European Union Aviation Safety Agency

Opinion No 08/2024

in accordance with Article 76(1) of Regulation (EU) 2018/1139

Airworthiness review process / Import of aircraft from other regulatory systems, and Part 21 Subpart H review / Alignment of the IRs of the EASA Basic Regulation with Regulation (EU) No 376/2014

RMT.0521; RMT.0278; RMT.0681

EXECUTIVE SUMMARY

This Opinion proposes to amend Regulations (EU) Nos 1321/2014 and 748/2012 with the following objectives:

- enhance the safety standards for aircraft imported into the EU and ensure that the airworthiness standards of EU-registered aircraft are well maintained. This includes:
  - unlocking situations linked with aircraft coming from a different regulatory framework (e.g. third countries, state aviation) prior to being integrated into the Basic Regulation scope, as well as to facilitate the transfer of aircraft between Member State (MS) registries;
  - mitigating the risks linked to airworthiness reviews (ARs) that are improperly carried out, which could prevent the detection of shortcomings in continuing airworthiness management;
- facilitate the implementation of the process related to the issuance of airworthiness certificates, airworthiness review certificates (ARC) and reporting of occurrences, ensuring that it is as straightforward and simple as possible. This includes:
  - clarifying the current ambiguities in the rules related to the issuance of an airworthiness certificate and an ARC in order to achieve standardised implementation in all MSs;
  - reducing the duplication of tasks and dilution of responsibilities between organisations and national competent authorities;
  - aligning the requirements for continuing airworthiness organisations and individuals subject to Annex I (Part-M) and Annex Vb (Part-ML) to Regulation (EU) No 1321/2014 regarding the reporting, analysis and follow-up of occurrences in civil aviation with those of Regulation (EU) No 376/2014.

It is therefore proposed to:

- include a smother process for transferring aircraft between MSs;
- provide an alternative for cases where the airworthiness statement is missing when importing an aircraft;
- minimise the cases where a recommendation for the issuance of the ARC is needed;
- introduce provisions for issuing airworthiness certificates for aircraft previously excluded from the Basic Regulation.

The proposed regulatory material is expected to enhance aviation safety, increase cost-efficiency, reduce regulatory burden and improve the harmonisation and simplification of rules.

REGULATIONS TO BE AMENDED:	**ED DECISION(S) TO BE AMENDED/ISSUED**
— Regulation (EU) No 1321/2014 (Continuing airworthiness) — Regulation (EU) No 748/2012 (Initial airworthiness)	n/a

AFFECTED STAKEHOLDERS

MSs, and NCAs, CAMOs and CAOs, AMOs, and individuals subject to Annex I and Annex Vb to Regulation (EU) No 1321/2014, i.e. independent certifying staff and pilot-owners, and applicants for an airworthiness certificate as defined in points 21.A.172 and 21L.A.162 of Regulation (EU) No 748/2012.

WORKING METHODS

Development	**Impact assessment(s)**	**Consultation**
RMT.0521 - By EASA with external support RMT.0278 - By EASA with external support RMT.0681 - By EASA	Light	Public —NPA and workshop Focused (EASA Advisory Bodies) — Workshop Focused (selected NCAs) — Hearing

RELATED DOCUMENTS / INFORMATION

- ToR RMT.0521 and RMT.0522,issued on 4.5.2015; ToR RMT.0278 (MDM.078) and RMT.0536, issued on 1.2.2013; ToR RMT.0681 issued on 30.9.2015
- NPA 2015-17; NPA 2016-08; NPA 2016-19, CRD 2016-19

PLANNING MILESTONES: Refer to the latest edition of the EPAS *Volume II*.

Table of contents

1. About this Opinion 4
1.1. How this regulatory material was developed 4
1.2. The next steps 5
2. In summary — why and what 6
2.1. Why we need to act 6
2.1.1. RMT.0521 — Airworthiness review process 6
2.1.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review 7
2.1.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting 7
2.2. What we want to achieve — objectives 8
2.2.1. RMT.0521 — Airworthiness review process 8
2.2.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review: 8
2.2.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting 8
2.3. How we want to achieve it — overview of the proposed amendments 9
2.3.1. RMT.0521 — Airworthiness review process 9
2.3.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review 15
2.3.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting 19
2.3.4. Applicability 20
2.3.5. Legal basis 20
2.4. What are the stakeholders' views 20
2.4.1. RMT.0521 — Airworthiness review process 20
2.4.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review 32
2.4.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting 37
2.4.4. MAB advice sought in accordance with Article 6(9) of the Rulemaking Procedure 37
2.5. Other relevant information 40
3. What are the expected benefits and drawbacks of the proposed regulatory material 41
3.1. RMT.0521 — Airworthiness review process 41
3.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review 45

3.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting 47
4. Proposed regulatory material 48
5. Monitoring and evaluation 49
6. Proposed actions to support implementation 50
7. References 51

1. About this Opinion

1.1. How this regulatory material was developed

The European Union Aviation Safety Agency (EASA) developed this Opinion in line with Regulation (EU) 2018/1139[1] ('Basic Regulation') and the Rulemaking Procedure[2].

Rulemaking tasks RMT.0521, RMT.0278 and RMT.0681 are included in the 2024 edition of *Volume II* of the European Plan for Aviation Safety (EPAS) for 2023-2025[3]. The scope and timescales of the task were defined in the related Terms of Reference (ToR)[4].

The draft regulatory material was consulted in accordance with the ToR for these RMTs with all interested parties through NPA 2015-17[5], NPA 2016-08[6] and NPA 2016-19[7]. As regards RMT.0521, a workshop was also organised by EASA on 24 November 2015.

EASA reviewed the comments received with the support of Review Groups (RGs) and duly considered them for the preparation of the regulatory material presented here. The responses to the comments are summarised in Section 2.4, and for RMT.0681, they are additionally detailed in Comment-Response Document (CRD) 2016-19[8]. As regards CRD 2015-17 and CRD 2016-08, they will be published along with the Decision that is going to be published in order to support the application of the amendments proposed through this Opinion.

After a long pause period (2017–2022) due to the deprioritisation of RMT.0521 and RMT.0278, EASA has reassessed the comments received on the above NPAs and the conclusions of the RGs, and has adapted the proposed amendments to the new continuing airworthiness regulation framework, with Part-ML and Part-CAMO being parts of it.

The result of this work was then consulted by presenting the proposed amendments to the P&CA TeB and EM.TEC, and through ad hoc meetings with some national competent authorities (NCAs).

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1 Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1) (https://eur-lex.europa.eu/eli/reg/2018/1139/oj).

2 EASA is bound to follow a structured rulemaking process as required by Article 115(1) of Regulation (EU) 2018/1139. Such a process has been adopted by the EASA Management Board (MB) and is referred to as the 'Rulemaking Procedure'. See MB Decision No 01-2022 of 2 May 2022 replacing Decision No 18-2015 of 15 December 2015 concerning the procedure to be applied by EASA for the issuing of opinions, certification specifications and guidance material (EASA MB Decision No 01-2022 on the Rulemaking Procedure, repealing MB Decision 18-2015 (by written procedure) | EASA (europa.eu)).

3 European Plan for Aviation Safety (EPAS) 2023-2025 | EASA (europa.eu)

4 ToR RMT.0521 and 0522 - Airworthiness review process | EASA; ToR MDM.078 (RMT.0278) & RMT.0536 - Importing of aircraft from other regulatory system, and Part 21 Subpart H review | EASA; ToR RMT.0681 - Occurrence Reporting | EASA.

5 NPA 2015-17 - Airworthiness review process | EASA

6 NPA 2016-08 - Import of aircraft from other regulatory system, and Part-21 Subpart H review | EASA

7 NPA 2016-19 - Alignment of implementing rules and acceptable means of compliance/guidance material with Regulation (EU) No 376/2014 - Occurrence reporting | EASA

8 CRD 2016-19 - Alignment of EASA Basic Regulation (Regulation (EU) 2018/1139) with the specific obligations stemming from Regulation (EU) No 376/2014 | EASA

The draft final Opinion was shared with the MAB for advice in accordance with Article 6(9) of MB Decision No 01-2022.

EASA is working on the draft acceptable means of compliance (AMC) and guidance material (GM) that will support the application of the amendments to the Regulations proposed in this Opinion, however they are not available at this point.

1.2. The next steps

The Opinion is submitted to the European Commission which, based on the Opinion's content, shall decide whether to adopt the amendments to the EU Regulations as proposed in the Opinion.

Following the adoption and issuance of these Regulations, EASA will issue a Decision with the related AMC and GM to support the application of those Regulations. When issuing this Decision, EASA will also provide feedback to the commentators and information to the public on who engaged in the process and/or provided comments on the draft AMC and GM during the consultation, which comments were received, how such engagement and/or consultation was used in rulemaking, and how the comments were considered.

2. In summary — why and what

2.1. Why we need to act

2.1.1. RMT.0521 — Airworthiness review process

In accordance with Regulation (EU) No 748/2012[9], since 28 September 2008, airworthiness certificates (CofAs and RCofAs) have been issued for an unlimited duration. To ensure their validity, since the above-mentioned date for aircraft involved in commercial air transport (CAT), and since 28 September 2009 for other aircraft, the aircraft airworthiness and associated continuing airworthiness records must be periodically reviewed, and an ARC must be issued in accordance with Commission Regulation (EU) No 1321/2014[10]. When the AR process was first introduced, it brought up significant changes to former national requirements, among others a new role for the national competent authorities (NCAs), new privileges for the organisations holding a Part-M Subpart G approval, specific requirements for personnel involved in this review, description of the process itself, and an ARC. Since then, other significant changes have impacted the AR process, such as:

— the transition of the organisations from Part-M Subpart G to Part-CAMO;

— the new organisation approval in accordance with Part-CAO;

— the possibility for maintenance organisations and independent certifying staff to perform the AR; and

— the transposition of the Part-M requirements for general aviation to a dedicated new annex (Part-ML).

