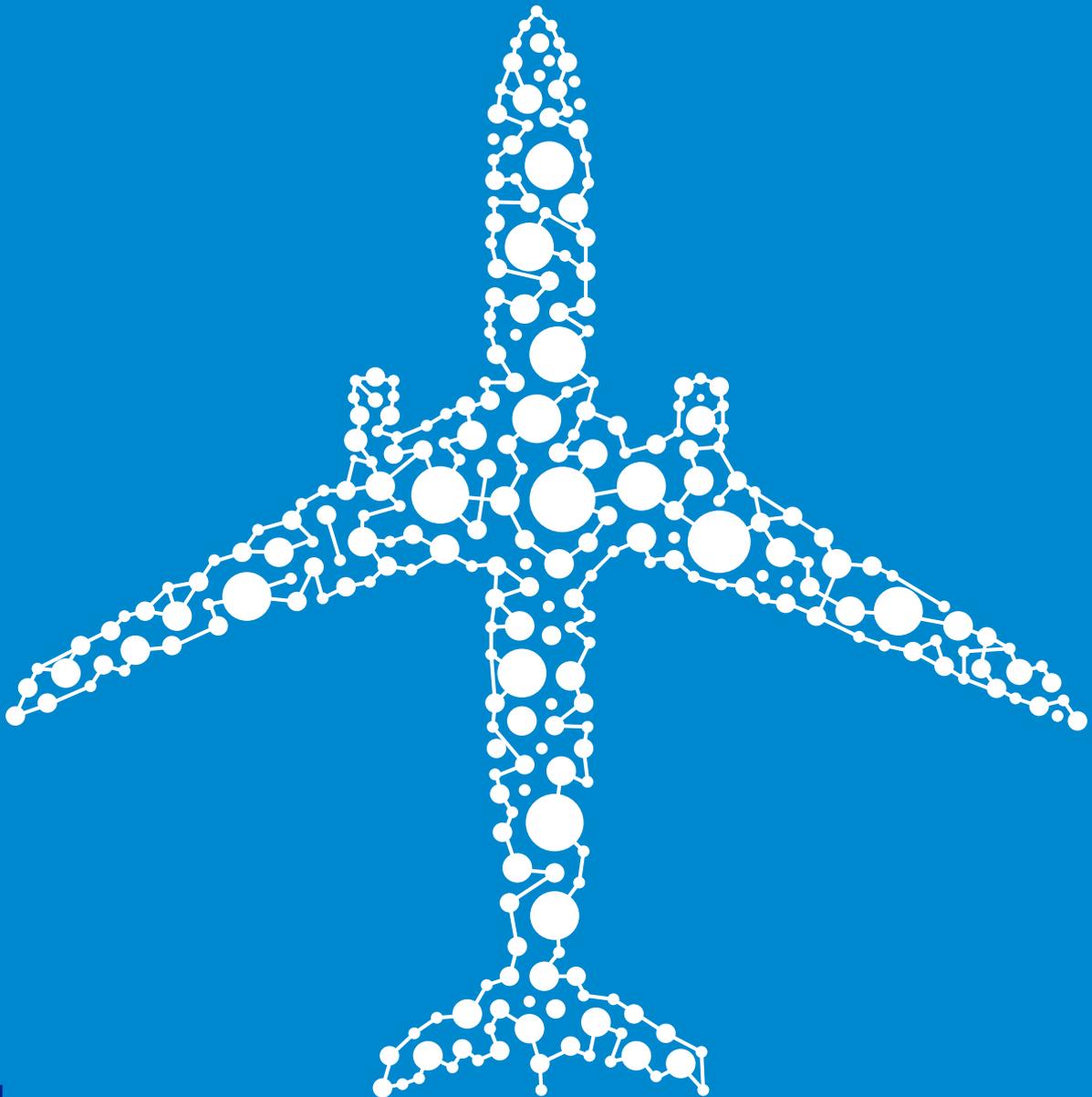




# COOPERATIVE OVERSIGHT TRIAL

## ACTIVITY REPORT

June 2015 – May 2016



DSAC





# 1. Background

This activity report summarises the outcome of a **trial project** between the Czech Republic, France, Norway and the United Kingdom on cooperative oversight. The trial project and this activity report are included as action Item FOT.007 and MST.021 into the European Plan for Aviation Safety (EPAS 2016-2020), which tasks the Agency and Member States to implement cooperative oversight and disseminate best practices on how NAAs can better work together and participate in the oversight of organisations/persons certified by another Member State.

Cooperative oversight allows the Member State's competent authority to gain a better understanding of safety risks, related to aviation activities of organisations/persons active in its territory, but certified by the competent authority of another Member State. This extension of the traditional oversight scope has clear advantages in terms of exchange of information between competent authorities, but it also triggers a number of questions regarding the **meaning of cooperative oversight**, the **practical implications** for authorities, the **necessary tools** that need to be in place, the link with the authority's **management system**, as well as the link with the existing **SACA program**. This working paper defines EASA's **understanding** of cooperative oversight. It explains the meaning of cooperative oversight, identifies the main actors involved and makes **recommendations** for effective **implementation**. Initially, this paper is limited to CAT operations.

## 1.1. Main actors involved in cooperative oversight

**'Certifying Authority' (CA):** the competent authority of a Member State having issued the Air Operator Certificate (AOC) being directly responsible for approval and oversight of a person or organisation established or residing in its territory.

**'Local Authority' (LA):** the competent authority of a Member State in whose territory activities are performed by persons and organisations established or residing in another Member State, under the oversight of another CA.

## 1.2. Meaning of cooperative oversight

The term "cooperative oversight" refers to the obligations established by AR(X).GEN.300 (d) and (e). Member States must include in their oversight scope those activities performed in their territory by entities established or residing in another Member State, on the basis of safety priorities and past oversight activities. Furthermore, in such a scenario the CA responsible for oversight and approval may agree to have oversight tasks performed by the LA where the activity takes place - or by the Agency. The following examples are characteristic of cooperative oversight:

- Sharing of **safety data** and **safety information** between Member States, e.g. data on SACA (Safety Assessment of Community Aircraft), safety studies and reviews, occurrences data, ATC data, whistle-blower information, information on findings and inspections or audits.
- Occasional **spot checks** by the LA of an operator's **remote bases**, that are located in the territory of the LA.
- **Joint audits** shared between the CA and the LA, where the activity takes place, as a result of joint oversight programmes.
- **Oversight agreements, e.g. based on a Memorandum of Cooperation** i.a.w. ARX.GEN.300(e), where oversight tasks are formally assigned to another Member State, where the activity takes place, e.g. tasking of inspectors of the LA to do flight or ground inspections or audits of remote bases or audits on activities of persons. In this case the LA must inform all parties involved about such an agreement.

