



TERMS OF REFERENCE

Task Number:	RMT.0278 (MDM.078) and RMT.0536
Issue:	1
Date:	01 February 2013
Regulatory reference:	Commission Regulation (EU) No 748/2012, Annex Part 21, paragraphs 21.A.174; 21.B.320; 21.B.325; 21.B.326; and 21.B.327; Commission Regulation (EC) No 2042/2003 Annex I — Part M, paragraph M.A.710.
Reference documents:	Appendix 2 of FAA AC 21-2 'Special EU requirements as applicable to aeronautical products imported into their countries or jurisdictions from the United States', revised 1st May 2008; Canadian Aviation Regulations (CAR) Part V — Standard 509 — 'Export Airworthiness Certificates for Aircraft'. ICAO Doc 9760

1. Subject: Importing of aircraft from other regulatory system, and Part 21 Subpart H review

2. Problem/statement of the issue and justification; reason for regulatory evolution (regulatory tasks):

The main subject of RMT.0278¹ (MDM.078) is the issuance of airworthiness certificates/airworthiness review certificates to used aircraft which were previously governed by foreign civil airworthiness and operational rules. This rulemaking task will also impact European aircraft, which were previously not subject to the Basic Regulation (e.g. state aircraft) or for which the airworthiness certificates (or airworthiness review certificate) had become invalid and an application for a certificate of airworthiness under the Basic Regulation was submitted.

There are several reasons that have been identified for initiating rulemaking action which can be summarised below:

- For an aircraft imported into the EU, the issuance of a Certificate of Airworthiness (CofA) is currently regulated by Part 21, Subpart H — 'Certificates of Airworthiness and Restricted Certificates of Airworthiness', in particular by paragraphs 21.A.174 and 21.B.325 mainly. The paragraph 21.A.174 refers to Part M with regard to the recommendation for the issuance of an Airworthiness Review Certificate (ARC), and Part M presents in M.A.710 the requirement for conducting an airworthiness review in order to issue a recommendation for the issuance of an ARC by the competent authority. The main objectives of the airworthiness review are to establish the

¹ The rulemaking task RMT.0278 merges the rulemaking tasks identified in the past as MDM.078 (Importing of aircraft from other regulatory system) with 21.041 (Part 21, Subpart H review), for which the Agency had issued Pre-RIAs independently.

airworthiness status of the imported aircraft with regard to the European rules, and to identify additional approvals, inspections, or maintenance tasks required to ensure compliance with the European rules. Leased aircraft are subject to such review when they change registration. Stakeholders expressed the need for further clarification on certificates, documents, and records from the third country that would be acceptable when performing the airworthiness review for these aircraft.

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

3. Objectives:

The objectives are:

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

Aiming to achieve these objectives, an amendment is foreseen to both regulations (EC) No 2042/2003 and (EU) No 748/2012 with regard to the requirements for the airworthiness review and the issuance of a certificate of airworthiness for the scenarios described above. Introduction of provisions that would facilitate that aircraft leased to third-country operators stay in the regulatory system is foreseen, as well.

The development of the related AMC/GM is also expected, as it is considered necessary.

4. Specific tasks and interface issues (deliverables):

- Opinion to amend, as necessary, Commission Regulation (EU) No 748/2012 and Commission Regulation (EC) No 2042/2003.
- Decision to introduce, as necessary, AMC/GM related to the above rules, to provide Acceptable Means of Compliance or Guidance Material.

5. Working methods: (in addition to the applicable Agency procedures): Group**6. Timescale, milestones:**

NPA: 2015/Q2

CRD/Opinion: 2017/Q1

The Decision shall be published when the Opinion has been adopted by the Commission.