In accordance with Article 85(8) of the Basic Regulation, the Agency shall contribute to the assessment of the impact of the implementation of regulations. The impact of the AR process has been assessed taking into consideration the feedback from the activities performed by the Agency. These activities include, among others, standardisation inspections to the Member States (MSs), evaluation of derogations granted by MSs, and providing responses to questions from NCAs/stakeholders. A survey, whose results are included in Section 5.3 of NPA 2015-17, was launched in September 2012 in order to collect feedback on specific topics.

The information collected from the aforementioned sources led to the conclusion that certain requirements were unclear, resulting thus in misinterpretations, varying expectations and a lack of harmonisation among MSs. Additionally, some requirements were identified as an administrative burden without offering any safety benefits.

[9] 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 organisations (recast) (OJ L 224, 21.8.2012, p. 1) (http://data.europa.eu/eli/reg/2012/748/oj).

[10] Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1) (http://data.europa.eu/eli/reg/2014/1321/oj).

2.1.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review

When the term 'import' is used in the current text in Part 21 and Part 21 Light or Part-M and Part-ML, it is not used in the context of the aircraft registration process, which is regulated under national rules, but in the context of the issuance of an airworthiness certificate for an aircraft which before did not fall under the scope of the Basic Regulation. It should be noted that as opposed to 'import', the term 'transfer' is used for aircraft changing registration between two MSs.

In principle, the aircraft registered in a MS (the so-called European-registered aircraft) are subject to the Basic Regulation. However, this is not the case when European-registered aircraft have their regulatory safety oversight delegated to a third country, and the aircraft are operated by a third-country aircraft operator (refer to Article 2.1 (b) of the Basic Regulation). A typical example may be a European-registered aircraft which is dry-leased out to a 'foreign' operator and its oversight is delegated between ICAO contracting States under the provisions of Article 83 bis of the Chicago Convention. While these aircraft are not subject to European rules during the leased out period, they have to follow the process established in in Part 21 or Part 21 Light at the end of the leasing contract in order to comply with the Basic Regulation and be granted with an EU airworthiness certificate and and an ARC — the same process as that followed for a used aircraft being imported from a foreign country.

A similar situation is valid for aircraft subject to Part-T (i.e. foreign-registered aircraft dry-leased-in by an EU-licenced air carrier) if and when changing to a European registration: at the moment of import, these aircraft need to follow the import requirements in order to obtain an airworthiness certificate and an ARC in accordance with Part 21 or Part 21 Light and Part-M or Part-ML.

It is also worth mentioning that in the case of aircraft imported from countries with which the EU has signed a bilateral aviation safety agreement (BASA), the Part 21 or Part 21 Light process may not be applicable. Consequently, these aircraft may not be affected by the changes proposed.

Stakeholders highlighted that certain requirements in Regulations (EU) No 1321/2014 and 748/2012, in respect of the issuance of the airworthiness certificate and the ARC, were inadequate, unclear or impossible to fulfil when aircraft were imported from a different regulatory system (i.e. a regulatory system other than the one established by the Basic Regulation).

2.1.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting

Regulation (EU) No 376/2014[11] on the reporting, analysis and follow-up of occurrences in civil aviation contains specific obligations for EASA, NCAs, individuals and approved organisations. These exist in parallel with the reporting obligations of the Basic Regulation and its implementing rules (IRs).

While the implementing rules of the EASA Basic Regulation, such as Regulation (EU) No 1321/2014, are overall deemed to be consistent with Regulation (EU) No 376/2014, in practice, there are potential overlaps and ambiguities in particular in relation to safety management/management system

[11] Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18) (http://data.europa.eu/eli/reg/2014/376/oj).

requirements, applicable to competent authorities and organisations respectively. These potential issues can be addressed by updating the requirements in the IRs in question in order to render them fully consistent with Regulation (EU) No 376/2014. The basic principle that reporting obligations can be discharged by using one single reporting channel is maintained.

The proposed changes will provide clarity on the relevant organisation requirements related to the maintenance of mandatory and voluntary reporting systems, the analysis and follow-up of occurrences or groups of occurrences, the implementation of 'just culture' principles as well as to the protection of the source of information. These requirements must be subject to the organisation's internal audit/compliance monitoring function, and to the competent authority's oversight.

Regulation (EU) No 376/2014 does not apply to organisations having their principal place of business outside an EU MS, therefore there is a need to establish detailed rules on occurrence reporting for these organisations.

2.2. What we want to achieve — objectives

The overall objectives of the EASA system are defined in Article 1 of the Basic Regulation. The regulatory material presented here is expected to contribute to achieving these overall objectives by addressing the issues described in Section 2.1.

2.2.1. RMT.0521 — Airworthiness review process

The specific objective of this proposal is to mitigate the risks linked with ARs that are improperly performed. Additionally, this proposal aims to:

— ensure an adequate level of safety;

— revise the requirements with no safety benefits; and

— provide as clear and simple requirements as possible in order to reduce administrative burden and ease implementation.

2.2.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review:

The specific objectives of this proposal are to:

— mitigate potential risks linked to aircraft complying with a different regulatory framework prior to being registered or imported in the EU, 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 for the aircraft involved;

— clarify current ambiguities in the rules related to the issuance of an airworthiness certificate in order to achieve standardised implementation and equal treatment in all MSs.

2.2.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting

The specific objective of this proposal is to properly reflect the requirements defined in Regulation (EU) No 376/2014 into Regulation (EU) No 1321/2014. This will:

— provide legal certainty with regard to the reporting obligations and underlying reporting systems;

— support the implementation and promotion of a ‘just culture’.

2.3. How we want to achieve it — overview of the proposed amendments

2.3.1. RMT.0521 — Airworthiness review process

To address the issues identified in Section 2.1, Regulation (EU) No 1321/2014 should be amended regarding the requirements related to the AR.

Since the publication of NPA 2015-17, changes to Regulation (EU) No 1321/2014 have been introduced (such as Part-CAMO, Part-CAO, and Part-ML), significantly impacting the requirements related to the AR. Additionally, in the latest amendments to Regulation (EU) No 1321/2014 some of the proposals in the NPA have been gradually incorporated. For instance:

— an ARC may be extended also if certain maintenance has been carried out by independent certifying staff;

— in accordance with Part-ML, the recommendation for the issuance of the ARC is no longer required;

— the requirements for airworthiness review staff (ARS) are found in Part-CAMO, Part-CAO, 145.A.37 and ML.A.904 (instead of Part-M).

Based on these changes, the amendments proposed in the NPA had to be adapted to the new structure of the Regulation, resulting in the following proposed amendments:

Part-M and Part-ML of Commission Regulation (EU) No 1321/2014

— Alignment of the requirements established in Subpart I of Part-M with those in Part-ML, using the same wording and numbering convention where possible. The new proposed structure of Subpart I of Part-M and Part-ML (referred to as ‘Part-M(L)’ in the rest of the document) is as follows:

SECTION A — TECHNICAL REQUIREMENTS	**SECTION B — PROCEDURE FOR COMPETENT AUTHORITIES**
M(L).A.901 Airworthiness review – General	M(L).B.901 Airworthiness review certificate issued by the competent authority
M(L).A.902 Validity of the airworthiness review certificate	M.B.902 Assessment of recommendations
M(L).A.903 Airworthiness review process	
M(L).A.904 Airworthiness review staff	
M(L).A.905 Transfer of aircraft registration within the Union	M(L).B.905 Transfer of aircraft registration within the Union

M(L).A.906 Airworthiness review of aircraft without an airworthiness certificate issued in accordance with Regulation (EU) No 748/2012	M(L).B.906 Airworthiness review of aircraft without an airworthiness certificate issued in accordance with Regulation (EU) No 748/2012
M(L).A.907 Findings	M(L).B.907 Findings

— With respect to Part-M, the conditions for issuing an ARC or a recommendation are proposed to be amended to no longer relate to the operation or maximum take-off mass (MTOM) of an aircraft. Additionally, it is proposed to no longer use the conditions on controlled environment to determine whether an ARC or a recommendation shall be issued. Instead, a new set of conditions is now proposed in point M.A.901(b)(1), which, when met, shall allow any organisation to issue an ARC following a satisfactory AR. If the conditions are not met, a recommendation for the issuance of an ARC must be sent to the NCA. The intent of these conditions is to capture 'critical cases' where the involvement and attention of NCAs during the ARC issuance process is considered a necessary safety net.

  'Critical cases' include the following:

  — import of used aircraft, e.g. from third countries or from a different regulatory system as 'state aircraft';

  — issuance of an airworthiness certificate when the previous one is revoked or surrendered;

  — continuing airworthiness (CAW) responsibilities not fulfilled in accordance with point M(L).A.201.

  Contrary to the conditions established in the current regulatory framework, it is proposed that the organisation that issues the ARC no longer needs to be the same organisation that has managed the aircraft continuously for a period of 12 months.

  Therefore, the proposed amendments would allow any organisation, as defined in the proposed point M.A.901(c), to issue an ARC directly whenever an aircraft meets the conditions established in point M.A.901(b)(1), regardless of whether it is the same organisation that manages the continuing airworthiness of the aircraft, and regardless of the number of organisations that managed the continuing airworthiness of the aircraft during the previous 12 months.

— Point ML.A.901(b) is proposed to be renumbered 'ML.A.901(c)' and amended because certifying staff with national qualifications are no longer recognised as eligible to perform maintenance and, by extension, to perform ARs, as the current Annex III (Part-66) now covers all aircraft that are within the scope of Commission Regulation (EU) No 1321/2014.

— Point M.A.901(i) is proposed to be renumbered 'M.A.901(e)', and both the new M.A.901(e) and ML.A.901(e) are proposed to be amended to ensure that organisations that are requested to carry out ARs are provided with the same conditions as NCAs when requested to carry out ARs. These conditions include, for example, the necessary documentation and records, suitable accommodation at the appropriate location for the personnel, access to the aircraft, and the assistance of appropriate certifying staff. Additionally, it is proposed to extend the scope of this point to include the assessment of an ARC recommendation and to specify as a condition that access to the aircraft must be ensured.

— Point M(L).A.902(a) is proposed to be added, consolidating information related to the extension of the validity of the ARC that is dispersed across several requirements, AMC and GM.