In some cases and in order to assure the MS's safety priorities it may be necessary for the LA to perform surveillance activity independent from the CA when it is clear that the safety priorities are not addressed.



A flow chart indicating EASA expectations of the flow of cooperative oversight is attached to this report (see Appendix 2).

### 1.3. Principles and legal background

Article 10 of the Basic Regulation (EC) 216/2008 requires ‘Member States, the Commission and the Agency to cooperate.’ With the adoption of Regulation (EU) 1178/2011 ‘Aircrew’ and 965/2012 ‘Air OPS’ this concept of cooperative oversight was further codified in implementing rules, namely in the authority requirements (Part-ARX.300) (A summary of the relevant regulations is at Appendix 4).

Accountability for oversight rests with the competent authority who issues the certificate, i.e. the CA. The following items are underlying principles of cooperative oversight:

- When establishing the scope of cooperative oversight, the Member State prioritises those areas of greater safety concern, as identified through **safety information** received and the analysis of **safety data**.
- Cooperative oversight is an integral part of the overall **oversight programme**.
- Member States **exchange safety data** and **safety information**. Examples of information that can be shared:
  - › **Findings** on non-compliances with an indication of the level of the finding
  - › **Information about remote operations** conducted outside the territory of the CA and within the territory of another Member State.
  - › **Bases** located outside the territory of the CA, and within the territory of the LA (opening/closing of bases).
  - › **Information on wet-leases** (e.g. long-term wet-lease agreements between EU operators that result in a prolonged operation outside the territory of the CA.)
  - › **Information on ‘group’ operations**, e.g. multiple AOCs within a single holding in multiple Member States are streamlining operations and aim to operate under one Operations Manual.

The **management system** of both the CA and the LA must **ensure follow-up** of information/findings received in the context of cooperative oversight and must provide feedback to each other. According to ARX.GEN.200(c) each authority must establish **procedures** in its management system to **exchange information and to assist other competent authorities on findings raised and on follow-up actions taken** as a result of cooperative oversight. The rule does not specify whether the CA or the LA must initiate this exchange of information. An example of such a notification is at Appendix 3.

## 2. Suitability of the legislative framework

Today’s legislative framework on cooperative oversight does not address the following points:

- apportionment of **finance** for the cost of the additional oversight of a “remotely-based operator” by a LA;
- the **authorisation** by the CA of an **Inspector** of the LA, e.g. for flight deck access during flight;
- a **common understanding** on the competencies of inspectors across EASA Member States;
- a **common language** for the documentation of oversight activity;



- a template of a **Memorandum of Cooperation** between Member States;
- process for **exchange of safety data** and the provision of confidentiality;
- common **audit / inspection reporting** process;
- and a means of ensuring that **operators** across Member States **understand** fully the **rationale** behind the Regulations regarding cooperative oversight.

These considerations might be addressed either by Guidance Material (GM) or by safety promotion material from EASA to all Member States.

Furthermore, there is no requirement for a CA to inform the LA on the activity of its operator within the territory of the LA, to enable the LA to take an informed view on whether such oversight was both sufficient and appropriate. A flow chart on cooperative oversight (produced by EASA Flight Standards, Air Operations Department) is attached to this report (see Appendix 3).

## 2.1. Availability of safety intelligence

The ability of a Member State to **identify the safety priorities** will be controlled by the extent of access to **data** (in addition to SAFA) and the **technical resource** available to analyse that data. Whilst the Member State may agree to share safety data, there is no guidance provided by EASA as to the means by which to do so.

However, ARO.GEN.200 mandates that the CA shall inform the LA of findings raised and follow-up actions taken as a result of oversight of remote based operations, thus provision for data and intelligence paths is made by the regulations. A prerequisite for such mutual exchange of information is advice by the CA to the LA on remote operations and bases by its operator. An example of such a notification sent by the Irish CAA to the UK CAA is attached to this report (see Appendix 4).

## 2.2. Safety Priorities (ARX.GEN.200)

The **scope of the activity** of a LA in the oversight of an operator of another CA is to be determined on the basis of “the safety priorities”. The means by which such priorities are identified is not described and the priorities of a Member State may vary and depend upon incident trending and the availability of intelligence. A Member State may assess the safety priorities with reference to its own **State Safety Plan**. Most Member States will also rely on data from ramp inspections (RAMP), although this is likely to reveal only a small part of the safety picture and virtually nothing of an operator’s operational safety performance. Therefore, a simple reliance on the RAMP database will most likely not be sufficient.

## 2.3. Memorandum of Cooperation (MoC)

Whilst a formal legal instrument to facilitate cooperative oversight is not required or indeed indicated by Regulations, some Member States may feel it necessary to request such an agreement from a LA. A **template for a Memorandum of Cooperation (MoC)** can speed up an agreement. The MoC includes the need to include authorisation of oversight activity, definition of the type of oversight agreed (e.g. shared or independent), an agreement on the financing thereof, the boundaries of the oversight activity agreed, the respective responsibilities of the LA and CA, local authorisation necessary for Inspectors, format of reporting and the processing of any findings made (especially the status of those findings). A template for a MoC is attached to this report in Appendix 1.



## 2.4. Delivery and Processing of Findings

The applicable Implementing Rule ARO.GEN.350 indicates that **if a LA identifies non-compliance** on the part of an operator certificated by another Member State **it shall inform the CA** of the non-compliance without prejudice to additional enforcement measures. For such non-compliance to be passed from the LA to the CA, it will often be necessary for the LA to perform oversight of the operator in order to verify any non-compliance stemming from its safety priorities and to assess the level of the finding. There is no guidance provided by EASA on how to undertake such oversight and there is no guidance on the process to be followed if the findings raised by the LA are not taken-up by the CA.

