read “... <i>for which a certification process was being carried out...</i>”</p> <p><b><u>JUSTIFICATION:</u></b> The change to the tense of the verb reflects the action that was in place as of 28 September 2003, a date that has already passed.</p>	<p>Accepted</p> <p>See also response to the previous comment.</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
61.	42. Article 2a, 1(a)(i)	FAA	<p>The last three dashed subparagraphs should be indented since they are subparagraphs to the second dashed subparagraph.</p> <p><b><u>JUSTIFICATION:</u></b> This is consistent with the indentation of the original text and maintains the original meaning.</p>	<p>Accepted</p> <p>The re-formatting of the NPA missed the original indentation as specified in Regulation 1702/2003.</p>	The original indentation of Article 2.3(a) of Commission Regulation 1702/2002 will be restored
62.	42. Article 2a, Paragraph 1(d)	INVERSIA Latvian Aviation Company Ltd	<p>It is possible to grant exceptions of the Directive 92/14/EEC for aircraft of chapter 2 also after March, 28 2007. There are very few of such aircraft.</p> <p><b><u>JUSTIFICATION:</u></b> - Prohibition to use these aircraft in 25 Member States of the EU; - Aircraft operations outside of EU countries (INVERSIA letter to EASA No.308 at 13.12.2005)</p>	<p>Not accepted</p> <p>Only aircraft complying with the provisions of Chapter 3 of ICAO Annex 16 are allowed to operate in the territory of Member States. It is not possible to re-open this decision made in 1992 at the occasion of the present envisaged measure.</p>	
63.	42. Article 2a, Paragraph 1.	FAA	<p>First sentence "..., or an equivalent document,...".</p> <p>Comment – There is no definition of an "equivalent document" to a type certificate.</p> <p><b><u>JUSTIFICATION:</u></b> The requirements for an "equivalent document" are unclear. These should be identified in the regulation.</p>	<p>Accepted</p> <p>See response to comment 56</p>	
64.	42. and 43. Article 2a Para 1 (a), Article 2b Para 1 (a), and Para 2. (Pages 13, 15 and 16 of NPA 17-2006).	CAA Bulgaria	<p>DG CAA of Bulgaria fully supports the proposed amendments to the Regulation 1702/2003.</p> <p><b><u>JUSTIFICATION:</u></b> On the basis of an equivalent document issued by the State of design, EASA might determine and issue specific certification specifications thus covering the continued airworthiness of the design of such an aircraft.</p>	<p>Noted</p> <p>This support to the envisaged action is welcome.</p>	

cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			The proposed date of 28 March 2012 should provide enough time for the Agency to issue type certificate for aircraft which have not obtained such yet.		
65.	43. Article 2b	Plovdiv Air Service”Ltd	<p><b>Plovdiv Air Service” Ltd., Bulgaria,</b> agreed to be added a new article 2b. During the envisaged of five (5) years in this article we propose be amended Annex II of Regulation (EC) No1592/2002, as airplanes An-2 and helicopters Ka-26 to be included in the abovementioned Annex as aircraft used solely for aerial works.</p> <p><b><u>JUSTIFICATION:</u></b> The private company „Plovdiv Air Service” Ltd., Bulgaria, owns two airplanes An-2 and a helicopter Ka-26, which are only used for aerial works on the territory of Bulgaria. They are very significant for forest - culture and agriculture and they are the only business of our company</p>	<p>Noted</p> <p>This support to the envisaged action is welcome.</p> <p>It must be underlined however that the classification of an aircraft under Annex II is not a discretionary decision. Only aircraft that meet the criteria specified in this annex are excluded from the scope of Community competence.</p> <p>According to its latest interpretation of these criteria, the Agency considers that all An 2 aircraft are indeed excluded and must therefore stay under the responsibility of their State of registry in accordance with national laws.</p> <p>Such is not the case for Ka-26, which will be fully subject to Part 21 from 28 March 2007. Such classification is independent of the type of activity in which the aircraft is engaged and it is not envisaged to change the content of Annex II to introduce such criteria; doing so would mean that the same type of aircraft could be subject to Community rules when engaged in a type of activity (say commercial air transport) and to national ones when engaged in other ones (say aerial work); such a confusion of responsibility would seriously affect safety.</p> <p>Signs from the TC holder – Kamov – seem to indicate that there are reasonable prospects that the Ka-26 could be issued an EASA type certificate before the end of the envisaged transition period. This would definitely solve the problem by fully integrating such aircraft in the EASA system.</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
66.	43. Article 2b	<i>Association of the Agricultural Aviation Operators, Bulgaria</i>	<p>The <i>Association of the Agricultural Aviation Operators</i>, Bulgaria, agreed to be added a new article 2b. During the envisaged period of five (5) years in this article we propose to be amended Annex II of Regulation (EC) No1592/2002, as airplanes An-2, Z-37 and helicopters Ka-26 to be included in the abovementioned Annex as aircraft used solely for aerial works.</p> <p><b>JUSTIFICATION:</b> Airplanes An-2, Z-37 and helicopters Ka-26 are used only for aerial works, but not for commercial air transport (passenger, cargo, mail). They are very significant for the silviculture and agriculture, which is the main branch in our economy.</p>	<p>Noted</p> <p>This support to the envisaged action is welcome.</p> <p>As regards the classification of An2 and Ka-26 aircraft as Annex II, please refer to the response to comment 65.</p> <p>The Z-37 type has the Czech Republic as original State of design. As a consequence they would not be eligible to the envisaged measure. Signs from the TC holder seem to indicate however that there are reasonable prospects that the aircraft could be issued and EASA type certificate. This would definitely solve the problem by fully integrating such aircraft in the EASA system. If this cannot be done before 28 March 2007, the Agency will determine the necessary specific certification specification in due time so that the aircraft can continue flying under a restricted CoA.</p>	
67.	43	<i>Fortuna Air Ltd, BG</i>	<p><i>Fortuna Air Ltd</i>, Bulgaria, fully supports the new article 2b. In addition we would like to propose to be revised Annex II of Regulation (EC) No1592/2002 within the five (5) years period, envisaged in the proposed amendment, as airplanes An-2 and helicopters Ka-26 to fall under the abovementioned Annex as aircraft used solely for aerial works.</p> <p><b>JUSTIFICATION:</b> Airplanes An-2 and helicopters Ka-26 are used only for aerial works, but not for commercial air transport (passenger, cargo, mail). We do not think the proposed amendment will be criticised by other operators and will lead to an unfair competition.</p>	<p>Noted</p> <p>This support to the envisaged action is welcome.</p> <p>As regards the classification of An2 and Ka-26 aircraft as Annex II, please refer to the response to comment 65.</p>	
68.	43	<i>Air Concorde Co,</i>	<i>Air Concorde Co</i> , Bulgaria, agrees with the	Noted	

cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
		BG	new article 2b.	This support to the envisaged action is welcome.	
69.	43 (Section B, Subpart B )	East European Air Transport Association	<p>The Agency shall work out, develop and promulgate administrative procedures for operation of the aircraft which Type Certificate is validated under Article 2b (3), if any operational restriction is applied.</p> <p><b><u>JUSTIFICATION:</u></b></p> <p>a) Some small Member States do not have National Regulations since JAA full membership;</p> <p>b) Some provisions, subject to validated TC under Article 2b (3) may be interpreted by some NAA-s as discriminative basis for operation of the involved aircraft;</p> <p>c) Catch-up validation process may not be sufficiently understandable to some NAA-s and without common implementing rules they may apply discriminative operational measures not being justified by the Agency and the EU main principles.</p>	<p>Not accepted</p> <p>Section B is about certification processes to be used by National Aviation Authorities. The role of the Agency as regards the content of the specific certification specifications is already specified in Regulation 1592/2002. The Agency shall include in these SCSs all possible restrictions it considers necessary to ensure safety of operations. The objective pursued by the comment will be satisfied by this means and NAAs will know exactly the conditions under which they may issue their restricted CoA.</p> <p>As regards now the possibility that some NAAs apply discriminative rules on the operations of such aircraft, the Agency recalls that Article 8 of the Basic regulation obliges all Member States to accept all certificates issued in accordance with this regulation and its implementing rules. In case they would not, the Commission would initiate the necessary procedures to oblige them to fulfil their Community obligations.</p> <p>The Agency is ready to organise the necessary meetings with the National Aviation Authorities and industry to further explain the content of its rules.</p>	

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70.	43.	CAA Sweden	<p>Sweden would like to stress the importance for EASA to obtain the maximum extent of operational experience for making these new aircraft as safe as possible. It is by the systematic collection and analysis of service difficulties reports and accident investigation facts that we, EASA, is able to build confidence into the system and correct and improve the design of all approved aircraft.</p> <p><b>JUSTIFICATION:</b> EASA has a possibility to emphasize this in the writing of the working arrangements with the affected states. This should be covered retroactively, since a large data bank, spanning over several years (decades in some cases), is needed for making sound decisions on safety issues.</p>	<p>Noted</p> <p>The Agency agrees in principle with this comment. It has indeed tried to gather data available and to analyse it for supporting further actions. Such data is however scarce and not always sufficiently consistent to draw significant conclusions. The Agency agrees therefore that issuing EASA type-certificates or revised SCSs for the affected aircraft during the additional transitional period will require a professional approach based on trustable data provided by the States of design.</p>	
71.	43.	CAA Sweden	<p>An aircraft operated under this article may only be operated within the state of registry as per 1/7 2006 and between that state and another state subject to approval of that latter state.</p> <p><b>JUSTIFICATION:</b> The geographic operating domain of these specially treated aircraft should not change from today's scenario so that the pose a unequal market threat to current operators with "EASA approved" aircraft.</p>	<p>Not accepted</p> <p>Such an additional restriction could only be justified on safety grounds if the route flown would necessitate specific operational approvals such as use of steep approaches or ETOPS. The suggested measure is therefore, as recognised by the comment, of a trade nature and could be contrary to one of the main objectives of the Basic Regulation.</p> <p>When these aircraft are issued a restricted certificate of airworthiness in accordance with the Basic regulation and its implementing rules, provisions of Article 8 of the Basic Regulation are applicable and ensure free movement.</p> <p>Such is the reason why the envisaged way to limit the fears expressed in the comment, is to restrict the measure to aircraft currently on the register of Member states and to the operations they are currently entitled to execute.</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
72.	43. and 44.	Luftfahrt-Bundesamt	<p>The proposed new articles 2b and 2c under items 43 through 44 seem to be a reasonable interim solution to keep the concerned A/C flying.</p> <p><b><u>JUSTIFICATION:</u></b> Allows sufficient time for EASA to establish working arrangements with the affected authorities of the States of Design and to provide the necessary specific certification requirements as legal basis.</p>	<p>Noted</p> <p>This support to the envisaged action is welcome.</p>	
73.	43. Article 2b, Title	CAA Romania	<p>Change the Title as follows “Issuance of Restricted Certificates of Airworthiness for aircraft not covered by Article 2a”</p> <p><b><u>JUSTIFICATION:</u></b> According to the proposed approach, the validity of Certificates of Airworthiness for the aircraft concerned will not be preserved. These certificates are in fact to be transformed in Restricted Certificates of Airworthiness, allowing the continuation of the type of operations the aircraft are entitled.</p>	<p>Partially accepted</p> <p>As explained in the NPA, the envisaged measure would not apply to all aircraft that are not covered by grand-fathering provisions of Article 2 or regulation 1702. Only those for which a foreign State of design accepts responsibility would be. This of course is not limited to former soviet designed aircraft but they are indeed very few others on the registers of the Member States.</p>	<p>The title will be changed into:</p> <p>Continued operation of some aircraft registered by Member States</p>
74.	43. Article 2b, paragraph 1	CAA Poland	<p>It is not quite clear whether these provisions apply to aircraft that have not been grandfathered or for which an EASA type certificate has not yet been determined and for which a Member State is the State of design.</p> <p>The statement "...provided that State of design has concluded a working arrangement with the Agency covering the continued airworthiness of the design of such an aircraft...." cannot be applied to Member States.</p> <p><b><u>JUSTIFICATION:</u></b> Poland as a Member State, for obvious reasons, does not have a working</p>	<p>Noted</p> <p>As said in the NPA, it is not the intention that aircraft designed in new Member States be eligible to the envisaged measure for the reason explained rightly in the comment. Aircraft like those mentioned in the comment may however be issued Restricted CoA on a case by case basis if no TC can be determined in due time or if they have become orphan by lack of support of their design holders. The Agency is considering asking for the support of their former States of design to elaborate the necessary SCSs</p>	