— The proposed conditions for the extension of the ARC, as established in the new point M(L).A.902(b), are no longer linked to a period of 12 months, but instead they start from the issuance of the ARC. This proposed amendment aims to clarify its application, namely that the organisation that extends the validity of the ARC must be the one that has been continuously managing the continuing airworthiness of the aircraft since the ARC was issued. This amendment does not create significant differences compared to the current rules.

— The conditions under which an ARC becomes invalid and the circumstances when an aircraft is not permitted to fly are proposed to be amended for the sake of clarification and simplification. The conditions that invalidate the ARC, such as issues related to the aircraft's registration or type design, are no longer duplicated with those that invalidate the airworthiness certificate. As for the conditions under which an aircraft is not permitted to fly, the current rules have been simplified. The proposed amendment consolidates these conditions into a single point, stating that an aircraft is not permitted to fly if its continuing airworthiness or any of its components does not meet the applicable requirements of Part-M(L).

— The word 'all' is proposed to be removed from the items to be checked during the documented review (new point M(L).A.903(b)) and the physical survey (new point M(L).A.903(c)). This amendment aligns with the AR process, which is based on sampling. Further guidance on sampling, including how to determine the sample size, will be provided in the related AMC and GM.

— The scope of the documented review is proposed to be extended to include verification that the airworthiness certificate is valid (new point M(L).A.903(b)(11)). This requirement applies only if the airworthiness certificate has already been issued. Therefore, when an airworthiness review is carried out to an aircraft for which the airworthiness certificate has not yet been issued, this requirement does not apply; for example, during the import of an aircraft.

— Points M.A.901(l) and ML.A.903(b) are proposed to be renumbered 'M.A.903(d)' and 'ML.A.903(d)' respectively. The new points are proposed to be amended to indicate that ARS shall be assisted by qualified certifying staff if they are not themselves qualified. The proposed amendment of 'qualified under Annex III (Part-66)' to 'certifying staff' is due to the fact that for the purposes of the AR, when certain maintenance tasks have to be performed (such as opening panels or performing function tests), maintenance must be released by appropriate certifying staff. Being qualified under Annex III (Part-66) may not be the only condition.

— Point M.A.901(r) is proposed to be renumbered 'M.A.903(f)' and to be amended to replace the term 'inconclusive' with 'airworthiness review cannot be completed', for clarity. With the proposed amendment, when an AR cannot be completed (for example, if findings are refused and not corrected by the owner), the organisation that carries out the AR has to inform the competent authority of the MS of registry as soon as possible. The 72-hour period is proposed to be removed; however, this period will be specified as an acceptable interval in the related AMC. Similarly, the same requirement is proposed to be added in point ML.A.903(f).

— In point M(L).A.903, point (e) is proposed to be added to ensure that the information checked on the aircraft during the physical survey matches the information in the records verified during

the documented review, by minimising the time between the two. Additionally, the duration from start to completion of the AR should be kept within a reasonable time frame. The objective is to prevent any misalignment between the verification conducted during the AR and the actual status of the aircraft at the time the ARC or recommendation is issued.

— In point M(L).A.903, point (h) is proposed to be added to ensure that the outcome of the AR is properly recorded. This requirement shall apply to both complete ARs (resulting in an ARC or recommendation) and incomplete ARs.

— Point M.A.904 is proposed to be replaced to establish links with the corresponding requirements for ARS in Annex Vc (Part-CAMO) and Annex Vd (Part CAO) to Commission Regulation (EU) No 1321/2014, similarly to the current point ML.A.904.

— The processes for issuing an airworthiness certificate and an ARC when transferring aircraft between MSs are proposed to be aligned. This alignment involves amendments to points M(L).A.905, 21.A.174(b)(3)(i), 21.A.143(e), 21.B.161(c) and 21.B.326(b), along with the addition of point M(L).B.905.

— Point M.A.903 is proposed to be renumbered ‘M.A.905’, and both the new point M.A.905 and the existing point ML.A.905 are proposed to be amended to clarify that they apply only to aircraft with an airworthiness certificate issued in accordance with Commission Regulation (EU) No 748/2012.

The proposed new points M(L).A.905 comprise two processes: one to be followed by an applicant when they wish to apply for a new registration in a new MS with a valid ARC and a valid airworthiness certificate, and another one to be followed when the former ARC is invalid or becomes invalid during the transfer process.

For cases where the applicant applies for a new registration in a new MS with a valid ARC and airworthiness certificate, the process should be as smooth as possible. The new MS shall recognise the former ARC and amend it accordingly with the new registration.

For cases where the former ARC is revoked or surrendered, has expired or expires during the transfer process, the applicant shall provide the competent authority of the MS where the aircraft is to be registered with either a new ARC issued by an appropriately approved person or organisation, or request the competent authority to carry out an AR and issue the ARC, as applicable. For Part-M aircraft, if the conditions established in point M.A.901(b)(1) are not met, a recommendation for the issuance of the ARC shall be sent to the competent authority, which, following a satisfactory assessment, shall issue the ARC.

— Points M.A.905, M.B.903 and ML.B.903 are proposed to be renumbered ‘M.A.907’, ‘M.B.907’ and ‘ML.B.907’ respectively. Point ML.A.907 and the new points M.A.907 and M(L).B.907 are proposed to be amended to align with the definitions introduced in the previous amendments to Commission Regulation (EU) No 1321/2014, distinguishing between a ‘correction’ and a ‘corrective action’ with respect to findings. With the proposed amendments, the person or organisation that is responsible for the continuing airworthiness of the aircraft shall demonstrate the implementation of the correction within the agreed period, following receipt of the notification of the findings from the NCA. The NCA shall issue the ARC following the correction of such findings.

Furthermore, point M.A.901(s), which is proposed to be renumbered 'M.A.903(g)', is also proposed to be amended for the same reason. This means that the person or organisation that performs the AR shall issue the ARC or a recommendation, following the implementation of the corrections rather than following the implementation of corrective actions. A similar requirement is proposed to be added to point ML.A.903(g).

The identification of the root cause(s), contributing factor(s) and the implementation of corrective action(s) should be controlled and managed by the organisation in accordance with its internal procedures.

Since the proposed point M(L).B.907 also applies to findings that are detected during aircraft continuing airworthiness monitoring (ACAM) inspections, some NCAs expressed concerns about the lack of provisions to address level 2 findings that are not corrected within the agreed period, similar to those provisions established for organisations (such as points CAMO.B.350(d)(3) and 145.B.350(d)(3)). Therefore, it is proposed to add that NCAs shall consider raising level 2 findings to level 1 if the non-compliance is not corrected within the agreed period.

— The proposed amendments are expected to lead to a reduction in the number of recommendations for the issuance of ARCs, which means that NCAs will be less involved in the ARC issuance process. Additionally, for the transfer of aircraft between MSs when their ARC is valid, NCAs shall issue a new airworthiness certificate and amend the former ARC with the new registration without conducting further investigation. Due to the decreased involvement of the NCAs in these processes, it is of utmost importance to foster communication between NCAs, for example, when non-compliance is detected that would compromise safety or would seriously endanger flight safety. To address this, point M(L).B.907(e) is proposed to be added, stating that if a level 1 finding is detected by an NCA in an aircraft (for example, during an AR or ACAM inspection), that NCA shall contact the NCA of the organisation responsible for the continuing airworthiness of the aircraft in accordance with point M(L).A.201, as well as the NCA of the organisation that issued the current ARC, if different. This is particularly important when organisations' work involves mainly aircraft registered in a MS different from the one where they are located. Such communication shall ensure that the NCAs of those organisations have greater visibility of shortcomings, thus allowing them to act accordingly whenever necessary.

— Points M(L).B.902(a) are proposed to be renumbered 'M(L).B.901(a)' respectively, and are proposed to be amended to clarify that for a new aircraft, the ARC must be issued by the NCA directly without carrying out an AR.

— Point M.B.901 is proposed to be renumbered 'M.B.902' and amended to clarify the process of assessment of recommendations, taking into account current practices and the information already included in the AMC. As explained in point M.A.901(b)(2), it is proposed that a recommendation shall be needed only in 'critical cases', which would require the involvement of the NCA. The level of involvement is to be determined on a case-by-case basis, as it is not possible to adopt a one-size-fits-all approach. It is proposed that the assessment process should consist of two steps: the first is to verify that all documents are correct and complete, and that the AR was carried out with a sufficient level of verification. The second step involves investigation that needs to be carried out by the NCA. Investigation may vary from reviewing the records kept by the NCA about a specific aircraft to conducting a physical survey. During

such investigation, findings may be issued which, if not corrected within a reasonable period, shall prevent the NCA from issuing the ARC.

— Point M.B.902(b)(1)(iv), M.B.902(b)(2)(iv), and ML.B.902(b)(4) are proposed to be removed. These points require that the ARS be in a position that authorises them to sign on behalf of the competent authority. The assignment of responsibilities and authorisations for certificate signatures varies significantly between MSs, as some must adhere to other national administrative regulations. There is no added value in requiring the signature of the ARS who conducted the AR on the ARC when it is issued by the competent authority. Regarding traceability, it will be ensured since an AR report must be produced, containing conclusions that will either lead to the issuance of the ARC or not, signed by the ARS. For organisations, the same approach is not followed for traceability reasons, meaning that the ARC must always be signed by the ARS who carried out the AR.

— The time period for keeping records related to ARS working for the NCA is proposed to be aligned with that established in Part-CAMO. Records shall be kept for 3 years after staff have left the authority, as proposed in the new points M.B.104(g) and ML.B.104(e).

— Form 15 (ARC) is proposed to be amended to reflect the new numbering convention of the requirements and to remove the reference to Part-M Subpart G. In Form 15b, the statement regarding the extension is proposed to be amended to remove the reference that the aircraft is airworthy at the time of issuance. The conditions to extend the validity of the ARC are defined in proposed point M(L).A.902(b), and investigation to confirm that the aircraft is airworthy is not required. Nevertheless, if there is evidence or indication that the aircraft is not airworthy, the ARC cannot be extended. It is proposed that Forms 15b and 15c be amended to include, in addition to the signature, the name of the ARS who conducted the AR and issued the ARC, to enhance traceability. Additionally, to ensure that ICAO standards are met, a note is proposed to be added to Forms 15a, 15b and 15c, stating that when the Form is issued in a language other than English, it must include an English translation.