# 3. The “Cooperative Oversight” Trial

In April 2015 the EASA RAG NBMWG, which has been renamed the EPAS Action Group, identified the need to trial the process of “cooperative oversight”; this was part of the underlying principle of the mitigation of risks associated with emerging business models without impairing innovation or competition within the market. This trial, facilitated by a Working Group (WG), was to be led by the UK CAA. The members included the following:

- **CAA Czech Republic (CAACR)**
- **CAA Norway**
- **CAA UK**
- **DGAC France**
- **EASA**

The output of the trial is a set of recommendations addressed to EASA and the competent authorities. These recommendations aim to support NAAs in the practical implementation of cooperative oversight.

## 3.1. Background to the Working Group on Cooperative Oversight

This Working Group was established to facilitate the trialling of cooperative oversight activities between NAAs in accordance with ARO.GEN.300. The Working Group reported to the EASA Air Operations Department of the Flight Standards Directorate and shared its progress with the EPAS Action Group on New Business Models.

The task of the Working Group was to:

- **Define cooperative oversight** and how it applies to the oversight of Commercial Air Transport Operations (Part-CAT)
- Agree on a **range of trial activities** to be undertaken between NAAs and formulate a detailed plan of that activity
- Communicate a **trial summary** including recommendations
- Develop a **Memorandum of Cooperation** (MoC) which would detail the protocols within which cooperative activity would be undertaken.
- Identify the **enablers** for Cooperative Oversight
- Identify the **barriers** to Cooperative Oversight - e.g. funding models



- Develop **best practices** how NAAs can determine safety priorities via tools, datasets etc. relating to activities by persons or organisations established or residing in their Member State i.a.w. with ARX.GEN.300(d), while acknowledging that RAMP data alone is mostly not sufficient.
- Clarify **data protection arrangements** between NAAs working together under cooperative oversight arrangements
- Identify potential **operator concerns and their mitigations**, e.g. data protection protocols to be included in the appendix of the MoC

The Working Group met three times during the course of 2015 and 2016. It also exchanged views on the trial progress and the final report.

## 3.2. Activity Report by country

### Czech Republic

Activity focused on an audit of one operator proposed by the UK. The activity requested and achieved was as follows:

- Sharing of the results of a flight inspection on the operator (Operator A) to be carried out by the CAACR in the Czech Republic in June 2015
- Sharing of the results of the operator training records audit to take place in Brno in June 2015
- Observation of the Basic Inspection of the operator to be carried out by the CAACR in Brno in September 2015 and of the checklists and methodology to be utilised
- Assisting with the Main Inspection of the operator by the CAACR at the remote base in September 2015 (with sharing of the associated checklists and methodology)
- Sharing of the results of the operator ACAM inspection to take place in 2015
- Performance by the UK CAA of a SACA inspection of the operator based upon the requirements of the CAACR's SANA protocols (the results of the SACA inspection to be shared with the CAACR)
- UK CAA to assist with the CAACR's Part 145 inspection of the operator's maintenance provider, to take place at the remote base in 2016
- UK CAA and CAACR to share relevant MOR data in order to enable each Authority to better identify and mitigate safety risks
- CAACR to share data relating to the recommendation of the continuance of an AOC

An invitation was offered to UKCAA on 8 September 2015 to join the CAACR team performing the Main Inspection of Operator A at the remote base between 15-17 September 2015; UKCAA was unable to be present due to the short notice involved. On 18 September 2015 CAACR informed the UKCAA that the Base Inspection in the Czech Republic of the operator would be completed on 30 September 2015 and that the report would be sent to the UKCAA. A flight inspection of Operator A would be carried out by the CAACR in October 2015 and the Base Inspection of the remote base would be programmed for 2016. No audit / inspection reports have been received but an email was sent by CAACR on 18 February indicating that inspections of the operator had been performed in the Czech Republic and at the remote base during September and November 2015.

A draft MoC with Appendix was sent to the UKCAA by the CAACR on 3 November 2015 and comments offered on the draft by UK on 6 November 2015. Discussion was initiated by UKCAA on the protocols to be followed for signature of the final MoC and Appendix on 20 November 2015. On 5 February 2016 a final version of the MoC was sent to the UK CAA and the MoC, with a note of memorandum validity to cover only the trial period, was subsequently signed in mid-March 2016, on the UK's part by the UK CAA International Director. The signed MoC was received by the CAA Czech Republic on 23 March 2016.



On 18 February 2016 CAA CZ informed CAA UK by email about the most recent activities and the results of inspections on the operator:

- Regular on-site audit at the Czech Republic operator's Headquarters performed by CAA CZ 30 September 2015
- On-site audit at the remote base performed 25 November 2015

Direct liaison has now taken place between the UKCAA and the operator and an invitation to carry out activity as required by UK on its remote based operations and at its Czech Republic principal place of business was openly offered. A UK CAA team comprising three Inspectors visited the operator's remote base from 17-18 March 2016; the cooperation and transparency of the operator were very apparent. Two flight inspections were performed and aircraft surveys carried out alongside reviews of the operator's Part M compliance and contracted Part 145 activity arrangements. A UK team then visited the operator's Company Headquarters from March 31 – April 1; the team inspected the airline facilities, conducted interviews with key personnel, observed pilot simulator training / checking and inspected pilot training records. The Czech Republic CAA was informed of all regulatory activity taking place but the activity that took place in the Czech Republic in order to ensure the UK safety priorities was not included in the MoC. A report was written to detail this activity and observations made by the UK teams; the report was sent to the Czech Republic CAA on 22 April 2016 for consideration. The operator requires a Foreign Carrier Permit to operate from the remote base and this Permit has been renewed but on timescales conditional upon appropriate action being taken by the operator to address UK observations made during the two visits to the operator. At this point no feedback on the observations raised has been received from the CA.

During April and May 2016 CAA CZ and CAA UK communicated via email. On 23 May the official CAA CZ Report was sent to CAA UK regarding follow up process on finding raised by CAA UK in Brno.

On 7 June 2016 the UK Head of State Safety Partnerships met with the new Flight Division Director CAA Czech Republic and his team in Prague.

It was confirmed that the UK report on Operator A had been translated and submitted to the AOC holder and that the entire contents was accepted and remains unchanged. The Corrective Action plan will also be shared with the UK CAA once it is accepted by the Czech Republic CAA.