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			arrangement with the Agency. Therefore it is not quite clear whether these provisions may be applied to aircraft where Poland is the State of design, e.g. aeroplane M-20 Mewa. The situation is similar in the case of L-410 Turbolet of Czech desing.		
75.	43. Article 2b, paragraph 1	CAA Poland	<p>This paragraph does not make provisions for the issuance of a new certificate of airworthiness for an aircraft that remains on the same register, but becomes eligible for a new certificate of airworthiness due to a change of owner and registration marks.</p> <p><b><u>JUSTIFICATION:</u></b> This paragraph seems to imply that it will not be possible to make a registration change on the same register of a Member State if it involves the need for a new certificate of airworthiness (e.g. due to a change of registration marks). This raises our concern as our experience shows that aircraft operated in air services frequently change owners, for different reasons (mostly economic), which also involves a change of registration marks requiring a new CofA to stay in service, even when remaining on the same register of a Member State.</p>	<p>Noted</p> <p>The intention is not to maintain the validity of existing certificates of airworthiness, but to create the basis for the issuance by NAAs of Restricted Certificates of Airworthiness. The envisage measure determines therefore the Specific Certification Specifications by reference to the design approved by the State of design and adds operational conditions (limitation to the currently allowed operation). This will allow NAAs to issue their RCoA to each aircraft meeting the conditions specified by such SCSs. In other words, SCSs are similar to type-certificates as a basis for issuing individual airworthiness certificates.</p> <p>This process does not preclude the change of owner as long as the aircraft meets the conditions of the SCSs as defined by Article 2b.</p>	
76.	43. Article 2b, Paragraph 1.	FAA	<p>Comment – It is not clear why the date of 1 July 2006 was chosen. This is related to the comment on Explanatory Note No. 38.</p> <p><b><u>JUSTIFICATION:</u></b> Clarity.</p>	<p>Not accepted</p> <p>See response to comment 49.</p>	
77.	43. Article 2b., Paragraph 1	HELICÓPTEROS DEL SURESTE, S.A.	<p>Comment: We are concerned about the reference date, 1 July 2006, mentioned within the text. We import three (3) Kamov Ka-32A11BC after the reference date (the latest one was finally registered on 15</p>	<p>Not accepted</p> <p>It was clear from the meeting of the EASA Committee referred to in the NPA, that there is a political will to avoid that too many additional aircraft are registered in Member States during</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			November 2006) so the list in attachment 3 is not updated. Only in Spain, there are nine (9) Kamov Ka-32A11BC registered. Proposed text: change 1 July 2006 for 1 December 2006.	the transition period; this is however a political decision, which is for the Commission and the EASA Committee to make. When considering the issue, such bodies may want to consider the number of aircraft that would benefit from any date change. They may also want to verify whether such aircraft could benefit of the provisions of article 2, paragraph 10, of Commission Regulation 1702/2003 as there seemed to be no such aircraft permitted to fly by the Spanish authorities before 28 September 2003.	
78.	43. Article 2b	CAA Hungary	The selected reference date, 01 July 2006 to be considered as deadline should be change to 28 March 2007 as it was defined in EC 1702/2003 Article 2 originally.  <b><u>JUSTIFICATION:</u></b> The NPA should not be retrospective regarding the earlier and newly jointed Member States.	Not accepted  It was clear from the meeting of the EASA Committee referred to in the NPA, that there is a political will to avoid that too many additional aircraft are registered in Member States during the transition period; this is however a political decision that could be left to the Commission and the EASA Committee. When considering the issue, such bodies may want to consider the number of aircraft that would benefit from any date change. It may also take into consideration the arguments presented in this comment.  See also response to the previous comment.	
79.	43. Article 2b	ECOGAS	1. With regard to an aircraft that is not eligible to the provisions of Article 2a <u>and that before 1 July 2006 was located in a Member State or was the subject of an irrevocable purchase agreement by a purchaser in a Member State and is of a type already registered by a Member State</u> specific certification conditions are deemed to have been issued in accordance with this Regulation under the following conditions: .....	Not accepted  Although the suggestion made as regards aircraft already owned by a citizen and not yet registered seems reasonable, it may open the door to abuses (see also response to the previous comment).  Moreover the term “locate” is too vague as it could apply to aircraft registered in a third country, based and operated in a Member State. This may lead to transferring on EU registers aircraft that are currently not.	

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			<p>[NOTE: The Content of the Draft Opinion made no mention of issue of a certificate of airworthiness being a condition].</p> <p><b><u>JUSTIFICATION:</u></b> In accordance with our comments on the Draft Opinion</p>	<p>Moreover the suggestion that the measure would also apply to aircraft of a type already registered, could lead to adding new aircraft on the register indefinitely.</p> <p>The note is not understood. The draft article 2b requires the aircraft to have been issued a certificate of airworthiness by a Member State.</p>	
80.	43. Article 2b	DGAC-France	<p>Modify paragraph 1 as follow:</p> <p>“1. With regard to an aircraft that is not eligible to the provisions of Article 2a and that has been issued a certificate of airworthiness before 1 July 2006 by a Member State, and which was on its register on that date, specific certification specifications <a href="#">of Part 21.A.184</a> are deemed to have been issued in accordance with this Regulation under the following conditions:</p> <p>...”</p> <p><b><u>JUSTIFICATION:</u></b> It should be clarified that the certification specifications referenced here are those of 21A184.</p>	<p>Not accepted</p> <p>The Agency does not see the need to be more specific than the text of the current regulation was for the TCs. Moreover no confusion is possible as 21A.184 is the only applicable provision.</p>	
81.	43. Article 2b	Sirghie Vasile	<p>1. With regard to an aircraft that is not eligible to the provisions of Article 2a and that has been issued a certificate of airworthiness before 1 July 2006 by a Member State, and which was on its register on that date, and was the private property of a individual or a company from a Member State at that time, specific certification specifications are deemed to have been issued in accordance with this Regulation under the following conditions:</p> <p><b><u>JUSTIFICATION:</u></b></p>	<p>Not accepted</p> <p>See response to comment 82.</p>	

cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>The presence of aircraft and crew from the ex CSI (Republic Moldova and Ukraine ) have destroyed the Romanian utilitarian aviation. This crews have come to Romania in the last 14 years with aircrafts, property of their state, working on Romanian soil with duping prices, because all of the expenses made with the aircrafts maintenances were supported by their state department.</p> <p>- The purpose of this crews when they came to Romania was to make as much money as they can for themselves . This is why , in their quest for money the following things had happened:</p> <p>- the safety of fly was affected. Many aircrafts have brake down before landing. This things had happened because this aircrafts worked throw two operators ("Fratia" and "Amici" from Barlad Romania ) witch don't have a specialty organized structure, and here I'm talking about : - fly director technical director quality director witch to coordinate and to answer for the mistakes of this crews.</p> <p>The crews from this states are a threat for the Romania national safety, and implicit to the safety of UE, because this helicopters (Ka-26 helicopter) fly at low height, and can not be detected by the radar. During their fly to enter in Romania until reaching IASI custom can bring into Romania arms, drugs, and other toxic substances for war that can fit into the bucket of the agricultural installation.</p> <p>All this things are happening with the knowledge of AACR (Romanian Aeronautical Civil Authority), because are large sums of money involved. When us</p>		

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			<p>(Romanian operators) raise this problems, we get threaten whit big fines, or even with the closing of activity.</p> <p>We received whit optimism, and we study with great care your sincere intention, inspired from the reality that you got by various ways, that concerned the Romanian utilitarian operators, and is our duty to assure you of our full support, because this activity to get to normality whit the mention that your Agency will have a lot of work in Romania concerning the corruption. (AACR)</p> <p><b><i>In the end we ask you very much, that in the final form of the Amendment (NPA) No 17/2006, to specify clearly the fly permission only for the aircraft registered in Romania, and private property of a individual or a company from a Member State at 1 July 2006.</i></b></p>		
82.	43. Article 2b <i>Paragraph 1</i>	Sucarno Toma	<p>1. With regard to an aircraft that is not eligible to the provisions of Article 2a and that has been issued a certificate of airworthiness before 1 July 2006 by a Member State, and which was on its register on that date, and was the private property of a individual or a company from a Member State at that time, specific certification specifications are deemed to have been issued in accordance with this Regulation under the following conditions:</p> <p><b><u>JUSTIFICATION:</u></b></p> <p>In Romania fly in average 6 to 12 Ka-26 helicopters per year, property of State Company “Agroavia” Chisinau Rep. Moldova. This helicopters fly in Romania with Romanian registration (YR-), and when</p>	<p>Not accepted</p> <p>The Agency does not believe that safety regulation can be used to regulate the ownership and citizenship conditions under which a Member State registers aircraft. No community competence has been established so far in this field. It is for the Romanian authorities to take such decisions themselves.</p> <p>It is moreover unlikely that excluding aircraft owned by non-EU citizens would affect their capacity to continue to provide services in the European Community or a dedicated Member State if such aircraft are re-registered in a country that concluded appropriate association agreements with the Community or the Member State in question.</p> <p>The Agency considers that the issues raised by</p>	