— It is proposed to harmonise the following terms throughout Subpart I of Part-M(L) as follows:
  — ‘airworthiness review’ instead of ‘aircraft airworthiness review’;
  — ‘aircraft continuing airworthiness records’ instead of ‘aircraft records’;
  — ‘entered into the aircraft continuing airworthiness record system’ instead of ‘registered’.

Part-CAO and Part-CAMO of Commission Regulation (EU) No 1321/2014

— In accordance with the current rules, an organisation that holds the AR privilege may additionally be approved to issue a permit to fly (PtF) to a particular aircraft for which the organisation is approved to issue the ARC. In this Opinion, it is proposed to amend the AR requirements to specifically allow organisations to issue ARCs in situations where current rules do not permit it. For example, under the current rules, for aircraft used by licensed air carriers, an organisation that conducts the AR and which is different from the one that manages the continuing airworthiness of the aircraft cannot issue the ARC; it can only issue a recommendation after satisfactorily completing the AR. However, according to the proposed amendments in the Opinion, the same organisation may issue the ARC if the conditions established in the proposed new point M.A.901(b) are met. As described in the NPA, changes

to AR privileges were not intended to apply to the PtF; therefore, these privileges are proposed to be disconnected, and the flexibility proposed for the AR shall not apply to the PtF privilege.

Consequently, point CAMO.A.125(f) on the PtF privilege is proposed to be amended to become independent from the approval of an organisation to issue an ARC for a particular aircraft.

The amendments proposed in the Opinion specify the conditions under which a PtF may be issued and by whom, adhering to the same requirements as defined in the current rules, with an exception that applies to aircraft used by licensed air carriers or to aircraft above 2 730 kg MTOM. Compared to the current rules, these aircraft will benefit from increased flexibility due to changes in the definition of 'controlled environment'. Under the current rules, an aircraft must meet certain conditions during the preceding 12 months to be considered an aircraft in a controlled environment. However, according to the amendments proposed in the Opinion, this 12-month period will be replaced by the time that has elapsed since the ARC was issued. With this amendment, it shall be possible for an organisation to issue a PtF even if it has managed that aircraft for less than 12 months, contrary to the current rules that limit the issuance of a PtF before this period. The 12-month limitation has been identified as an unjustified restriction which prevents, for example, organisations from issuing PtFs to new aircraft in their first year of operations.

Point CAO.A.095(d) is proposed to be amended to align with Part-CAMO regarding the issuance of PtFs to aircraft above 2 730 kg MTOM. The objective is to ensure that Part-CAMO, which has higher standards, does not have fewer privileges compared to Part-CAO.

— ARS requirements defined in points CAMO.A.310, CAO.A.045 and M(L).B.901 are proposed to be amended to be harmonised wherever possible.

2.3.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review

The following paragraphs will also address the transfer of aircraft. Although changes to this process were primarily introduced through RMT.0521, the proposed amendments make it more appropriate to include this topic in this section.

The proposed amendments to Regulation (EU) No 1321/2014 are the following:

Part-M and Part-ML of Commission Regulation (EU) No 1321/2014

— During the AR, when conducting the documented review, it is expected that maintenance records are verified to ensure proper release of maintenance. To address this, the current rules require that during the documented review records shall be reviewed to ensure that all maintenance has been carried out in accordance with Annex I or Vb, as applicable. However, given that the AR could be conducted on aircraft with diverse backgrounds, such as aircraft imported from a third country, this scenario is not addressed in the current rules. Therefore, it is proposed to amend this point, as suggested in point (8) of point M(L).A.903(b). According to the proposed amendment, if maintenance was performed while the aircraft was within the scope of Commission Regulation (EU) No 1321/2014, the release of maintenance shall comply with Annex I or Annex Vb. If maintenance was performed while the aircraft was, for example, registered in a third country, it shall be released in accordance with the airworthiness requirements of that respective country.

— Point M.A.904 is proposed to be renumbered 'M.A.906', and both new points 'M.A.906' and 'ML.A.906' are proposed to be amended to be aligned with the amendments introduced in Part 21 and Part 21 Light. As proposed, point M(L).A.906 shall apply to aircraft that have not been issued with an airworthiness certificate in accordance with Commission Regulation (EU) No 748/2012 (for example, third-country aircraft, state aircraft, Article 83 bis aircraft), and to aircraft whose airworthiness certificates have been revoked or surrendered. Both points are also proposed to be amended to include the provisions associated with the evaluation programme introduced in Part 21 and Part 21 Light.

  Additionally, it is also proposed to be specified that when applying for a new airworthiness certificate, if the former airworthiness certificate issued by another MS has been revoked or surrendered, the applicant shall additionally notify the competent authority that issued the former airworthiness certificate of the name of the MS where the aircraft will be registered. Furthermore, point M.B.906 is proposed to be added to ensure that both competent authorities are informed of the change of registration and facilitate the exchange of information regarding any known problems with the aircraft.

The proposed amendments to Regulation (EU) No 748/2012 are the following:

Part 21 and Part 21 Light of Commission Regulation (EU) No 748/2012

— The requirements requesting the weight-and-balance statement for the issuance of the airworthiness certificate have been harmonised using the same wording to avoid misinterpretation.

— Points 21.A.174(b)(3), 21L.A.143(e) and 21L.A.143(f) are proposed to be amended for simplification and clarification while addressing the objectives of RMT.0278. It is proposed that the criteria for issuing a new airworthiness certificate be no longer differentiated based on the aircraft's origin (MS or third country) but rather on whether or not the aircraft has been issued already with an airworthiness certificate by a MS in accordance with Part 21(Light). This distinction makes it easier to understand when a smooth process is applicable and when a more detailed and comprehensive one is required.

— Proposed points 21.A.174(b)(3)(i) and 21L.A.143(e), which address the application for an airworthiness certificate for aircraft that have already been issued with an airworthiness certificate by a MS (i.e. transfer of aircraft), specify that a valid ARC and a copy of the airworthiness certificate shall be provided by the applicant in order to obtain a new airworthiness certificate. In parallel, points 21.B.320, 21.B.326, 21.B.327, 21L.B.161 and 21L.B.162 are proposed to be amended to facilitate the transfer of aircraft between MSs.

— Additionally, for the 'transfer' of aircraft, a new provision is proposed that allows for the application for an airworthiness certificate by providing a recommendation for the issuance of an ARC, instead of a valid ARC. This shall apply in cases where an ARC cannot be issued directly by an organisation because the conditions in point M.A.901(b) are not met. In such cases, the 'transfer' will not be as 'smooth' as when there is a valid ARC, since the assessment of the recommendation may require investigation to be carried out by the competent authority, as specified in point M.B.902. This new point applies, for example, to Part-M aircraft that have been issued with an airworthiness certificate but their ARC has expired and their continuing airworthiness has not been managed by person(s) or organisation(s) in accordance with point

M.A.201 for a long period (e.g. abandoned aircraft). This process shall enable applicants to apply for and obtain a new airworthiness certificate in the MS where they wish to register the aircraft, after ensuring that the aircraft complies with the applicable requirements and is airworthy.

— Points 21.A.174(b)(3)(ii) and 21L.A.143(f), which address the application for an airworthiness certificate are proposed to be amended with the main objective of including scenarios previously not addressed in Part 21(Light). With those amendments, in addition to aircraft registered in a third country (which is the only case addressed in the current rules), the following cases will also be considered 'imports' and shall be subjected to the same process:

  — aircraft that have carried out activities or services as defined in Article 2(3)(a) of the Basic regulation, e.g. police, search and rescue, firefighting;

  — aircraft that are registered in a MS but their regulatory safety oversight has been delegated to a third country, i.e. under the Article 83 bis agreement;

  — aircraft that had an airworthiness certificate issued by a MS in accordance with Part 21(Light), but it has been revoked or surrendered;

  — aircraft that were registered in a MS after being imported from a third country and have not been issued with an airworthiness certificate by a MS;

  — unmanned aircraft that have not been issued with an airworthiness certificate by a MS under Part 21, as they are not intended to be operated in the 'high-risk' (i.e. SAIL V-VI) operation in the 'specific' category.

— The application for an airworthiness certificate for an aircraft that has previously been issued with an airworthiness certificate in accordance with Part 21(Light), but whose certificate has been surrendered or revoked, is proposed to be addressed in new points 21.A.174(b)(3)(ii)(G) and 21L.A.143(f)(6). In such case, it is proposed that the application for a new airworthiness certificate include a statement specifying the reasons for the invalidity of the previous certificate and how the aircraft has been maintained during that period. The application shall also include an evaluation programme, unless otherwise agreed with the competent authority. The airworthiness statement referred to in points 21.A.174(b)(3)(ii)(A) and 21L.A.143(f)(1) is not required in this case.

— It is proposed to remove the reference from points 21.A.174(b)(3)(ii) and 21.A.143(f)(5) to a 'recommendation for the issuance of a certificate of airworthiness or restricted certificate of airworthiness' as required documentation for the import of a used aircraft from a third country. There is no recommendation for the issuance of an airworthiness certificate, only for the issuance of the ARC.

— Points 21.A.174(d) and 21L.A.143(h) are proposed to be added to address cases where the airworthiness statement (e.g. Export CofA (ExCofA)) is missing. If the airworthiness statement is provided and there is no reason to question its content, the 'importing' authority may rely on it during the import process. When the statement is missing, an 'evaluation programme' should be provided by the applicant to the 'importing' authority along with the application for the issuance of the airworthiness certificate. The 'evaluation programme' facilitates the agreement between the 'importer' and the 'importing' authority on the definition and scope of the aircraft's airworthiness assessment to be conducted.

— Points 21.A.179 and 21L.A.145 are proposed to be amended for simplification and to avoid repetition. With the proposed amendments, these points shall only address cases where the aircraft remains on the same registry, stating that the airworthiness certificate and the ARC shall be transferred along with the aircraft (for example, when ownership changes). To transfer a used aircraft to a new MS, as stated in points M(L).A.905 and ML.UAS.905 of Regulation (EU) 2024/1107[12], an application for an airworthiness certificate shall be made in accordance with Part 21 or Part 21 Light, as applicable).