It was also agreed that the UK CAA will join the Czech Republic CAA for a Flight Operation inspection in June 2016 and an Airworthiness inspection during August/September. Post these cooperative activities both CAAs will meet again to discuss future cooperation opportunities.

It was also agreed that both CAAs will continue to work in Cooperation and Safety Partnership without the need for a MoC.

## France

The DSAC France offered at an early stage UK CAA involvement in an audit of an operator certificated by France but with a base in UK. This operator (B) has a base at UK airport. The audit was performed 2-3 September 2015 at the UK airport. Whilst UK had no input into the audit planning, full details of the planning and the processes involved in the performance of the audit were provided in advance to UK CAA. The documentation was written in the French language (see "Challenges" below). It was made very clear from the start by the DSAC France audit team leader that UK's involvement in the audit of Operator (B) should be proactive and indeed the audit was carried out in very much a bilateral spirit. Auditing was predominantly in English including the Closing Meeting (debrief of the operator). The procedures followed and the depths of investigations performed by the DSAC were at levels similar to those of the UK CAA. Of note was the strong spirit of cooperation offered by the DSAC team to the UK CAA FOI. The DSAC offered a copy of the final audit report to the UK CAA; this was received (copy in the French language) on 26 November 2015 post a delay due to sensitivities of the release of data. A copy of the audit findings closures was kindly also provided by the DSAC to UK CAA, once again drafted in French.

A test of inter-NAA "whistle blowing" procedures was facilitated during the audit and allegations submitted by two UK "whistle blowers" were very fully investigated by both the operator and the DSAC.



UK CAA offered to share certain elements of oversight of one operator (Operator C) with the DSAC. A final version of a MoC for cooperative oversight is awaiting signature but a DSAC Inspector joined a UK CAA audit team in the interim for a Paris base audit during 4-6 May 2016. This audit was carried out in a fully collaborative manner in accordance with UK CAA procedures and with UK CAA direction.

## Norway

UK CAA had requested a share of oversight of the one operator (Operator D) UK-based operation. Whilst arrangements for the activity became a little protracted due to summer leave commitments CAA Norway were able to facilitate a flight inspection opportunity on a flight conducted by Operator (D). In order to achieve the inspection it was deemed desirable to produce a FOI Authority with CAA Norway signature describing the duty and the periodicity thereof to be performed by the UKCAA FOI. This authority was accepted by the two inspected crews of Operator (D). When crewing in for the outbound inspection LGW-JFK on 5 November 2015 the commander of the flight of Operator (D) was very welcoming of the UKCAA FOI; however, when the other two flight crew members reported for duty they made it clear that they were not content to accept the UKCAA FOI for carriage on the flight deck. They were not able to offer a safety justification for their reluctance; however they expressed a concern that the presence of the UKCAA FOI could affect the performance of the pilot under check. Since the activity was part of a trial and under Operator (D) is overseen by the Norwegian NAA it was decided not to travel on the flight and the Flight Operations management of the airline and of the CAA Norway were immediately informed. The UKCAA FOI was not aware of the crew constitution until the day of the flight (see “Challenges” below). Another inspection was rescheduled for 6-8 November 2015 and was successfully achieved with two different operating crews. Both flight crews were debriefed, a report in a hybrid format was written (see “Challenges” below) and sent to CAA Norway; the CAA Norway discussed the findings/observations with the operator (D) and, since this was trial activity, the operator was not presented with formal findings but asked to consider them and take any action as deemed necessary and appropriate.

# 4. Barriers to Cooperative Oversight

## 4.1. Funding

It was agreed that the question of funding should not be addressed for the purposes of the trial since the nature of the activity was not yet known in sufficient detail. However, this report recognises that Member States apply different funding models and that funding represents a significant barrier to collaborative activity. Additional costs may also be incurred by the coordination activity necessary in order to align oversight programmes in order to avoid duplication of activity and to obtain the highest value in terms of outcomes. This challenge becomes especially significant when **the CA and the LA are unable to agree upon the level and extent of oversight required**. Furthermore, in a Member State where the NAA is funded by charges applied to CAT operators the Member State would be required to **justify to those stakeholders the necessity and expense of cooperative oversight**, unless funding for such activity were to be obtained from a governmental agency. In other Member State, where funding of the NAA’s human resource is direct from State financing, the question might arise of whether oversight carried out by a LA would indicate the need to consider the reduction of that funding in the assumption that a lower level of resource would be necessary and appropriate since the CA was failing to perform such oversight.

## 4.2. Formal Legal Cooperation via a Memorandum of Cooperation (MoC)

Drafting of a MoC between two NAAs may pose difficulties regarding national **Data Protection Laws** and **cultural sensitivities**. Such difficulties may prevent and/or disrupt cooperative oversight aspirations. Worse, if a LA were to identify a significant safety concern with an operator and there was no MoC in place, then **delays in drafting, agreeing and approving that MoC could pose a risk to safety** in the territory of the LA. The LA would then be forced to consider how to ensure that its safety concerns are met irrespective of the existence of a signed Memorandum of Cooperation. The respective rules applicable to cooperative oversight do not mandate or mention the existence of a MoC as a prerequisite for cooperative oversight. Of the four trial NAAs, only one required a MoC.



However a formal agreement may need to be in place for the future protection of both NAAs and operators. The complexity of the MoC drafted for cooperation with the CAA Czech Republic indicates that a MoC designed to cover all cases would be impracticable. Additionally, with respect to multi-national CAT operators, it will be necessary for a Member State to have clarity on which NAA has responsibility for what oversight within an inter-operating organisation, e.g. an operator with multiple AOCs in different Member States. A template MoC is attached to this report in Appendix 1.

### 4.3. Reluctance to Cooperate

The CA may not wish, for a variety of reasons, to enter into a discussion with the LA regarding the oversight of an operator. The LA might need to demonstrate existing safety risk arising from the operations of the CA's operator on and from their territory in order for it to be seen by the CA that shared oversight is not simply desirable, but essential for the management of that risk. [ARO.GEN.300 refers] **Local Authorities must also be informed of remote bases on their territory** and this requires that the CA has a process for such information to be provided to the LA.

### 4.4. Data Protection

Identifying whether comparable Data Protection legislation exist in the LA and the CA allows to verify that shared oversight and data sharing expectations are both managed and aligned. The handbook on European Data Protection Law (2014) referring to the Data Protection Directive 95/46/EC, indicates that data protection laws should not restrict the mutual exchange of information.