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			<p>there returning to Rep. Moldova this helicopters keep the Romanian registration. In March 2006 came to Romania 6 helicopters which returned in Rep. Moldova in August-September, keeping the Romanian registration. This registration are kept for the next year. Please help us, so this helicopters can no longer come to Romania, because us (private company) can't compete with a State Company ("Agroavia" Chisinau witch practice dumping price ). Many of us have gone bankrupt in last years. Moreover most of their pilots only speak Russian, and fly only on the east border of Romania. All this thing are happening with the complicity of 2 engineer from the Romanian Civil Aeronautical Authority.</p> <p>Status. The Ka-26 helicopter is the first Russian helicopter to obtain the American Airworthiness Certificate and type Certificates gifted by Germany, Poland, Swedish and Japan Aviation Authorities. 816 helicopters were produced. 235 helicopters were exported to 7 countries, such as Bulgaria, Germany, France, Japan and the USA etc. Ka-26 is still in service.</p> <p><a href="http://www.kamov.ru/market/journal/ka-26e.htm">http://www.kamov.ru/market/journal/ka-26e.htm</a></p> <p>The Ka-26 helicopter has not suffered modification to design or installations from the time of designing / production till now. Because of the small number of fling hours that this helicopter does now in comparison with the fling hour made before 1989, the manufacturer "KAMOV" Company from Russia following the inspections made</p>	<p>the comment need to be addressed as a trade issue with the competent authorities of the Commission and Member States.</p> <p>It might be interesting also to note that the ongoing negotiations on the extension of the scope of the Basic regulation, envisages that Community competence be established to regulate third country aircraft when they operate in the territory of Member States.</p> <p>As regards now the continued operation of Ka-26 the response to comment 2 shows that everything will be done by the Agency, in co-operation with Kamov and the Interstates Aviation Committee to solve the issue. The fact that such an aircraft has obtained an American TC will certainly help achieving such a result.</p>	

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			during the years to this type of helicopter has decided that can prolong the time between two major repair from 15 years to 20 years. The “Kamov” Company named two engineers to check before every season all helicopters and to give a ok certificate for those that are airworthy for that year. We consider that “Kamov” Company being the designer and manufacturer of this type of helicopter is entitle to decide the time between repairs.		
83.	43. Article 2b, 1 (a)	DGAC-France	<p>The applicable specific certification specifications are the <del>type certificate data sheet or equivalent document</del> determined certification basis approved and appropriately documented by <del>of</del> the State of design</p> <p><b><u>JUSTIFICATION:</u></b></p> <p>The paragraph states that the “applicable specific certification specifications are the type-certificate data sheet or equivalent document of the State of design ». Beside the « equivalent document of the state of design » that introduces flexibility, it is not consistent to state that the certification specifications are the TCDS.</p> <p>The certification basis is an other element next to the TCDS and both belong to the type certificate according to the definition in Part 21: § 21A41 states that the type certificate or Restricted TC include the type design (21A31), the operating limitations, the type certificate data sheet for airworthiness and emissions, the applicable TC basis (21A17).</p> <p>Therefore the question is to use the right term in this paragraph. Is it TCDS? Certification basis? Type design?</p> <p>DGAC France consider that “certification</p>	<p>Not accepted</p> <p>The Agency interprets the text differently. It sees the Specific Certification Specification as a design approval, which includes the restrictions, including those of an operational nature, necessary to ensure safety. The restricted certificates of airworthiness will be issued on the basis of such a SCS, when the aircraft complies with all its provisions, and will be subject to the restrictions it contains.</p>	

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			basis" is the most appropriate.		
84.	43. Article 2b, paragraph 1 (a)	CAA Poland	<p>It is necessary to identify which state should have concluded a working arrangement with the Agency as the State of design in the case where the original State of design was the former Soviet Union but the production of the aircraft had been transferred to another country which also covered continued airworthiness of the design of the aircraft.</p> <p><b><u>JUSTIFICATION:</u></b> The Appendices include aircraft types originally designed in the former Soviet Union which at a later stage were produced in Poland under bilateral arrangements between these two states. Continued airworthiness of the design was also covered by the Polish industry. This is being continued today as regards the aeroplane types An-2 and An-28 and the helicopter Mi-2. Poland issued the initial Type Certificates for these aircraft. In view of Article 2b it is not clear which of these two states should have a working arrangement with the Agency.</p>	<p>Noted</p> <p>The Agency is of the opinion that in such cases, the State of design is the one to which the design was transferred. This is consistent with ICAO practices on the transfer of the responsibilities of the State of design.</p> <p>This means that the An-2 and An-28 have Poland for State of design. In such cases also the response to the previous comments are applicable. The An-2 is considered as Annex II and will remain under the responsibility of the States of registry with the support of Poland as State of design. As regards the An-28, either an EASA reference TC can be issued in due time or it will be treated as an individual case as explained in the previous comment.</p>	
85.	43. Article 2b, paragraph 1(a)	CAA Romania	<p>In order to make the proposed solution effective, a working arrangement with the State of Design shall be concluded. Such an arrangement should be concluded before the Amendment becomes effective.</p>	<p>Noted</p> <p>There is already an arrangement in force between the Agency and the Inter-state Aviation Committee of the CIS covering the continuing airworthiness of aircraft for which this body is the authorised representative of the States of design. The list of aircraft covered remains to be finalised, taking into account the sharing of roles with the Ukrainian authorities. If Antonov aircraft are not under the supervision of the IAC, a specific arrangement will have to be concluded with the Ukrainian authorities, provided they can appropriately demonstrate their capability to oversee the continued airworthiness of such</p>	



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				products.	
86.	43. Article 2b, paragraph 1(c)	CAA Romania	<p>Use “mandatory continuing airworthiness actions” instead of “airworthiness directives”</p> <p><b><u>JUSTIFICATION:</u></b> The term “airworthiness directives” may not be specific for the former Soviet Union designed aircraft.</p>	<p>Partially accepted</p> <p>The text will be amended and put in line with ICAO terminology, which uses the following terms in ICAO Annex 8 at Amendment 100: Mandatory continuing airworthiness information. there is a note in ICAO Annex 8 that says that AD are part of such information</p>	<p>Text of 2b(1c) will be changed into:</p> <p>(c) the applicable airworthiness directives are the mandatory continuing airworthiness information of the State of design.</p>
87.	43. Article 2(b), following paragraph 1.(c)	FAA	<p>Comment – It is not clear what specific restrictions will be applied for the restricted category aircraft (Option 5). Proposed Text following paragraph 1.(c): “1.(d) the operating restrictions are:</p> <ul style="list-style-type: none"> <li>- <i>This aircraft shall not be operated in a country outside the European Union without the approval of the national airworthiness authority of that country.</i></li> <li>- <i>This aircraft shall not carry persons or property for compensation or hire.</i></li> <li>- <i>This aircraft shall not operate over densely populated areas.</i></li> <li>- <i>This aircraft shall not be used for any purpose other than that approved on its restricted certificate of airworthiness.”</i></li> </ul> <p><b><u>JUSTIFICATION:</u></b> To provide clarity for purpose(s) of the restricted category aircraft.</p>	<p>Not accepted</p> <p>As explained in several responses to previous comments, there is no reason to introduce non proportionate restrictions to the use of aircraft operating under Restricted CoAs.</p> <p>It is envisaged, as specified in the draft amendment that such aircraft may carry persons or property if they are entitled to do so currently.</p> <p>They may also be operated in ICAO Contracting States if their design complies with the provisions of Annex 8.</p> <p>It is evident that any aircraft, whether operating under a CoA or a RCoA can only be used for the purpose approved on such certificates.</p>	
88.	43. Article 2b., Paragraph 2	Luftfahrt-Bundesamt	<p>Restricted Airworthiness Certificates for A/C in commercial operation – as mentioned under option no. 5 – is not an acceptable solution for the problem.</p>	<p>Not accepted</p> <p>Refusing that the affected aircraft can continue the same operations that they execute today would negate the objective of the envisaged</p>	