— Points 21.B.325(c) and 21L.B.162(d) are proposed to be amended for simplification and to avoid the repetition of the same forms (i.e. Forms 15a, 15c, and 15d) in different regulations. The issuance of the ARC by the NCA is addressed in Part-M(L) of Commission Regulation (EU) No 1321/2014 and in Subpart CAW of Part-AR.UAS of Commission Implementing Regulation (EU) 2024/1109[13], as applicable.

— Points 21.B.326, 21.B.327 and 21L.B.162 are proposed to be amended to align with the amendments proposed to points 21.A.174 and 21L.A.143. An application for the issuance of an airworthiness certificate, when an aircraft has been transferred between MSs, can be made by providing either a valid ARC or a recommendation for the issuance of an ARC. In the first case, it is considered a normal 'transfer' and, therefore, no investigation is expected to be carried out by the NCA of the new MS of registry. In the second case, it is expected that the NCA will make the necessary investigation to ensure that the aircraft conforms to an approved design and is in a condition for safe operation. Such investigation should be conducted alongside the assessment of the recommendation in accordance with point M.B.902.

Part-CAO and Part-CAMO of Commission Regulation (EU) No 1321/2014

— In order to achieve alignment with the amendments proposed to Part 21(Light), a new privilege is proposed to be added for organisations that are approved in accordance with Part-CAMO and Part-CAO, allowing them to develop an evaluation programme and conduct the investigations described in that programme.

— Points CAMO.A.220 and CAO.A.090 are proposed to be amended to include records associated with the evaluation programme. It is proposed that the CA(M)O responsible for the continuing airworthiness of the aircraft in accordance with point M(L).A.201 shall keep a copy of these records for 3 years after the responsibility for the aircraft has been permanently transferred to another person or organisation. It is also proposed to apply the same period to the records related to ARs, e.g. ARC/recommendation and AR report. An exception is proposed for copies of PtFs, which shall be retained for 5 years after issuance. For the CA(M)O that has issued the ARC/recommendation, evaluation programme/report, or PtF to aircraft for which it is not

[12] Commission Delegated Regulation (EU) 2024/1107 of 13 March 2024 supplementing Regulation (EU) 2018/1139 of the European Parliament and of the Council by laying down detailed rules for the continuing airworthiness of certified unmanned aircraft systems and their components, and on the approval of organisations and personnel involved in these tasks (OJ L, 2024/1107, 23.5.2024) (http://data.europa.eu/eli/reg_del/2024/1107/oj)

[13] Commission Implementing Regulation (EU) 2024/1109 of 10 April 2024 laying down rules for the application of Regulation (EU) 2018/1139 of the European Parliament and of the Council as regards competent authority requirements and administrative procedures for the certification, oversight and enforcement of the continuing airworthiness of certified unmanned aircraft systems, and amending Implementing Regulation (EU) 2023/203 (OJ L, 2024/1109, 23.5.2024) (http://data.europa.eu/eli/reg_impl/2024/1109/oj).

responsible for its continuing airworthiness in accordance with point M(L).A.201, it is proposed that copies and all supporting documents be kept for 5 years after issuance.

2.3.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting

The amendments proposed in NPA 2016-19 apply to several Annexes to Regulation (EU) No 1321/2014, covering today Part-M, Part-ML, Part-CAMO, Part-CAO and Part-145. In the meantime, Part-145 has been amended by Regulation (EU) 2021/1963[14], which introduced changes resulting from that NPA.

Therefore, this Opinion proposes to amend Part-M, Part-ML, Part-CAMO and Part-CAO regarding occurrence reporting, taking into account some of the principles adopted for Part-145.

One of the main principles in the proposed amendments is the clarification of the obligation to report to the appropriate competent authority, rather than to different competent authorities as sometimes required under the current rules. The objective is to reduce the reporting burden and avoid duplication.

The proposed amendments to Regulation (EU) No 1321/2014 are the following:

— Points M(L).A.202 are proposed to be amended to apply only to individuals regulated by Regulation No (EU) 1321/2014 who do not work in an approved organisation. These individuals are usually referred to as:

  — the owner referred to in point M(L).A.201 carrying out the aircraft continuing airworthiness tasks themselves;

  — the independent certifying staff referred to in point M(L).A.801 carrying out maintenance and/or AR;

  — the pilot-owner who performs maintenance.

  In the case of reporting from these persons, the occurrence report must be made to the competent authority of the State of registry of the relevant aircraft and to the design approval holder. Additionally, if different, the report should be sent to the person or organisation responsible, in accordance with M(L).A.201, for the continuing airworthiness of the aircraft.

— Points M(L).B.202, CAMO.B.125 and CAO.B.75 are proposed to be added, similarly to Part-145. These points establish that the NCA shall notify the Agency in case of any significant problems with the implementation of the Basic Regulation and its delegated and implementing acts, and shall provide the Agency with any safety-significant information stemming from the occurrence reports stored in the national database.

— Point CAMO.A.160 is proposed to be amended and CAO.A.120 is proposed to be added in accordance with the proposals included in NPA 2016-19 for Part-M Subpart G (M.A.718) and Part-M Subpart F (M.A.620), and in accordance with the latest amendment made to Part-145. It is proposed that the CAMOs and CAOs establish and maintain a reporting system, including

[14] Commission Implementing Regulation (EU) 2021/1963 of 8 November 2021 amending Regulation (EU) No 1321/2014 as regards safety management systems in maintenance organisations and correcting that Regulation (OJ L 400, 12.11.2021, p. 18) (http://data.europa.eu/eli/reg_impl/2021/1963/oj)

mandatory and voluntary reporting. It is also proposed that in the case of any safety-related event or condition of an aircraft or component, the CA(M)O report to the NCA, the design holder, and the owner or operator when the CA(M)O is responsible for the continuing airworthiness of that aircraft in accordance with M(L).A.201. When a CA(M)O is requested to carry out an activity, such as an AR, the issuance of a permit to fly, or maintenance in the case of a CAO, any safety-related event or condition must be reported to the person or organisation responsible for the continuing airworthiness of that aircraft, in accordance with M(L).A.201, if different.

— Points CAMO.A.160(d) and CAO.A.120(d) are proposed to be added to establish the requirements for organisations that do not have their principal place of business in a MS. This is necessary because Regulation (EU) No 376/2014, which sets the same requirements applies only to organisations that have their principal place of business in a MS.

2.3.4. Applicability

EASA considers that the proposed amendments are much awaited by the NCAs and industry, in particular about the import of aircraft. Nevertheless, the proposed amendments require certain adaptation by the stakeholders concerned, so a transition period is proposed by which the delegated and implementing regulations shall become applicable 6 months after the date of entry into force.

2.3.5. Legal basis

The legal basis for amending Regulations (EU) No 1321/2014 and (EU) No 748/2012 are Article 17 and Article 19 of the Basic Regulation

2.4. What are the stakeholders' views

2.4.1. RMT.0521 — Airworthiness review process

During the consultation of the draft regulatory material through NPA 2015-17, EASA received approximately 900 comments from interested parties, including from industry (around 70 % of the comments) and national competent authorities (NCAs).

The commentators are distributed as follows:

— 12 national competent authorities (NCAs),

— 39 organisations (operators, CAMO, associations),

— 7 individuals.

Overall, the proposed amendments were well received by the majority of commentators, who made various suggestions to enhance the AR process. There were several positive comments on the proposed new structure of Subpart I of Part-M(L) of Regulation (EU) No 1321/2014. The repeal of some requirements without safety benefits was also well received, such as the recommendations for the issuance of the ARC (except when importing aircraft from a third country).

Since the framework and structure of the regulation in which the NPA was developed have changed significantly with the introduction of Part-CAMO, Part-CAO and Part-ML, some comments were made on requirements that are no longer in the same Annex to the Regulation. For example, comments were made on Part-M requirements that applied exclusively to ELA1 aircraft. Although these

comments were initially made regarding Part-M requirements, they were still considered in respect of Part-ML to which they were moved.

Additionally, some comments identified the need for changes in the AMC and GM. These comments will be addressed when EASA develops the final AMC and GM.

The following paragraphs provide a more comprehensive presentation of the most frequent comments or those with the highest impact, along with EASA's response to them:

Definition of 'airworthy'

A significant number of comments suggested to include the definition of 'airworthy'. This term is used, among other places, in one of the conditions that must be fulfilled in order to extend the validity of the ARC: 'the organisation managing the continuing airworthiness of the aircraft has no evidence or reason to believe that the aircraft is not airworthy.'

EASA agrees with these comments and considers important to clarify the meaning of this term because of the relevance and impact it carries. Several possible definitions were discussed during the RG meeting that took place on 7 and 8 September 2016, and it was decided to include the definition of 'airworthy' in GM.

One of the comments suggested deleting the requirement that links the extension of the validity of the ARC to the condition mentioned above. It is considered that when the continuing airworthiness of an aircraft is managed by an approved organisation, such as a CA(M)O, the appropriate standards are fulfilled, which enhances safety and provides a crucial safety net for the continuation of the validity of the airworthiness certificate. This allows for an ARC to be extended without an AR. However, even if the aircraft is managed by an approved organisation, this does not prevent it from becoming unairworthy for various reasons (e.g. an overdue AD, incident/accident, long maintenance/preservation). Consequently, and to be consistent and coherent with the intent of the airworthiness certificate, the condition of being airworthy should be fulfilled when the ARC is extended.

Unlike the issuance of a new ARC, which requires a documented review and a physical survey to verify that the aircraft is airworthy, such steps are not needed for the extension. The absence of evidence or reason to believe that the aircraft is not airworthy is sufficient to extend the validity of the ARC without the need for additional investigations.

It should be noted that it is acceptable to extend an ARC after the expiry date has been exceeded, provided all conditions for the extension are met. Therefore, the requirement that the aircraft must be airworthy for an extension does not create any negative impact.

Controlled environment when several CA(M)Os managed the continuing airworthiness of the aircraft

Several comments were received regarding the proposed amendment in NPA 2015-17, allowing the validity of the ARC to be extended when several organisations managed the continuing airworthiness over the previous 12 months.

