

Executive Director Decision

**DECISION N° 2015/023/E
OF THE EXECUTIVE DIRECTOR OF THE AGENCY**

of 30th January 2015

ON THE ACCEPTANCE OF FOREIGN PRODUCTION

THE EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION SAFETY AGENCY,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency¹ (hereinafter referred to as “the Basic Regulation”), and in particular Article 38(3)(e) and Article 38(3)(i) thereof.

Having regard to Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations², in particular Article 9(2) thereof.

WHEREAS:

- (1) The Executive Director is entitled in accordance with Article 38(3)(e) of the Basic Regulation to take all necessary steps in order to ensure the functioning of the Agency.
- (2) Article 8(2) of Regulation (EU) No 748/2012 foresees the possibility for foreign design organisations to demonstrate capability by other means than holding a Design Organisation Approval in accordance with Part-21.
- (3) Article 9(2) of Regulation (EU) No 748/2012 foresees the possibility for foreign production organisations to demonstrate capability by other means than holding a Production Organisation Approval in accordance with Part-21 when the Agency has determined that the State of Manufacture has the same independent level of checking of compliance as provided by Part-21.
- (4) Production from foreign³ manufacturers holding an EASA Type Certificate (TC) is accepted in the European Union (EU) when the foreign manufacturer holds an EASA Production Organisation Approval

¹ OJ L 79, 19.3.2008, p. 1.

² OJ L 224, 21.8.2012, p. 1.

³ “Foreign” means, in this context, “from a State which is neither a member of the European Union nor participating in EASA in accordance with Article 66 of Regulation (EC) No 216/2008

(POA) or when the State of Manufacture for that product has concluded a Bilateral Aviation Safety Agreement (BASA) with the EU, covering the production of aviation products.

- (5) By way of exception to the above rule, in order to ensure the continuous airworthiness of products⁴ already covered by an EASA TC and registered in the European Union, some products, parts and appliances produced by foreign manufacturers not holding a POA and where no BASA is in force between the European Union and the State of Manufacture, can be imported into the EU in accordance with Article 9(2) of Regulation (EU) No 748/2012, when the Agency has determined that the State of Manufacture has the same independent level of checking of compliance as provided by Part-21.
- (6) This decision allows the use Article 9(2) in specific cases where Article 8(2) has been used to certificate other than complex motor powered aircraft and a Bilateral Aviation Safety Agreement (BASA) is not in place or a POA has not been granted.
- (7) The Agency fully respects the responsibilities assigned to the State of Manufacture under the Chicago Convention and will not take over any of these responsibilities.
- (8) The Agency's assessment as foreseen under Article 9(2) is a validation process that aims to verify that the oversight system of the State of Manufacture includes the same independent level of checking of compliance as provided by Article 9(1) of Regulation (EU) No 748/2012.
- (9) To avoid creating an imbalance between production in the European Union and production in non-EASA Member States for products where EASA discharges the State of Design responsibilities, the applicability of this decision is limited to products for which a non-EASA Member State⁵ is the State of Design and to the parts and appliances for these products.

HAS DECIDED AS FOLLOWS:

Article 1

1. This Decision establishes the general principles for the acceptance of production of products, parts and appliances produced by foreign manufacturers whose aircraft types hold an EASA TC and are at the date of entry into force registered in the EU.
2. It provides guidance to the implementation of Article 9(2) of Regulation (EU) No 748/2012 and shall be used by Agency staff when verifying whether the State of Manufacture has the same independent level of checking of compliance as the one provided by Part-21.

⁴ According to Article 3 (c) of Regulation 216/2008 product means an aircraft, engine or propeller.

⁵ "Non-EASA Member State" means "A State which is not a member of the European Union nor participating in EASA in accordance with Article 66 of Regulation (EC) No 216/2008"

Article 2

For the purpose of this Decision:

“foreign manufacturer” means an organisation producing foreign products and whose principal place of business is in a non-EASA Member State.

“foreign product” means other than complex motor-powered aircraft and their associated engines and propellers with an EASA approved design, as well as parts and appliances to be installed thereon, for which the State of design is a non-EASA Member State.

Article 3

The overall objective of this Decision is to facilitate the acceptance of foreign products produced by foreign manufacturers, taking into account the Agency’s principle objective of establishing and maintaining a high uniform level of civil aviation safety in Europe together with the additional objectives stated in Article 2 of the Basic Regulation, in particular the objective to provide a level playing field for all actors in the internal aviation market.

Article 4

1. Upon request of a foreign manufacturer or a non-EASA State of Manufacture, the Agency shall start an assessment of the non-EASA State of Manufacture’s oversight system for production when:
 - the foreign products have a non-EASA State of Design and the manufacturer of such products are recognised under Article 8(2) of Regulation (EU) No 748/2012;
 - an EASA TC was issued before the date of entry into force of this Decision, for the foreign product;
 - the competent Authority of the non-EASA State of Manufacture accepts to undergo initial and continued assessments by EASA in order to demonstrate compliance with Article 9(2) of Regulation (EU) No 748/2012;
 - the State of Manufacture is also the State of Design for the foreign product for which the EASA TC has been issued; and
 - satisfactory ICAO Universal Safety Oversight Audit Programme results exist regarding the certification capabilities of the State of Manufacture.
2. Any costs associated with the assessment shall be recoverable from the foreign manufacturer in accordance with the applicable EASA fees and charges legislation.

Article 5

During the initial assessment to establish if the Competent Authority of the non-EASA State of Manufacturer fulfils the conditions established in Article 9(2), EASA will determine the need for an on-site verification of the State's oversight system for production.

Continued assessments will be conducted following a risk-based approach.

The extent of the verification reviews will additionally take account that the products concerned are other than complex.

The Agency shall develop procedures on how to conduct the assessments defined in this Article.

Article 6

The outcome of each positive initial assessment under Article 9(2) of Regulation (EU) No 748/2012 shall take the form of a Decision of the Executive Director of the Agency and shall:

- define the foreign products that can be accepted in the European Union under Article 9(2) of Regulation (EU) No 748/2012;
- identify the release documents of the competent authority of the State of Manufacture which are deemed acceptable in the European Union's regulatory system for the foreign product concerned, together with the definition of the scope of acceptance of the foreign production forms;
- set out the conditions for the acceptance of the foreign product;
- be published in the Official Publication of the Agency.

Article 7

This Decision shall be published in the Official Publication of the Agency and shall enter into force on the date of publication.

Done in Cologne, 30th January 2015

Patrick Ky