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				<p>measure.</p> <p>Refusing that aircraft under a restricted CoA can be involved in commercial operations is moreover not a proportionate measure if this cannot be substantiated on safety grounds. There is no evidence that such is the case.</p>	
89.	43. Article 2b, Paragraph 2	ECOGAS	<p>We would like Article 2b, Paragraph 2, to reflect our comment, ref PART A, IV. Content of Draft Opinion, Paragraph 17, that suggested a case-by-case treatment as follows:</p> <ul style="list-style-type: none"> <li>iv. the 5 year deadline could apply if no evident work has taken place towards a solution;</li> <li>v. extensions of 2-3 years could be made if work is in progress and a satisfactory solution can be expected;</li> <li>vi. continuing approval for operations under a restricted certificate of airworthiness could be granted without specific limit if regular risk analysis of the relevant type and operations shows an acceptable level of risk.</li> </ul> <p><b><u>JUSTIFICATION:</u></b> In accordance with our comments on the Draft Opinion</p>	<p>Not accepted</p> <p>See also response to the previous comment on the same issue.</p>	
90.	43. Article 2b, Paragraph 2.	FAA	<p>Comment – There is no mention of what occurs after 28 March 2012 should the requirements of this paragraph not be met. The Community should clearly identify consequences.</p> <p><b><u>JUSTIFICATION:</u></b> Requesting additional information and clarity.</p>	<p>Not accepted</p> <p>The Agency considers that the situation is very clear. As explained in the NPA (see in particular paragraph 18) the measure aims at providing more time to integrate the affected aircraft into the EASA system. Aircraft that would not have been so integrated – through the determination by the Agency of an approved design allowing the issuing of a certificate of airworthiness, restricted certificate of airworthiness or permit to fly - would not be entitled to be used any more</p>	

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				by Community operators in the territory of Member States.	
91.	43. Article 2b <i>Paragraph 2</i>	Sucarno Toma	<p>2. The specific certification specifications referred to in paragraph 1 shall allow the continuation of the type of operations the aircraft is currently entitled to and are valid until <del>28 March 2012</del> 28 September 2012 unless superseded by a type-certificate determined in accordance with this regulation or by additional specific certification specifications determined by the Agency in accordance with this Regulation.</p> <p><b><u>JUSTIFICATION:</u></b> In Romania this type of helicopter is used only for agriculture work, for treatment of crops, not for person transportation, and a single pilot is flying it. The period of activity for this kind of the helicopter is 3-4 months per year starting from march. So we can benefit from 5 years of EASA clemency , we ask you to set the end date to 28 September 2012</p> <p>Romanian Ka-26 helicopter pilots greets the Agency proposal to deny entrance in the UE space of aircrafts and crew from non UE countries. This crews and aircrafts have made great damage to the Romanian Operators who could not to put aside money and buy new aircrafts, because of the small prices they were force to work, prices enforce by the State Company “Agroavia” from Chisinau Rep. Moldova. All of this things happened with the knowledge of Romanian Civil Aeronautical Authority</p>	<p>Not accepted</p> <p>The justification for extending the transitional period is understood but the Agency considers important that pressure is put on all parties to accelerate the full integration of the affected aircraft into the EASA system. This is particularly critical as regards the conditions under which such aircraft will be maintained during this transition; it is not considered sound to prolong the exemption regime currently envisaged.</p> <p>The length of the transition period is however a political decision, which is for the Commission and the EASA Committee to make.</p> <p>The issue raised by this comment is outside the scope of the Agency’s competence. It is advised to make directly the point to the Commission.</p>	

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			<p>We use this opportunity to inform you that AACR threaten us with the fact that after 01.01.2007, the date of adhesion to UE, EASA will enforce us to make assurance for third parties for the sum of 8 mil Euro damages. We inform you that Ka-26 helicopter has a weight of 3250 kg with load, fly with one pilot only over the crops , does not carry people , and for the fly of repositioning (from one beneficiary to another ), Romanian Regulations prohibit us to fly over the great urbane areas, and over the villages we must fly at 300m height .</p> <p>This is why we consider that will be an exaggeration to compare us (Ka-26 helicopter) with the aircrafts that make person transport. This level of insurance it's very expensive for us. If this will be enforce on us, we will have to add it in the cost of flying hour, and will lose most of our customers.</p>		
92.	43. Article 2b, item 3	East European Air Transport Association	<p>With regard to products, stated by Decision No 2004/01/CF of the Agency of April 2004 the validated Type Certificate, issued by the Agency, shall be deemed to have been approved in accordance with this Regulation when:</p> <ul style="list-style-type: none"> <li>(i) Validation is applied to the Agency by Designer in accordance with this Regulation;</li> <li>(ii) The Agency has established and approved the form and manner of validation working arrangements under terms of relevant agreement, signed with Designer, submitting the Application;</li> <li>(iii) Designer is capable of providing and confirms his supervision ability to supervise the fleet concerned on aircraft individual basis;</li> </ul>	<p>Not accepted</p> <p>The Agency fully agrees that the best solution would be to fully integrate all the affected aircraft in the EASA system. Such is the reason why it already started working with some design holders, including Antonov, to determine an EASA reference type certificate for some of the aircraft at stake. As it is not sure that the process will be finalised in due time, the envisaged measure would provide more time for doing the work properly. It is not possible however to presume that the validation process will be successful by deeming already that there will be a type certificate compliant with the Regulation.</p> <p>It must be noted also that the Agency is of the opinion that the An-12 meet the criteria of</p>	

cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>(iv) Type Certificate validation procedures are carried out in accordance with rules, applicable on 28 March 2007.</p> <p><b><u>JUSTIFICATION:</u></b>  a) Only this part of the fleet concerned, which is under appropriate supervision of the Designer, can be allowed to be operated in the EU airspace to provide necessary flight safety level;  b) This part of the fleet can be operated only on individual registration basis as well by Designer, as the Agency;  c) Supervision done by Designer may provide appropriate flight safety level. (Several Designers of the fleet concerned are not interested to support their products under EU rules);  d) In 2006 Antonov ASTC, as Designer of An-12 and An-26 aircraft, has initiated they Type Certificates validation in EASA. Relevant working procedures have been worked out and accepted by EASA, Interstate Aviation Committee (as a contracting part) and involved operators (East European Air Transport Association);  e) If the catch-up validation procedure will not be added, appropriate improvement of the flight safety may not be developed for the fleet concerned and efforts done for validation have no sense.</p>	Annex II and cannot obtain an EASA certificate.	
93.	44. Article 2c	CAA Hungary	<p>The mentioned paragraph does not clarify the conception of “most advanced project”, the selection and general application of this project.</p> <p><b><u>JUSTIFICATION:</u></b>  The co-ordination is not evadable by EASA between Member States.</p>	<p>Noted</p> <p>This is however the text of the current provisions of regulation 1702/2002 and the intent of the present rulemaking is not to re-open this issue. It is to be noted also that such provision, which aimed at solving transitional issues at the time of entry into force of that regulation, never raised any implementation difficulty.</p>	