Although there were positive comments in favour of this change, mostly from the industry, several concerns were expressed by NCAs, referring to the following:

— the risk of losing control of the management of the aircraft may increase with each change of CAW organisation;

— oversight of organisations has shown that there are often shortcomings in the transfer of information needed for the new CA(M)O to establish full control of the aircraft; and

— an AR within 12 months of the point of transfer has proven to be an effective means of mitigating airworthiness risks arising from transferring aircraft between operators.

Besides, one commentator proposed to keep the current requirements (unique CAMO) only for CMPA used for CAT.

As a result of the controversial feedback received, EASA decided that this topic should be discussed further. Therefore, it was included on the agenda of the RG meeting held on 23 and 24 November 2016.

The RG reviewed and accepted the comments made by the NCAs with the purpose of maintaining the safety net provided by the AR required when the ARC expires. This mitigates the airworthiness risks arising from the transfer of aircraft between organisations. Therefore, it is proposed in this Opinion to maintain the same conditions as in the current rules for the extension of the validity of the ARC. This means that only the organisation that has managed the continuing airworthiness since the ARC was issued can extend its validity.

Regarding the issuance of the ARC, unlike the extension of its validity, it is proposed that the number of organisations managing the continuing airworthiness will no longer be part of the conditions determining whether an ARC can be issued directly by the organisation. As proposed in point M.A.901(b), one of the proposed new conditions is that the continuing airworthiness of the aircraft has been continuously managed in accordance with point M(L).A.201, since the issuance of the former ARC. This condition does not limit the number of persons or organisations involved in the continuing airworthiness, nor does it prevent an organisation that was not previously managing the continuing airworthiness from issuing the ARC. Therefore, as proposed in the NPA, this change will allow an organisation to issue an ARC after the satisfactory completion of an AR, even if multiple persons or organisations have managed the continuing airworthiness of the aircraft, significantly reducing the number of recommendations.

As proposed in the NPA, the replacement of the period of '12 months' with 'since the issuance of the ARC' is included in the amendments proposed in this Opinion. The '12-month' period raised several questions over the years, which required further clarification, as exemplified in FAQ 19063[15].

Airworthiness review requested by a CAMO located in a non-EU MS

Point M.A.901(f), as proposed in the NPA, states that for CAMOs located in a non-EU MS, the AR and the issuance of the ARC should be carried out exclusively by the competent authority. Several comments were received questioning the safety benefits of this limitation and suggesting that a CAMO located in an EU MS, with the appropriate privileges, should be able to be contracted to perform the AR.

[15] https://www.easa.europa.eu/en/faq/19063

EASA agrees with these comments, and the proposal in the NPA was not included. A CA(M)O located in a third country is still prevented from performing an AR and issuing the ARC, but when necessary, it can request a CA(M)O located in an EU MS (with AR privileges) to conduct an AR and issue an ARC or a recommendation.

Airworthiness review content/process

Regarding the AR process, many different comments were received. The most relevant comments are the following:

— AFM during the documented review and physical survey

  — Some comments were received questioning the relevance of the AFM in terms of continuing airworthiness. Even though it is a manual for operations, EASA considers that the ARS during the AR must verify whether the modifications, repairs and ADs were properly implemented and whether the AFM was amended accordingly.

  — There were comments stating that the AFM is not the manual used for aircraft operated under Part-CAT, being in this case the operator's manual, and because of this, the wording should be changed. EASA considers that for the scope of the AR, the AFM is the appropriate manual since it is part of the type design of the aircraft.

— Operational requirements

  There were suggestions to include operational requirements, such as those in Part-26, within the scope of the AR. These comments were discussed at the RG meeting, where it was agreed that operational requirements should not be part of the AR, and that any component related to those operational requirements should be treated like any other component. This means that, during the AR, the aircraft's configuration must be verified to ensure that it complies with the type design (e.g. if a component was installed as part of an approved modification). The intent of the AR is not to check for compliance with the requirements set out in Part-26, as these are primarily dependent on the type of operation and fall under the responsibility of the operator. However, in order to improve synergies, the AR can be conducted alongside other operator investigations, such as verification of compliance with Part-26. A non-compliance detected during the AR, which is not directly related to the aircraft's airworthiness, should be noted as observations in the AR report and should not prevent the issuance of the ARC.

— Total in-service life accumulated in the applicable parameter

  Several comments were received suggesting that during the documented review, other parameters, such as APU hours and landing cycles, should be verified to ensure that they were properly recorded. EASA agrees with these comments; therefore, this point has been revised to align with M(L).A.305, which specifies the information and parameters that should be recorded and for which components.

— Applicable type design

  Comments were received questioning what should be verified to ensure that the aircraft complies with the latest revision of the type design approved by the Agency. Some comments mentioned that this verification seems to be part of the certification process, where it is verified that the aircraft complies with the certification specifications, and should not be part of the AR.

GM will be developed, similar to the key risk elements defined in Appendix III to GM1 M.B.303(b), clarifying that during the AR, it is expected that the review covers, for example, the following points to verify whether the aircraft complies with the type design:

— Verify that the equipment installed on the aircraft is consistent with the aircraft records.

— Verify the installation and correct data of the fireproof identification plate of the manufacturer.

— Verify that the aircraft/engine/propeller complies with the latest revision of its type certificate data sheet approved or accepted by the Agency, including any modifications that require a supplemental type certificate approved by the Agency.

— Check that the cabin configuration (LOPA), if available, is an approved configuration.

— Check that the material flammability certification is in accordance with Part 21(Light) in case a modification had taken place, e.g. new seat covers, cushions, carpet, curtains, side wall panels or cargo liners.

— Check for unintentional deviations from the approved type design, sometimes referred to as concessions, divergences or non-conformances, technical adaptations, technical variations, etc.

EASA agrees that the wording of this requirement in the current rules is not appropriate and proposes to amend it in this Opinion to be analogous to point 21.A.181(a)(1): '10. the aircraft complies with the applicable type design.'

Time between documented review and physical survey

Approximately 10 comments were received regarding a new requirement proposed in the NPA, which was intended to establish a time interval between the documented review and the physical survey. The comments varied significantly, and their summary is as follows:

— Removal of the requirement;

— The interval should be 30 days instead of 60 days;

— The interval should be longer than 60 days;

— Unclear safety benefit of the requirement;

— The maximum interval time is already defined 'indirectly' in the requirement that establishes a maximum period of 90 calendar days for the anticipation (M.A.901(h));

— Proposals for the use of different wording but keeping the same interval and principle.

The purpose of establishing a time interval between the documented review and the physical survey is to avoid considerable changes and mismatches between the data reviewed based on the records and the actual configuration of the aircraft verified during the physical survey. Therefore, the inspector performing the AR should plan beforehand with the objective of performing both inspections with the least amount of time between them.

It shall be noted the documented review and the physical survey are not separate processes but are interconnected. The ARS will need to carefully evaluate how to establish and manage this connection to ensure that the documentation accurately reflects the aircraft's physical condition and that there

is compliance with airworthiness requirements. Effective coordination between these two aspects is essential for a thorough and reliable AR. The ARS is responsible for determining the most effective method for this verification, which could include:

— starting with a documented review, then proceeding to a physical survey;

— starting with a physical survey, then proceeding to a documented review;

— alternating between documented review and physical survey.

Based on this, and considering the comments received, the new requirement proposed in this Opinion establishes that the time elapsed between the review of the aircraft's continuing airworthiness records and their corresponding verification during the physical survey must be as short as possible. It does not specify a fixed interval as proposed in the NPA, nor does it suggest that the physical survey must be conducted after the documented review. To offer further guidance on what constitutes an acceptable means of compliance, an interval of up to 30 days will be included in the AMC.

Removal of the term 'inconclusive' regarding the outcome of the airworthiness review

In September 2012, EASA conducted a survey to collect feedback on specific topics, with the term 'inconclusive' being one of them. As specified in Section 5.3(a)(5) of the NPA, the result of the survey is as follows:

— 34 answers classified in the category 'Term not clear'

— 15 answers classified in the category 'No issues/No comments/I agree'

— 3 answers classified in the category 'There is no need for this concept'

The NPA proposed the removal of the requirement under point M.A.710(h), which used the term 'inconclusive'. This removal received some negative comments, referring to the following reasons:

— The concept of 'inconclusive' in respect of an AR should be retained in this point to avoiding 'shopping of airworthiness review' from one CA(M)O to another.

— Loss of safety information about operators which either intentionally or unintentionally neglect Part-M requirements.

Since the publication of the NPA, several amendments to the Regulation have been adopted. For example, point M.A.710(h) was transferred to point M.A.901(r) with some minor changes.

This point was discussed and assessed by the RG, which still considered the term 'inconclusive' unclear. However, the feedback provided in the comments is relevant, particularly in scenarios where an AR could not be completed due to uncorrected findings. Such a requirement might prevent the operator/owner from evading the findings by contracting another CA(M)O which, by virtue of the sampling inspection, might not detect the same non-compliances as the previous CA(M)O.

Therefore, EASA decided not to remove the requirement as proposed in the NPA but instead to amend the current requirement by replacing the term 'inconclusive' with the phrase 'AR cannot be completed'. The objective of this requirement is to alert the competent authority of the MS of registry about situations that could impact the completeness of the AR, such as when the owner/operator fails to accept or rectify findings, or when access to necessary records is denied to the ARS. Based on this information, the NCA may take the necessary measures, which could include, for example:

— informing the competent authority of the organisation managing the continuing airworthiness of the aircraft (if different);

— conducting an AR in accordance with point M.B.901(b);

— recommending that an organisation be contracted if the continuing airworthiness of the aircraft has been managed by an individual;

— including the aircraft in the ACAM programme;

— suspending or revoking the airworthiness certificate.

EASA Form 15

Regarding EASA Form 15, several changes were proposed in NPA 2015-17 with the intention of administrative simplification. The changes and their respective comments are summarised as follows:

— Merging Form 15a with 15b

Most comments supported merging the two forms. However, since the publication of the NPA, Forms 15a and 15b have been modified in terms of both content and application, and Form 15c has been introduced.

The current Form 15c is an example of a unified form that accommodates all issuers (NCAs, CA(M)Os, Part-145 organisations, independent certifying staff), to make it suitable for all, although it was necessary to add some new fields, which increased the form's complexity.