### 4.5. Common language for documentation and reporting

NAAs may draft activity documentation (planning, procedures and reports) in their **local language** and in either hard/soft copy. It is likely that **suitable translation services will not be available** within and across the EASA NAAs; solutions are either to establish local services (impracticable on financial and complexity grounds), an EASA-centric service (also probably impracticable on similar grounds) or to agree a common activity language, both oral and written. This will pose a significant resource provision risk for those states for which the common language is not their first language. MOR data and safety risk assessments from NAAs may also be written in the local language and therefore inaccessible until translated. These delays may be critical to risk management. UK CAA Flight Operations reporting is via "QPulse" and there is currently no provision for the recording of international activity, although this is feasible if activity levels are sufficient to justify system licensing costs.

### 4.6. Authorisation of Inspectors

CAs will need to consider the drafting and provision of Flight OPS inspector (FOI) **"authorisations"** for independent oversight activity of their operators by FOIs from the Local Authority. Whilst this may not be a legal requirement it may be advisable, in order to facilitate access to aerodromes and aircraft especially when unannounced (to the operator) inspections are planned.

### 4.7. Reporting Procedures

**Reporting procedures and formats** will need to be **aligned** and **standardised** in order that audit/inspection activity may be routinely interchanged and accepted into document systems. Whilst EASA Regulations describe only Level 1 and Level 2 findings some NAAs may prefer to add an additional lower layer of significance for reporting of non-alignment with industry best practice (e.g. UKCAA continues to raise "Observations") and without reference to regulations.



#### 4.8. Flight Inspections

The rostering of crews for flight inspections must be considered by the operator of the CA. Whilst it may be acceptable to some NAAs to complete an inspection on a crew under training /check (with liaison between NAA and operator) this may not be the expectation of operators certified by other NAAs. **Inappropriate rostering may lead to oversight opportunities being lost** due to withdrawal of the FOI from the inspection or inappropriate and potentially unsafe flight deck dynamics.

#### 4.9. Commercial sensitivity of operators

Operators may be commercially “suspicious” of a request for **shared or** indeed **independent oversight from a LA** (a LA potentially becoming over-exuberant in defence of its national industry). It will be necessary for CAs to ensure that operators are fully briefed on the grounds for cooperative oversight and the bounds within which that activity will be shared /performed. It may be necessary for EASA to consider drafting of AMC material for ARO.GEN.200 in order to clarify shared oversight practicalities and protocols.

#### 4.10. Inspector Competencies and Resources

It will be necessary for CAs to be confident that the **competency of an Inspector** from a LA may be assumed to be consistent with its own expectations and those of its operators under surveillance. Furthermore, NAAs may not be resourced to support the additional activity necessitated by the Regulations.

#### 4.11. Cultural Issues

Whilst the Basic Regulation and the Implementing Rules document the intent and mandate of Regulation, no consideration of national cultural issues is made nor is it necessary. However, informal discussion with Inspectors from the trial Member States indicates that such national sensitivities may influence the enthusiasm to cooperate oversight, especially when independent oversight may be proposed.

## 5. Enablers of and Triggers for Cooperative Oversight

The following elements enable and facilitate Cooperative Oversight:

- **Sharing** of safety **data** by the CA with the LA
- Operator needs to inform CA of new bases and remote operations (of a duration of more than 6 months). CA then needs to inform the LA, where the activity takes place of the establishment of such a new base or remote operations (see Appendix 4).
- **Whistle-blowing information**
- Data on **RAMP** inspections performed on community operators (SACA).
- Intelligence gained from **social media**
- Increase in **risk level** produced by increased exposure to citizens flying with an operator certificated by another NAA, e.g. new routes, increased flight frequencies, larger capacity aircraft, “ageing” aircraft



- **Accident and incident reports**
- Reports from **airport authorities** and **ANSPs**
- In some cases in order to build-up trust it can be beneficial if both the LA and the CA **assist each other during an inspection.**

## 6. Feedback from other NAAs and consulted organisations

### 6.1. France

- Establish a common framework through administrative arrangements (a model for bilateral MOUs would be useful)
- Establish a protocol for the exchange of information (which operational data, certification and compliance monitoring data of operators concerned to be exchanged, main parameters and modalities of information exchange, including language and protection of information aspects);
- Provide guidance to foster harmonised implementation of ARO.GEN.300 (d), while not diluting/changing the responsibilities of the respective authorities;
- Allow for discussions between authorities when establishing their annual compliance monitoring programme;
- Recommend cross observation of compliance monitoring activities whenever it is pertinent (rather than joint inspections).

### 6.2. Czech Republic

- Cooperative oversight must be clearly defined. A LA acting independently of the CA (and outside of any MoC) must indicate that this is necessary in order to assure the safety priorities of the LA.
- Cooperative oversight can lead to a situation where an operator will be checked fully twice – by the CA and by the LA as well. Is it useful?
- Within the EU we have a standardization process of NAA performance, so a LA should feel able to have confidence in the oversight activity of the CA.
- Conflicts of interest and oversight activity by the LA that is not justified by its safety priorities must be avoided.

### 6.3. European Helicopter Association

The European Helicopter Association (EHA) provided feedback to the Agency during consultation on the NPA 2015-18 and stated that cooperative oversight should bring the following benefits:

- One single standard in oversight
- No hide and seek



- Decreased burden and costs for all concerned

But it also requires the following:

- Better and higher standardization between competent authorities
- Language could be a barrier – mitigations required
- Requires guidance on cooperative oversight
- All Member States should apply the rule in the same manner (this is already a present issue!)
- When audits required by both NAA's, these should be joint audits whenever possible

## 7. Other Cooperative Experiences

The Airworthiness department of the UK CAA has been working within cooperative oversight for some time and at three different levels:

1. Under direct contract from EASA for oversight of non-EC organisations, e.g. Design and Production organisations of Japan
2. Also within the EASA Framework Contract as a member of the Airbus multinational oversight team managed by EASA
3. Working in cooperation with ENAC for oversight of Leonardo (formerly AgustaWestland)

Within activity 3, UK CAA Airworthiness surveyors have operated as ENAC team-members in performing oversight of the ENAC approvals awarded to Leonardo in their UK Yeovil operation. ENAC has accepted the UK CAA procedures and activity recording means in addition to the competences of the UK surveyors. Printouts in English of the UK CAA QPulse records system are provided to ENAC; no language challenges have existed for either party, verbal or written. UK CAA has responsibility for the oversight of the Leonardo operation in UK that holds ENAC approvals. Guidance Material has been provided in Part 21 in order to facilitate such cooperative oversight including templates for forms to be used for exchanging safety information. The next step for the UKCAA/ENAC cooperation is for UKCAA team members to join ENAC Inspectors in Italy in auditing Leonardo activity with the aim of ensuring that the standards and processes of that oversight are aligned.