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<b>cmt #</b>	<b>Para</b>	<b>Comment provider</b>	<b>Comment/Justification</b>	<b>Response</b>	<b>Resulting text</b>
94.	44. proposed Article 2c, par. 1	CityLine Hungary	<p>NPA 17-2006 does not deal in detail with continued maintenance, overhaul, modification and major repair of the concerned aircraft and their components.</p> <p>The situation at related Member and becoming Member States is, that maintenance and minor repair capabilities of the concerned aircraft and components are usually inherited from the previous “Socialist” system. The conditions for providing those services were and are being transferred to comply with EU Regulations (mainly with the implementation of Part-145). These activities are more or less transformed into systems that comply with EU Regulations including the use of EASA Form 1. That task is feasible.</p> <p>However these aircraft being designed 20-40 years ago in their maintenance system still involve the overhaul of the airframe itself. That activity and overhaul, modification and major repair works of the engines, APU-s, propellers and other components parts and appliances have not been developed within the concerned “small” States, as the system was very much centralized by the former Soviet Union.</p> <p>So in order to keep the “CIS” built aircraft to be grandfathered according to NPA 17-2006 proposals technically in condition of continued airworthiness, certification of services listed above as provided by organizations operating in FSU and/or CIS countries should be dealt with also.</p> <p>Our proposal is to consider the certifying documents and statements used in the original “CIS” system like “passports” for components instead of EASA Form 1-s and</p>	<p>Noted</p> <p>As explained here above, the Agency has no objection to this comment and agrees that a satisfactory solution must be found for the maintenance of the affected aircraft. It considers however that this shall be done on the basis of Article 10.5 and 6 of the Basic Regulation as it does not envisage a legislative measure to address this issue. As explained in the comment, only certain known organisation can be trusted for maintaining the affected aircraft and appropriate oversight must be organised. This can only be done on a case-by-case basis as it deserves individual solutions per type and shall take into account the support that can be provided by the State responsible for the oversight of the maintenance organisation and the resources of the NAA of the State of registry. Appropriate measures have also to be established to ensure that parts used are safe. This may require individual inspections that need to be specified also on a case by case basis.</p>	

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			<p>release statements entered in “Formulars” instead of log books for the aircraft, the engines, the APU-s and propellers, to comply with the Rules on an “Acceptance” basis as an equivalent safety case, provided that:</p> <ul style="list-style-type: none"> <li>-- the “Release to Service” statement is issued by an organization approved by the NAA supervising the Design organization, in accordance with ICAO standards and National Legislation in effect in that State;</li> <li>-- these organizations shall be listed and shall be <b>acceptable</b> for the Agency (EASA); and</li> <li>-- supervision of these organizations shall be continuously completed by the NAA <b>accepted</b> by the Agency (EASA) in a manner <b>accepted</b> and monitored by the Agency (EASA).</li> </ul> <p>In this context we are using the term of <b>accepted</b> instead of <b>approved</b> to indicate that prime responsibility would rest with the State of the Design organization as it was in practice for several years before and the process of acceptance is a far lower burden to be undertaken by the Agency compared to a full approval. Reporting obligations and communications could be established easily and operated fluently putting the Agency in a position to grant and revoke acceptance as found necessary, keeping the final means of control within its own authority.</p> <p><b><u>JUSTIFICATION:</u></b> The system of operation and maintenance regarding the aircraft in concern that were kept under the control of the respective competent Authority and Design organization and only those (!!!) proved technical reliability over the past 20-40 years of operation not lower than the EU certified</p>		

cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>other fleet.</p> <p>Performance and operational requirements for these aircraft can be handled separately from certification and maintenance requirements, to comply with JAR-OPS 1 for commercial operations, so in this manner flight safety in everyday operations would not be compromised.</p>		
95.	44. Article 2c, item 3	East European Air Transport Association	<p>With regard to approvals of parts and appliances for the aircraft, stated in Decision No 2004/01/CF of the Agency of 28 April 2004 and which Type Certificate is validated under Article 2b(3), shall be deemed to have been issued in accordance with this Regulation when:</p> <ul style="list-style-type: none"> <li>(i) They follow authorization process under bilateral Working Agreement, signed by the Agency and Interstate Aviation Committee on 19.07.2004;</li> <li>(ii) They have technical documentation, subject to this Agreement;</li> <li>(iii) Their technical documentation shall have approval of the Designer, validating the Type Certificate of this product in the Agency.</li> </ul> <p><b><u>JUSTIFICATION:</u></b></p> <ul style="list-style-type: none"> <li>a) The mentioned Agreement creates legal basis for evaluation of the equivalent documents for parts and appliances.</li> <li>b) In line with legal acceptance for justification of compliance of the two systems, Interstate Aviation Committee has issued Directive Letter No 04-2004 of 27 April 2004, regulating the issue. (A few positions may require additional consideration and approval by the Agency)</li> <li>c) Approval of the Designer is required for creating more restrictive system, as applied by the Agency. As Designer executes</li> </ul>	<p>Not accepted</p> <p>As explained here above, it is not the intention of the Agency to by-pass a professional validation process, using as appropriate the working arrangement with the Interstate Aviation Committee referred to in the comment. In such a context the automatic grand-fathering of the parts and appliances embodied on the affected aircraft cannot be envisaged. Their approval will be part of the type certification of the aircraft.</p>	



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			individual supervision over the validated fleet [see proposed Article 2b (3)], he is finally responsible for supporting appropriate level of flight safety. d) This mechanism at the same time prevents the usage of parts and appliances, which could be manufactured by not approved by Designer organizations.		
96.	Appendices	FAA	Comment – Provide significance for the note: “ <i>*not registered or State Mission</i> ” pertaining to the proposed amendment.  <b><u>JUSTIFICATION:</u></b> The reason or significance for this note is not clear. These specific aircraft are not called out in the explanatory notes, nor in the proposed amendment.	Noted  According to the data available to the Agency it was not clear whether such aircraft were excluded from the scope of Regulation 1592/2002 (aircraft only engaged in State missions are excluded). This will have to be clarified by the State of registry when considering issuing restricted CoA.	
97.	Attachment 1	Sucarno Toma	Romania does not have Mi-2 helicopters  <b><u>JUSTIFICATION:</u></b> The 2 witch flew in Romania belong to State Company from Chisinau Rep. Moldova  <b>Airdrome “ Balti ”</b>	Noted  Our data was provided by the Romanian CAA. See also the response to comment 82.	
98.	Attachments 1, 2 and 3	CAA Bulgaria	Attachment 1 - DG CAA of Bulgaria fully supports the proposed aircraft to be added to Annex II. Attachment 2 - DG CAA of Bulgaria would like to propose that all modifications of An-2 aircraft be added to Annex II. Attachment 3 - DG CAA of Bulgaria would like to propose that all modifications of An-24, An-26, Ka-26 and Ka-32 aircraft be added to Annex II.	Noted  It must be underlined however that the classification of an aircraft under Annex II is not a discretionary decision. Only aircraft that meet the criteria specified in this annex are excluded from the scope of Community competence.  In this context, the Agency considers that An-2 are probably all eligible for classification as Annex II aircraft but that An-24, An-26, Ka-26 and Ka-32 are not.	