As the intended benefit of merging Form 15a with 15b was purely administrative, concerns were raised regarding whether the benefits sufficiently outweighed the increased complexity of the form, and the need for NCAs and organisations to amend their procedures and update their IT systems.

Considering all the implications of such a change, EASA decided against merging Form 15a with Form 15b, as proposed in the NPA.

— Removal of the term 'airworthy'

Comments were received indicating that in Form 15 the term 'airworthy' was removed from the fields associated with the extension of validity, although it was still mentioned in the requirements that the ARC could not be extended if the aircraft was not airworthy.

The term 'airworthy' at the time of extension is proposed to be removed from Form 15 because the conditions for performing the extension, as defined in the proposed point M(L).A.902(b), depend solely on which organisation manages the continuing airworthiness and who performed the maintenance. If there is no evidence or reason to believe that the aircraft is not airworthy, the validity of the ARC may be extended without further investigations or reviews.

— Removal of flight hours

The intent of removing flight hours, as proposed in the NPA, was to simplify the completion of the ARC by eliminating unnecessary information. Most comments, especially from the industry, supported this decision, noting that there are alternative methods to monitor and link flight hours to the respective ARC. However, some NCAs emphasised the importance of including such information in the ARC, mentioning that:

— this information can help in reducing potential fraudulent activities;

— this information is used for statistical monitoring of aircraft operations; and

— including this information in the ARC is not considered a significant burden.

Due to these considerations, it was decided not to propose in this Opinion the removal of the flight hours from Form 15.

Airworthiness review support staff

Provisions were proposed in NPA 2015-17 that introduced a new role of airworthiness review support staff (ARSS) having an explicit responsibility to assist the ARS in performing specific tasks of the AR. Requirements that needed to be fulfilled in order to be approved as ARSS were also defined in the NPA.

The idea behind this change was to provide some flexibility by allowing some tasks to be delegated between multiple team members, thereby increasing efficiency and reducing the time required to carry out a full AR.

Several comments were received on this subject, expressing:

— that the introduction of ARSS would lower the general standard of the AR process;

— that having multiple people involved in performing an ARC does not improve airworthiness;

— support for the role of ARSS;

— that the requirements to qualify an ARSS should be lower than the ones needed for ARS;

— that ARSS is a good idea, however, duties and responsibilities need to be better defined to assist the industry and competent authorities with some guidelines; and

— that there is a risk that support staff not meeting the competence requirements for ARS will be used and left to work unsupervised by the ARS, who only would become involved to sign the certificate / recommendation.

Following analysis of these comments, this point was further discussed thoroughly and presented to the Advisory Bodies, representing the MS NCAs (P&CA TeB) and industry (EM.TeC) during meetings that took place on 3 and 4 May 2023 and on 16 June 2023.

EASA presented several options for further discussion: making no changes to the Regulation; implementing the NPA proposal, which formally introduces the ‘ARSS’ along with qualification requirements; allowing the ARS to be assisted, but limited to the preparation and collection of documents without assessing them, which would require a change in the IRs; and lastly, allowing the CA(M)O to formally authorise staff to support the ARS without explicit qualification requirements in the regulation, similar to how mechanics are authorised by maintenance organisations.

Similarly to the comments received during the NPA consultation, there was no clear consensus. However, there was a general preference among MSs not to amend the regulation in this regard, while the industry was generally in favour of allowing CA(M)Os to formally authorise staff to support the ARS.

As stated in the Regulation, the ARS is responsible for the performance of the AR and the issuance of the ARC. However, the Regulation does not prevent the ARS from having personnel to assist them in performing specific tasks of the AR.

The current rules do not clearly state that every single step of the AR must be performed exclusively by a single person (ARS) or whether the ARS can be assisted. It should be noted that during the consultations with the Advisory Bodies, not amending the rules was favoured by those who suggest that the current wording is sufficiently clear on the responsibility and sufficiently flexible to allow for assistance to the ARS.

The option of having staff support the ARS, authorised by the CA(M)O in accordance with their internal procedures, does not require a change to the rule, because, as mentioned above, the Regulation does not prevent the ARS from being assisted. However, the aim of this option is to acknowledge this possibility and to introduce some principles and limitations for this support/assistance to prevent any degradation in the standards of the AR. After thorough discussion, it was decided to adopt this option, which will be implemented by not changing the rule but by developing soft law (AMC or GM) to assist organisations in implementing such a set-up.

There is no reason to believe that the involvement of qualified staff assisting the ARS would compromise the standards of the AR, especially since some NCAs and organisations already implement this practice. It is expected that having a team could enhance efficiency by reducing the time required for the ARS to perform tasks that can be delegated, allowing them to dedicate more time to verification actions requiring greater attention.

Recommendation only for importing aircraft

It was proposed in NPA 2015-17 that, except in cases when an aircraft is imported from a non-EU MS, CA(M)Os would be able to issue the ARC after performing the AR without the need to issue a recommendation to the competent authority. This amendment aims to reduce the administrative burden by decreasing the number of recommendations issued by CA(M)Os and the corresponding assessment by the NCAs.

Most of the comments provided positive feedback regarding this change, confirming the benefits of reducing the administrative work. Nevertheless, some comments expressed concerns, for example, suggesting that this change will remove a safety barrier and might lead to a loss of the authority's independent control function.

Since the NPA was issued, several amendments to the Regulation have been made, which have considerably changed the structure of the Regulation; for instance, the implementation of Part-ML. In Part-ML, the recommendations have been removed entirely, meaning that organisations or certifying staff that perform the AR can now issue the ARC themselves. Therefore, the changes proposed in the NPA are not relevant for Part-ML and are only to be considered for Part-M.

While NPA 2015-17 (airworthiness review) focused on requiring a recommendation only for aircraft being imported from non-EU MSs, NPA 2016-08 (import of aircraft) proposed changes that extend the need for a recommendation to additional situations. These include issuing an airworthiness certificate for aircraft previously operated as 'state aircraft' or in cases where the previous airworthiness certificate was invalid.

Because of this, there was a need to reassess the proposals in both NPAs, considering the objectives defined, such as reducing the administrative burden while maintaining the level of safety.

For all aircraft used by air carriers licensed in accordance with Regulation (EC) No 1008/2008, and for aircraft above 2 730 kg MTOM, the current rules state that a recommendation is required depending on whether the AR was performed by the same organisation responsible for continuing airworthiness and whether the aircraft was in a controlled environment. As explained in the NPA, an approved organisation should not be limited in issuing the ARC directly solely because it was not the organisation managing the continuing airworthiness of the aircraft. Additionally, the current definition of a 'controlled environment', which requires the aircraft to have been managed by the same organisation in the previous 12 months, should not be a reason to limit the issuance of the ARC directly. Thus, with the proposed amendments in this Opinion, these circumstances will no longer prevent an organisation that has carried out a satisfactory AR from issuing the ARC directly. This change will significantly reduce the number of recommendations that need to be issued by organisations and assessed by the NCAs.

On the other hand, both NPAs recognised the need for a recommendation in cases considered more delicate, which require the involvement of the NCA, such as importing aircraft from a third country or situations where the former airworthiness certificate was revoked or surrendered. Another scenario not anticipated in the NPAs, which should be treated with caution, involves the issuance of an ARC for aircraft that have been without any person or organisation managing their continuing airworthiness for a long period. Considering the proposals in both NPAs, it is possible that an aircraft abandoned for years, with its airworthiness certificate neither revoked nor surrendered, could obtain an ARC and fly again without NCA involvement. EASA considers that, in some cases, there is a higher chance of encountering airworthiness-related issues with aircraft in this condition than with those imported from third countries. Additionally, cases of 'abandoned aircraft' imply the restoration of an asset that was out of the system, and because of the economic incentives that such a process may offer, the stakeholders involved may be tempted to cut corners.

Since in these cases the airworthiness certificate may not need to be issued, the NCA might not have the opportunity to conduct the necessary investigations. Therefore, using the recommendation as a means to involve the NCA is considered the best approach. It should be noted that this process is already established under the current rules, as aircraft above 2 730 kg MTOM or used by air carriers licensed in accordance with Regulation (EC) No 1008/2008 not in a controlled environment can only obtain an ARC issued by the NCA based on a recommendation.

Consequently, EASA proposes in this Opinion, a midway solution between what was proposed in the NPA and what is defined in the current rules. Thus, compared with the current situation, considerable flexibility is given to the organisations performing the AR by allowing them to issue the ARC directly in cases where was not allowed before, while retaining the need for a recommendation for 'critical cases', where the involvement of the NCA is necessary.

Based on this, the point related to the assessment of the recommendation by the NCA is also proposed to be amended to be aligned with the new proposals. Contrary to the current rules, where a recommendation is necessary for both 'critical' and 'non-critical' cases—with the latter cases being handled by the NCAs through a straightforward and administrative-only process in which the ARC is issued almost directly—the new changes imply that when a recommendation is received, it signifies that some criticality is involved. Therefore, clearer and more robust provisions for the assessment of the recommendation are needed. The assessment of the recommendation, as proposed in this

Opinion, comprises two steps: the first involves assessing the content of the recommendation and the documentation received, and the second is based on investigations that must be carried out by the NCA. The level of investigation depends on the case since every case is unique. Investigations may vary, for example, from verification of the records that the NCA may have in their files, such as checking the history of the aircraft, to conduct of a physical survey of the aircraft. This process is not new, as it is already mentioned at a rule level and complemented in the AMC.

For Part-ML aircraft, no change is proposed in this matter due to the low risk and complexity associated with the type of aircraft, which means that the ARC may be issued in any case after a satisfactory AR.

Transfer of aircraft between MSs

In NPA 2015-17, new requirements were proposed, along with AMC and GM, to provide details about the process of transferring aircraft between MSs and to clarify the responsibilities of the competent authorities and the interested parties.