## 8. Trial group recommendations

### 8.1. Recommendations for the Agency to enable Cooperative Oversight

#### REC-01 Formal legal cooperation (EASA REC-01)

EASA should provide a template MoC to Member States in order to facilitate necessary regulatory activity and to ensure that agreements are set at a consistent level of responsibility and complexity. EASA may wish to consider whether a “cover all” MoC for use by all the Member States is practicable or whether the opportunity to tailor the agreement is necessary.



### **REC-02 Overcoming reluctance to cooperate (EASA REC-02)**

EASA should provide guidance to Member States on the implications of the regulations addressing oversight of a remotely based operator, emphasising the need for cooperation and for clarity of the data supporting the necessity for additional oversight proposed by a LA. EASA should emphasize that if a CA does not react in a timely manner to a concern raised by a LA regarding the compliance and / or safe operations of an operator certificated by them then the LA should commence independent oversight of that operator.

### **REC-03 Data Protection (EASA REC-03)**

EASA should sponsor further research of the commonality of data protection laws across the Member States and encourage closer alignment of the applicable regulations where possible.

### **REC-04 Reporting Procedures (EASA REC-04)**

It may be advisable for EASA to consider whether NAAs should be advised to report non-compliance using only Level 1 and 2 coding, restricting considerations of non-alignment with best practice to informal discussion with operators.

### **REC-05 Commercial sensitivity of operators (EASA REC-05)**

In order to allay any fears of “inappropriate use” of information gained by a LA via shared or independent oversight EASA should consider whether a notice should be drafted to Member States for transmission to its industry covering the modus operandi of cooperative oversight and the absolute necessity for the LA to demonstrate that the safety priorities require such action.

### **REC-06 Inspector competencies and resource (EASA REC-06)**

NAAs should be clear on the necessity for appropriate training, both initial and recurrent, of Inspectors. EASA should ensure that standardisation of inspecting staff is given necessary weight during NAA standardisation visits. In addition, EASA may need to remind NAAs that they should make contingency provision of human resource for the additional activity that oversight of remote operations may require. Alternatively, the Agency may consider provision of Inspectors via its pool of technical experts and technical standardisation assurance via centralised Inspector training.

### **REC-07 Cultural Issues (EASA REC-07)**

EASA should ensure that during its standardisation visits to Member States its teams perform a gap analysis of oversight of remotely-based CAT operations and of the nature and timing of reaction to requests made by Local Authorities for cooperation by the CA.

## **8.2. Recommendations for Competent Authorities to enable Cooperative Oversight**

### **REC-1 Funding (MST REC-01)**

Agreement must be achieved between and documented by CA and LA as to the necessity for shared or independent oversight and the responsibility for funding of any “additional” activity to be carried out by either or both parties. Furthermore, NAAs should consult with their governmental agencies and / or industries upon the funding of oversight of operators certificated by another Member State. It may be necessary for EASA to provide a readily accessible conciliation service to Member States that are unable to agree on the necessity for activity / allocation of funding.

### **REC-02 Inspector competencies and resource (MST REC-02)**

NAAs should be clear on the necessity for appropriate training, both initial and recurrent, of Inspectors.



### REC-03 Flight Inspections (MST REC-03)

NAs should be clear on the type of flight inspection that may be expected by their operators and offer advice on appropriate rostering of crews for such inspections (e.g. the avoidance of training / check flights and rostering of technical management pilots).

### REC-04 Common language for documentation and reporting (MST REC-04)

When either cooperative or independent oversight activity is necessary and performed documentation and reporting of that activity should be completed in a common spoken and written language. In order to align with the common language utilised in air radio communications it is proposed that that language be English.

### REC-05 Authorisation of Inspectors (MST REC-05)

CAs may need to consider whether it may be necessary to provide the Inspector(s) of the LA with a form of local authorisation that would facilitate access to facilities and/or aircraft. It may be appropriate for EASA to provide a template for such authorisations.

### REC-06 Shared Oversight (MST REC-06)

- The CA has by definition witnessed and overseen the operator's certification; its beginnings, challenges, change management, financing, management structure stability, attitude to compliance, aspirations etc. Thus, any granular oversight activity can be readily and effectively put into full context for the benefit of the LA.
- The LA is able to assess the level of compliance of the operator via specific activities, e.g. flight inspections, but the operator's management system is most effectively judged by activity performed at the Principal Place of Business. The CA is able to facilitate and to guide this activity.
- The CA is well-placed to manage any cultural differences arising between the LA and the operator; this will offer efficiencies, an effective working relationship and facilitate avoidance of doubt.
- The CA is best placed to manage any concerns that their operator may have vis a vis cooperative oversight intentions and needs of the LA.

## 9. Summary

The regulatory framework already exists today requires NAs to work together (see Appendix 5). This framework provides NAs with the "what" but offers no guidance as to the "how" of the practical application of what has been termed a 'cooperative oversight'. There are numerous challenges to achieve cooperative oversight, not least financing, establishing a MoC, data protection, a common language for oversight, conduct and documentation, different Inspector competencies and managing the commercial sensitivities of remotely-based operators.

This report should be the basis of a "Handbook" on cooperative oversight. The cooperative oversight trial has offered a number of valuable lessons but there remain more questions than answers in the areas of **funding**, **standardisation** and the management of **cultural and commercial sensitivities** amongst others.