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99.	Attachment 1 + Attachment 3“	Aviodetachment 28	<p>Under it. 1, proposed text “ <b>2</b> ” / comment: Aviodetachment 28 operates with 1 helicopter Mi-8P, factory No. 10319, LZ-CAT, date of production: 1988, date of first registration in Bulgaria: 1988.</p> <p>Under it. 2, proposed text “ <b>61</b> ”.</p> <p>Under it. 3, proposed text “ <b>1</b> ” / comment: Aviodetachment 28 operates with 1 airplane Tu-154M, factory No. 88A 781, LZ-BTZ, date of production: 1988, date of first registration in Bulgaria: 1988.</p> <p>Under it. 4, proposed text “ <b>62</b> ”.</p> <p><b><u>JUSTIFICATION:</u></b> The aeronautical means operated by Aviodetachment 28 are not included at the preparation of Attachment No.1 and Attachment No. 3.</p> <p>SEE: <a href="#">Attachment 1</a> and <a href="#">Attachment 2</a></p>	<p>Noted</p> <p>This information is useful and welcome.</p> <p>It is to be noted however that the attachments were only provided to help quantifying the magnitude of the issue and do not constitute legal documents.</p>															
100.	Attachment 2	CAA Romania	<p>The affected aircraft fleet in Romania :</p> <table><tr><td>An-2</td><td>99</td></tr><tr><td>An-2P</td><td>2</td></tr><tr><td>An-2PK</td><td>1</td></tr><tr><td>An-2T</td><td>2</td></tr><tr><td>An-2TD</td><td>3</td></tr><tr><td>Yak-52</td><td>1</td></tr><tr><td>Yak-52TW</td><td>2</td></tr></table> <p>All the above An-2 aircraft are designed and manufactured in Poland.</p>	An-2	99	An-2P	2	An-2PK	1	An-2T	2	An-2TD	3	Yak-52	1	Yak-52TW	2	<p>Noted</p> <p>This information is useful, as it supports the view that all Antonov 2 currently registered in Member states were designed in Poland and would not be eligible for the grand-fathering currently envisaged. This however should not affect their continued operation as the Agency is also reaching the conclusion that these aircraft are eligible for classification as Annex II aircraft. This of course implies that Sates of registry and Poland accept the related responsibility and maintain their national CoAs.</p> <p>It is finally to be noted that the attachments were only provided to help quantifying the magnitude of the issue and do not constitute legal documents.</p>	
An-2	99																		
An-2P	2																		
An-2PK	1																		
An-2T	2																		
An-2TD	3																		
Yak-52	1																		
Yak-52TW	2																		

cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
101.	Attachment 2	CAA Romania	<p>Romanian CAA proposes that aircraft included in Attachment 2 to be treated in the same manner as aircraft included in Attachment 3.</p> <p><b><u>JUSTIFICATION:</u></b> The process of amending EC 1592 /2002 is still in progress and these aircraft will not be eligible for Annex II at the end of March 2007.</p>	<p>Noted</p> <p>It is clear that aircraft that are not meeting the criteria of Annex II, as it is presently, will be eligible to the provisions of the amended Regulation 1702 if they meet the conditions specified in its Article 2b.</p> <p>It must be underlined also that the attachments to the NPA were only provided to clarify what type of aircraft could be affected by the envisaged amendment. They do not constitute a legal basis for interpreting the provisions of Annex II. The Agency intends to take into account comments it received for this NPA and to provide its interpretation of criteria of Annex II and publish a revised list in its website in a near future.</p>	
102.	Attachment 3	Heliswiss Schweizer Helikopter AG	<p>Add under Type Kamov the Model <b>Ka-32A 12</b></p> <p><b><u>JUSTIFICATION:</u></b> This Model is being operated by HELISWISS in Switzerland (two Helicopters with Call sign HB-XKE and HB-ZFX)</p> <ul style="list-style-type: none"> <li>• Certificate of Airworthiness exists and is issued by Swiss FOCA</li> <li>• Certificate of Noise exists and is issued by Swiss FOCA</li> <li>• All other necessary certificates are available</li> <li>• Both helicopters are registered and released as “restricted aircrafts” and being operated exclusively in aerial work (sling operation). In cause of this status and system of operation is our operation not obligatory under JAROPS 3 to integrate: (See regulation JAR-OPS 3.001 Applicability)</li> <li>• The validation process by EASA has been started up and an EASA team has</li> </ul>	<p>Noted</p> <p>This information will be taken into consideration. It is to be noted however that the attachments were only provided for information to evaluate the magnitude of the issue and that such lists do not constitute legal documents.</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			been in Russia where they have inspected the aircraft type KA 32 correspondingly		
103.	Attachment 3	Sucarno Toma	<p>In Romania are registered 26 Ka-26 helicopters not 35, like you said in Attachment 3.</p> <p><b><u>JUSTIFICATION:</u></b> The difference of 9 helicopters are aircrafts from Republica Moldova. These aircrafts belong to the State Company “Agroavia” from Chisinau, and came to Romania together with the crew, applying dumping prices, managing to bankrupt some of the Romanian operators.</p>	<p>Noted</p> <p>Our data was provided by the Romanian CAA. See also the response to comment 82.</p>	
104.	Attachment 3	CAA Romania	The affected aircraft fleet in Romania : Ka-26                      33	Noted	
105.	Attachment 3	FAA	<p>Comment – It is not clear whether each of the aircraft listed in Attachment 3 have been issued a type certificate or an “equivalent document” to a type certificate. Therefore, it is not clear whether the aircraft listed in Attachment 3 are eligible to be considered for the specific measures under this NPA. The list should be annotated with this information for each aircraft noted.</p> <p><b><u>JUSTIFICATION:</u></b> According to Article 2a, paragraph 1 of the NPA, aircraft issued a type certificate or an “equivalent document” are eligible to be considered under the provisions of the NPA. Attachment 3 does not indicate whether the aircraft listed have been issued a type certificate or an equivalent document.</p>	<p>Partially accepted</p> <p>It is to be noted that the attachments were only provided to help quantifying the magnitude of the issue and do not constitute legal documents.</p> <p>It is clear however that only aircraft for which detailed design data is available will be eligible to the measure; such availability can be secured through the working arrangement mentioned previously.</p> <p>A list will be published by the Agency when the said arrangements have been concluded or updated to provide for the necessary transparency. Such a list may be adjusted from time to time.</p>	

cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
106.	Su-26	Bruno Müller	<p>Sehr geehrte Damen und Herren</p> <p>Ich betreibe das Flugzeug, Sukhoi SU26M2, HB-MSS, seit über 10 Jahren als Spitzensportgerät im Kunstflug-Wettkampf, Kategorie Unlimited auf internationaler Ebene. Welt- und Europameisterschaft. Ein voller Nachweis zu erbringen, dass die SU26M2 den Lufttüchtigkeitsanforderungen gemäss Verordnung (EG) Nr. 1702/2003 entspricht, ist nicht möglich. Wir haben uns bei der Einfuhr aus der Sowjetunion (in die Schweiz) bemüht, das Flugzeug mindestens "CH-Restricted" einzulösen. Somit konnten wir einen Teil des Lufttüchtigkeitsnachweises erbringen. Es war damals bereits sehr, sehr schwierig die Papiere zu bekommen. (Heute wäre dies unmöglich.) Die SU26 ist ein Spitzensportgerät, das sich seit 1970 in der Kunstflugzene auf der ganzen Welt am besten bewährt hat. Die Kunstflugfiguren wurden immer anspruchsvoller (härter), für Mensch und Maschine. Nur die SU26M2 konnte ohne technische Probleme den harten Anforderungen standhalten. Alle anderen Flugzeugtypen, wie z.B. Cap, Extra, hatten und haben immer noch grosse Probleme und Mühe damit. Als Fluglehrer und aktiver Kunstflugpilot, Wettbewerbsteilnehmer an WM/EM in der höchsten Klasse, mit 16'856 Flugstunden und 96'699 Landungen, vertraue ich meiner Maschine SU26M2. Mir ist es wichtig, dass es in der Praxis stimmt und nicht nur auf dem Papier, wie bei den</p>	<p>Noted</p> <p>It seems that the Su-26M2 has not been issued a CoA in any EU Member State and would not be therefore eligible to the envisaged measure. Parallel rulemaking is being done to address the issue of permits to fly. The Su-26M2 is likely to be eligible to measures envisaged under this task. Such measure, if adopted, includes a grand-fathering of permits to fly or equivalent document issued by NAAs for a period of one year. During this period it will be possible to examine further options for its continued operation as the Agency sees no reason to stop them flying.</p>	

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cmt #	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>anderen Flugzeugtypen. Verfolgt man die Kunstflug-Wettkampfranglisten von WM/EM, so ist eindeutig die SU26M2, die am meisten Kunstflugtitel gewonnen hat und gewinnen wird. Ich hoffe es gibt eine Lösung um die SU26M2 noch lange am Himmel turnen zu sehen. Eine Möglichkeit wäre, z.B. "EASA-Restricted". (Bestehende CH-Restricted umschreiben in "EASA-Restricted")</p> <p>Einer wohlwollenden Lösung sehe ich optimistisch gegenüber.</p> <p>Freundliche Fliegergrüsse</p> <p>Bruno Müller, FII (A) CH-23145/JAR</p>		
107.	Su-26	Pierre Marmy	<p>En tant que propriétaire depuis plus de 12 ans, de l'avion russe de type Sukhoi 26. En tant que opérateur de cette de la machine dont la fiabilité s'est révélée excellente tout au long de ces années. En tant que pilote jamais trahi par la sécurité irréprochable de cet engin.</p>	<p>Noted</p> <p>M. Marmy required his comment not to be published.</p> <p>In substance the comment draws the attention to the case of the Su-26, which may not have been issued a standard certificate of airworthiness in any Member State and could be therefore excluded from the scope of the envisaged measure. Grounding such an aircraft, which is considered in the comment as the best performing aerobatic aircraft, would be damaging the development of air sports.</p> <p>The comment regrets therefore that the issue be addressed so late.</p> <p>The Agency draws the attention of M. Marmy to</p>	age

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<b>cmt #</b>	<b>Para</b>	<b>Comment provider</b>	<b>Comment/Justification</b>	<b>Response</b>	<b>Resulting text</b>
				<p>the NPA, which even if considered as badly drafted, explains the reasons why action is undertaken only at this stage.</p> <p>As regards the specific case, it is likely that the envisaged measure may not apply to the Su-26.</p> <p>The attention of owners of such aircraft is however drawn to the opinion issued by the Agency on the issuing of permit to fly. Such measure would apply to aircraft that are not eligible to a standard or restricted certificate of airworthiness. To facilitate transition, that measure grand-fathers for one year the permits to fly issued by Member States (Switzerland being assimilated to a Member State). This will provide the Agency sufficient time to re-examine this specific case, taking into account the work done already by the Swiss authorities..</p>	

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D. APPENDICES

Attachment 1

## Annex II Soviet designed aircraft

TC holder	Type/model	Fleet in EU	Fleet in Bulgaria	Fleet in Romania
Antonov	An-12		9	
	An-12A		1	
	An-12B		2	
	An-12BP		7	
	An-12P	1	1	
	An-12T	1	1	
Ilyushin	Il-2	2		
Lisunov	Li-2	1		
Mil	Mil-2	28	19	
	Mil-8		9	2
	Mil-SAMT (171)	2		
	Mil-SMTV		2	
	Mil-SMTV-1		5	
	Mil-8P	1	2	
	Mil-8T	9	2	
	Mil-26T		1	
Polikarpov	Po-2	1		
	CSS-13	1		
Yakovlev	Yak-1	1		
	Yak-3 (3+3U+3M)	4		
	Yak-3UA	1		
	Yak-3UTI-PW	1		
	Yak-9U-M	2		
	Yak-11	10		
	Yak-18	4		
	Yak-18A	3		
	Yak-50	40		
	Yak C.11	8		
	Yak C.18A	1		
TOTAL		122	61	2

\*not registered or State Mission



## Attachment 3

## Soviet designed aircraft subject to Community law

Type	Model	Fleet in EU	Fleet in Bulgaria	Fleet in Romania
Antonov	An-24		1	
	An-24 PB		1	
	An-26	4	5	
	An-26B	18		
	An-28	7		
	An-72-100	2		
	An-72-100D	1		
	An-74	1		
	An-74-200	1		
	An-74-TK-100	1		
Interavia-Servis	61TA	2		
	70TA	1		
	80TA	1		
	81TA	1		
Kamov	Ka-26	98	43	35
	Ka-32		2	
	Ka-32A11BC	6		
	Ka-32AO		4	
	Ka-32C		1	
	Ka-32T		3	
Sukhoi	Su-26	2		
	Su-26M	5		
	Su-26M2	2		
	Su-29	3		
	Su-31	4		
	Su-31M	3		
	Szu-29	6		
Tupolev	Tu-154M	2*	1	
Yakovlev	Yak-18T	35	1	
	Yak-40	3		
	Yak-54	1		
	Yak-55	10		
	Yak-55M	2		
<b>TOTAL</b>		<b>220+2</b>	<b>62</b>	<b>35</b>

\*not registered or State Mission