## 10. Appendices

### Appendix 1 Template Memorandum of Cooperation

Memorandum of Cooperation  
between  
the Civil Aviation Authority of **Country X**  
and  
the Civil Aviation Authority of **Country Y**

Whereas:

- (a) The **Civil Aviation Authority of Country X** and the **Civil Aviation Authority of country Y** are the competent authorities designated by COUNTRY X and COUNTRY Y, respectively, for the oversight of the commercial air transport activities and the certification of air operators.
- (b) CA 'X' & CA 'Y' share the objective of ensuring a high and uniform level of protection of the European citizen by establishing and maintaining a cooperative relationship in compliance with the requirements set out in ARO.GEN.200(c) and ARO.GEN.300(d)and (e).
- (c) ARO.GEN.200 (c) states: The competent authority shall establish procedures for participation in a mutual exchange of all necessary information and assistance with other competent authorities concerned including on all findings raised and follow-up actions taken as a result of oversight of persons and organisations exercising activities in the territory of a Member State, but certified by the competent authority of another Member State or the Agency.
- (d) ARO.GEN.300 (d) states: Without prejudice to the competences of the Member States and to their obligations as set out in ARO.RAMP, the scope of the oversight of activities performed in the territory of a Member State by persons or organisations established or residing in another Member State shall be determined on the basis of the safety priorities, as well as of past oversight activities.
- (e) ARO.GEN.300(e) states: Where the activity of a person or organisation involves more than one Member State or the Agency, the competent authority responsible for the oversight under (a) may agree to have oversight tasks performed by the competent authority(ies) of the Member State(s) where the activity takes place or by the Agency. Any person or organisation subject to such agreement shall be informed of its existence and of its scope.
- (f) There are, or there could be, air operators certified by one of the above authorities operating from bases established in the territory under the jurisdiction of the other authority.

The Competent Authority of 'X' and 'Y' ("the parties") agree on the following:

#### 1. Definitions:

- "Certifying Authority" (CA): the competent authority having issued the Air Operator Certificate (AOC) to an operator.
- "LA" (LA): the competent authority having jurisdiction in the territory on which the operator is performing activities, and in particular, has established operating bases.

#### 2. Cooperation:

The parties, acting as LA and CA, will cooperate on the oversight of the activities of air operators certified by the CA which have established operating bases in the territory under the jurisdiction of the LA.



### **3. Scope of the cooperation:**

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The scope of the cooperation is detailed in annex 1.

### **4. Specific conditions:**

---

In the execution of cooperation tasks under paragraph 3, both parties agree to abide by the following conditions:

- (a) The information on occurrences and safety information exchanged within the activity agreed at Appendix 1 will be subject to the strictest confidentiality and the data protection requirements of EU Regulation 376/2014 and / or the respective national regulations. Each party reserves the right to review the national requirements of the other party and to impose additional requirements for the exchange of the information above in case it is not satisfied that the requirements of the other party are equivalent to its own requirements.
- (b) Each party agrees to give the other party access to the information required to perform the tasks agreed under 3.b above, potentially including the AOC holder Operations Manual and documents associated thereof. That information will be subject to the confidentiality requirements of the national legislation of the receiving party.
- (c) If performing oversight tasks on behalf of the CA, the LA will use its own procedures and checklists. When performing oversight tasks jointly with the CA, the LA will be subject to the procedures and checklists of the CA.

### **5. Resolution of disputes:**

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The Certifying Authority remains the Authority with Safety Oversight Responsibility and Accountability. The final decision as to whether an issue become a finding or if a closure action is acceptable remains with the Certifying Authority.

An Inspector from a LA will have no ‘increased powers’ beyond those provided to the Inspector by his own National Aviation Authority. All observations must be referred to the Assigned Inspector prior to any action being taken.

Both parties will endeavour to solve any dispute at the lowest possible level of seniority. In case a dispute cannot be solved at a given level in a reasonable timeframe, it will be escalated to the next level, and so thereafter, until the highest executive levels in both parties. In case a dispute cannot be solved, the activity will be stopped until a solution can be found.

### **6. Charges:**

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Example: During the trial, all tasks performed by a party under paragraph 3 above for the other party will be at its own expenses, no charges can be passed to the other party.

### **7. Changes and duration:**

---

Changes can be introduced to this Memorandum of Cooperation, subject to written agreement by the parties.

This Memorandum of Cooperation will continue to be effective until any of the parties formally notifies the other party, of its decision to terminate it.



## Appendix 2 Information provided by the CA to the LA

The CA will provide the LA the following information about the Competent Authority Y

1. Oversight planning cycle
2. The content of the oversight programme which includes the completed checklists of:
  - The aircraft operation on the base other than home base
  - Pre-flight preparation and ramp inspection
  - In-flight inspection / check
3. The outcome of the performed inspection:
  - Inspection record with ascertained non-compliances
  - The evidence, how the non-compliances have been rectified
  - The brief evaluation of the operator's overall safety performance and information about the areas of safety concerns as applicable

The LA may assist CA team when they conduct:

- safety related meetings with the Operators
- base inspections
- training related meetings and inspections
- annual audit of xxxx at their principal place of business xxxx
- an inspection of maintenance support facilities on the xxxx
- a flight inspection from a local base

It is important to affirm that an Inspector from a LA has no 'increased powers' beyond those provided to the Inspector by his own National Aviation Authority. All observations must be referred to the Assigned Inspector of the Certifying Authority prior to any action being taken.

The Assigned Inspector is:

Name of Inspector:

Office:

Mobile:

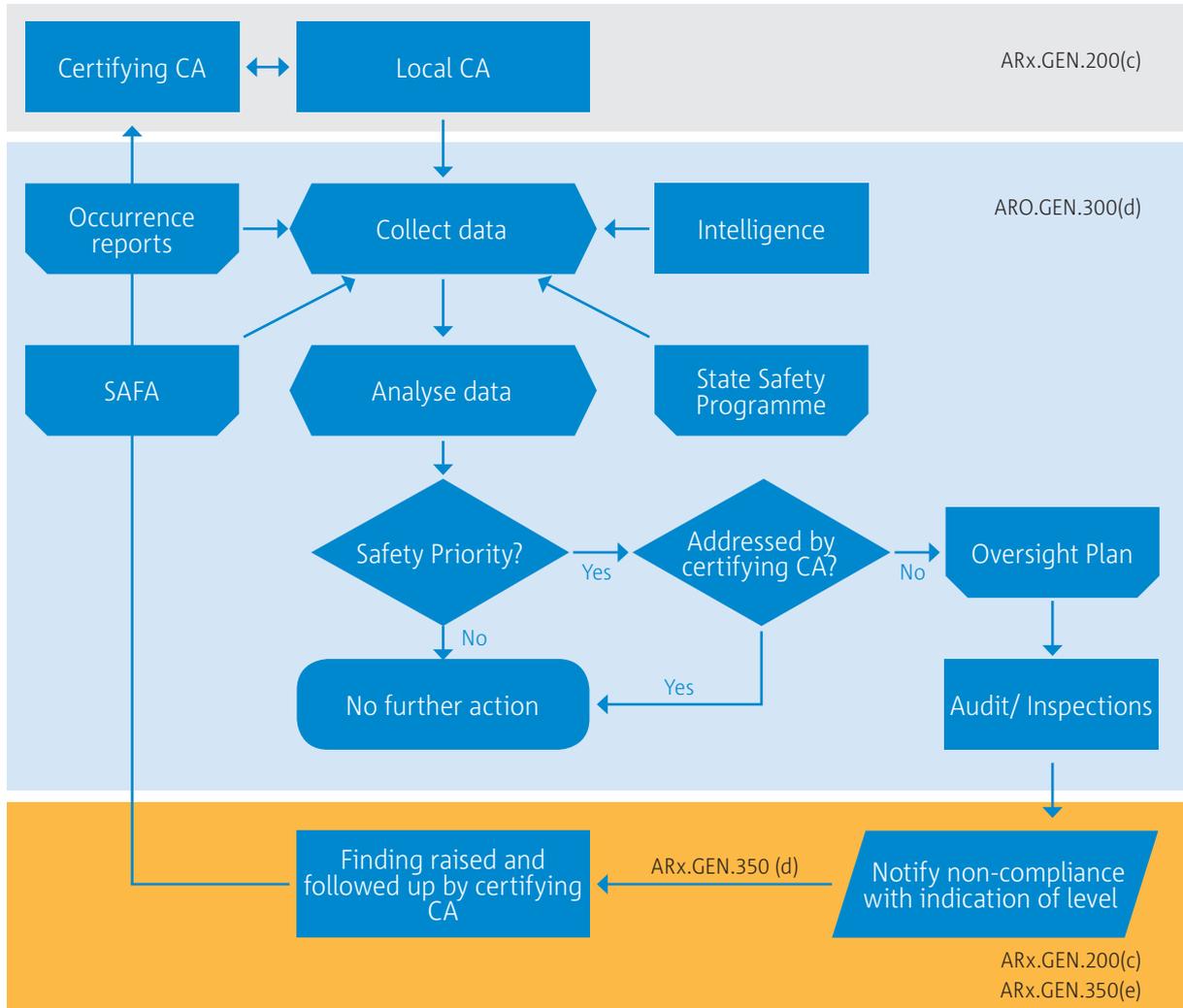
Email:



### Appendix 3 EASA Flow Chart of Cooperative Oversight Expectations



## Expectations





## Appendix 4: Example of a CA notification to a local authority



### Flight Operations Department

Irish Aviation Authority,  
The Times Building,  
11-12 D'Olier St.  
Dublin 2,  
Ireland.  
3<sup>rd</sup> Feb 2016

Mr. Geoff Parker,  
Civil Aviation Authority,  
United Kingdom.

Our Reference: FOD/AOC/01/01.4

Ref: Aer Lingus. Bases: United Kingdom

Dear Sir,

In accordance with Regulation 965/2012, ARO.GEN.200 the Irish Aviation Authority wishes to advise that Aer Lingus has set up a "Base" in the following locations in the United Kingdom -: BELFAST George Best International Airport (EGAC)

The Authority will forward an update as appropriate.

Yours sincerely,

---

Capt. Paul Whelan  
Flight Operations Inspector  
Irish Aviation Authority



QUALITY  
ISO 9001:2008  
NSAI Certified



## Appendix 5: Overview of regulatory framework of Regulation (EU) 965/2012 applicable to cooperative oversight

### ARO.GEN.200 Management system

- (c) The competent authority **shall establish procedures for participation in a mutual exchange** of all necessary information and assistance with other competent authorities concerned including on all findings raised and follow-up actions taken as a result of oversight of persons and organisations exercising activities in the territory of a Member State, but certified or authorised by or making declarations to the competent authority of another Member State or the Agency.

### ARO.GEN.300 Oversight

- (d) Without prejudice to the competences of the Member States and to their obligations as set out in ARO.RAMP, the scope of the oversight of activities performed in the territory of a Member State by persons or organisations established or residing in another Member State shall be determined on the basis of the **safety priorities**, as well as of **past oversight activities**.
- (e) Where the activity of a person or organisation involves more than one Member State or the Agency, the competent authority responsible for the oversight under (a) **may agree to have oversight tasks performed** by the competent authority(ies) of the Member State(s) where the activity takes place or by the Agency. Any person or organisation subject to such agreement shall be informed of its existence and of its scope.

### GM1 ARX.GEN.300(d) Oversight

#### ACTIVITIES WITHIN THE TERRITORY OF THE MEMBER STATE

- (a) Activities performed in the territory of the Member State by persons or organisations established or residing in another Member State include:
  - (1) activities of:
    - (i) organisations certified or authorised by or declaring their activity to the competent authority of any other Member State or the Agency; or
    - (ii) persons performing operations with other-than-complex motor-powered aircraft; and
  - (2) activities of persons holding a licence, certificate, rating, or attestation issued by the competent authority of any other Member State.
- (b) **Audits and inspections** of such activities, including **ramp** and **unannounced inspections**, should be prioritised towards those areas of **greater safety concern**, as identified through the **analysis of data** on **safety hazards and their consequences in operations**.

### ARX.GEN.350 Findings and corrective actions — organisations

- (d) (4) The competent authority shall **record** all findings it has raised or that have been communicated to it and, where applicable, the enforcement measures it has applied, as well as all corrective actions and date of action closure for findings.
- (e) Without prejudice to any additional enforcement measures, when the authority of a Member State acting under the provisions of ARX.GEN.300 (d) identifies any non-compliance with the applicable requirements of Regulation (EC) No 216/2008 and its Implementing Rules by an organisation certified by, or authorised by or declaring its activity to the competent authority of another Member State or the Agency, it shall **inform that competent authority and provide an indication of the level of finding**.

**European Aviation Safety Agency**

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