Several comments were received, the main ones being the following:

— the need for a new AMP before the transfer is completed;

— a recommendation for issuing the ARC should be provided when the previous ARC is not valid during the transfer;

— ARC amendments, i.e. ARC with the new registration, should always be made by the NCA, and not by organisations as proposed in the NPA;

— questions regarding the number of transfer cases showing deficiencies versus those without concerns, the overall risk level for the aircraft population in Europe deduced from these cases, and whether there is a clear indication of a systematic problem with defined root causes;

— comments against the obligation for NCAs to include transferred aircraft in the ACAM programme or product oversight of the organisation at the earliest opportunity, noting that it is particularly difficult when the aircraft is based in a MS different from where it is registered;

— a comment from an NCA supported conducting inspections at the time of transfer;

— comments stating that the proposed new statement required during the transfer is merely an administrative process without any safety benefit.

The comments were discussed at the RG meetings held on 7-8 September and 23-24 November 2016. Most of the comments were agreed upon, resulting in changes to the amendments proposed in the NPA.

The resulting decisions were presented to the Advisory Bodies representing the MS NCAs (P&CA TeB) and industry (EM.TEC) during meetings on 3-4 May and 16 June 2023.

In summary, the assessment and subsequent conclusions regarding the requirements for transferring aircraft between MSs are explained as follows:

— It was proposed in the NPA that when transferring an aircraft between MSs, a statement should be issued by the person or organisation responsible for the continuing airworthiness of the aircraft, confirming, for example, that the aircraft has an AMP and that all records are under control.

It was mentioned in the NPA that the aforementioned statement supports the NCA in ensuring that, for example, the transfer process was carried out in a controlled manner and that the person or organisation responsible for the continuing airworthiness of the aircraft is aware of their responsibilities. However, such a statement should not be necessary since it essentially confirms what is already defined as their obligation and responsibilities, thereby adding just another administrative step to the process. Therefore, it was decided not to endorse in this Opinion the statement proposed in the NPA.

— After reassessment of the proposed amendments, it was decided that communication between NCAs should be fostered, especially in cases where the NCA of the State of registry detects non-compliances in aircraft due to organisations not fulfilling their obligations, and the oversight of those organisations is the responsibility of a different NCA. Therefore, a new requirement is proposed in point M(L).B.907(e), stating that when an NCA detects a level 1 finding, for example, during an AR or an ACAM inspection, it must inform the NCA responsible for the organisations involved in the continuing airworthiness and the issuance of the current ARC, if different.

— Regarding the AMP for Part-M aircraft, it must be approved by the NCA of the new MS of registry before the issuance of the new airworthiness certificate, as defined in the current rules. However, the NCA may consider the fact that the AMP was already approved to avoid a full review of the document. It is also possible to postpone the comprehensive verification to another occasion, such as during the next annual review.

— The feedback received about the amendment of the ARC during transfer (to introduce the new aircraft registration) was accepted. Therefore, in this Opinion, it is not proposed that an organisation can amend the ARC as suggested in the NPA. This means that only the NCA can amend the ARC to include the new aircraft registration.

— In the NPA, it was proposed that the NCA must include transferred aircraft in the ACAM programme or product audit plan. However, based on the feedback received and the subsequent assessment, it was decided not to propose this requirement in this Opinion. In order to achieve the intended outcome of that requirement, an AMC will be introduced, stating that the NCA should carry out an assessment to determine the risk associated with the aircraft. Based on the results, the NCA will decide whether it is necessary to add the aircraft to the ACAM programme or product audit plan. This change is expected to maintain the same level of safety with fewer resources. Instead of considering all aircraft as potential risks and treating them in the same way, as initially proposed in the NPA, this change allows NCAs to allocate their resources more efficiently and effectively.

— A requirement in M(L).A.905 is proposed in this Opinion, addressing cases where the application for the transfer of an aircraft is submitted with an expired ARC or where the ARC expires during the transfer process. In these scenarios, a new ARC must typically be issued by an appropriate organisation or person, as applicable, before the issuance of the airworthiness certificate. If an ARC cannot be issued directly by an organisation due to the conditions established in point M.A.901(b)(1), a recommendation must be sent to the NCA of the new MS of registry. After a satisfactory assessment, the NCA must issue a new ARC and the new airworthiness certificate.

— NPA 2015-17 and NPA 2016-08 both share a common objective of facilitating the transfer of aircraft between MSs by removing barriers and reducing the need for investigations by the new

MS of registry. Although this view was not always unanimously shared, there is no indication that these barriers add significant safety value or are the best way to address issues that might exist with some aircraft. If issues are detected during the transfer of aircraft between MSs, it is not because the aircraft became less safe with the change of registration, but because the responsibilities of the person or organisation responsible for the continuing airworthiness management of the aircraft, were not being fulfilled. These shortcomings should be detected during the oversight of those organisations, or by other means such as RAMP inspections, product audits and ACAM inspections.

Thorough verification by the new MS of registry during the transfer does not address the root cause of these issues. Moreover, this filtering is ineffective for aircraft that do not change registries, even though they might have the same non-compliances due to the same root causes.

Consequently, the proposed amendments in this Opinion follow the same approach as both NPAs, removing the need for the new MS of registry to conduct investigations in order to issue a new airworthiness certificate during transfer.

2.4.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review

During the consultation of the NPA 2016-08, EASA received approximately 300 comments from interested parties, including industry (around 50 % of the comments) and NCAs.

The commentators are distributed as follows:

— 13 NCAs,

— 9 organisations (operators, CAMOs, associations),

— 1 individual.

Overall, the proposed amendments were well received by the majority of commentators, who made various suggestions to enhance the process of importing aircraft.

The following paragraphs provide a more comprehensive presentation of the most frequent comments or of the comments with the highest impact, along with EASA's response to them:

Additional requirements for ARS conducting AR for imported aircraft

In NPA 2016-08, it was proposed in point M.A.707(a)(3) that the ARS involved in imported aircraft must have acquired the technical competence and experience necessary to ensure that the aircraft meet the requirements of point M.A.904. This proposal generated several comments arguing that such a differentiation would create two types of ARS: one for 'standard AR' and another for 'AR in case of import'. The proposed AMC corresponding to this point stated that ARS are expected to have the technical competence and experience to confirm that the approval process applied to modifications and repairs complies with European rules, considering bilateral agreements signed by the EU. However, many comments indicated that this level of competence and experience is already expected of all ARS, as it is essential for all ARs. Considering the feedback received, EASA agrees with these points and has decided not to propose additional requirements for ARS conducting ARs for imported aircraft in this Opinion. All ARS are expected to have the necessary competence and experience for this task, and it is up to the organisation to identify the need for additional training in accordance with competence assessment procedures.

Assessment of the aircraft's configuration by the ARS

The NPA proposed a new requirement for aircraft being imported into a MS, stating that the organisation conducting the AR must also demonstrate an assessment of the aircraft's configuration along with the AR. Several comments were received on this point, particularly noting that this assessment is the responsibility of the person or organisation responsible for the continuing airworthiness in accordance with point M(L).A.201. It was also noted that this change would suggest a shift of these responsibilities to the ARS.

This point was initially proposed in the NPA to address a critical aspect of importing aircraft, specifically to verify that the modifications or repairs comply with point M.A.304 and to assess whether their combined effect may have an impact on safety.

EASA agrees with the comments made, that it should not be the ARS that is responsible for such assessments, but rather the person or organisation responsible for the continuing airworthiness in accordance with point M(L).A.201. When importing an aircraft, the entity responsible for the continuing airworthiness must conduct a comprehensive assessment of all aspects of the aircraft to ensure that it is airworthy. The AR should be carried out after that assessment, based on a sample inspection, to confirm the aircraft's airworthiness. Given the critical nature of aircraft imports, a larger sample size is expected, with special attention to critical aspects such as the aircraft's configuration.

Consequently, it was decided not to retain this new requirement in this Opinion; however, the content of the GM related to this point will be moved to GM associated with point M(L).A.301. This GM clarifies that assessing the aircraft's configuration is a crucial part of the continuing airworthiness tasks, which must be performed by the person or organisation responsible for the continuing airworthiness in accordance with point M(L).A.201.

The significance of providing additional guidance on managing the aircraft configuration by the person or organisation responsible for the continuing airworthiness was emphasised by an industry representative after this point was presented to the EM.TEC. Additionally, the representative proposed GM and AMC text, which is considered in the development of the AMC and GM supporting the application of the amendments proposed in this Opinion.

Application for a new airworthiness certificate when the previous one is invalid

In the NPA, a new requirement, point 21.A.174(e), was proposed to address situations where an application for an airworthiness certificate is made for an aircraft registered in a MS after the previous certificate has become invalid. It was proposed that, in such cases, a recommendation for the issuance of an ARC would be necessary. Several comments were received: some highlighted the importance of addressing this situation, as it sometimes occurs, while others argued that a recommendation alone might not be sufficient, especially if the former airworthiness certificate had been revoked for safety reasons.

Based on the comments received and the proposed changes to the structure of points 21.A.174 and 21L.A.143, the issuance of a new airworthiness certificate when the previous one is invalid is proposed to follow a process similar to the one for the import of aircraft from third countries. However, instead of requiring an airworthiness statement (ExCofA), it is proposed that the applicant provide the NCA, where the aircraft is registered or intended to be registered, with a statement containing relevant information, such as the reasons for the revocation or surrender of the airworthiness certificate and the maintenance performed on the aircraft during that period. The aim of this approach is to enhance

the transparency of the process and allow the NCA to prepare for the specific case, including any necessary investigations. It is also proposed that an evaluation programme be required in these cases. However, since each case is unique and there is no one-size-fits-all solution, the evaluation programme may be excessive in instances where, for example, the airworthiness certificate was surrendered only weeks before applying for a new one and safety reasons were not involved. Therefore, the competent authority may determine that an evaluation programme is not necessary in such cases.

Furthermore, it is proposed to add a new point to M.A.906(a), requiring the applicant to notify both the NCA where the new airworthiness certificate is sought and the NCA that issued the former airworthiness certificate, if different. Additionally, a new point, M.B.906, is proposed to be added, stating that the NCAs must exchange information related to the aircraft.

These proposed changes also offer applicants the flexibility to obtain the airworthiness certificate in the MS where they choose to register the aircraft, rather than being limited to the MS that issued the previous airworthiness certificate, as proposed in the NPA.

Application for an airworthiness certificate for aircraft that were operated as 'state aircraft'

The current requirements in Part 21(Light) for applying for an airworthiness certificate address only new aircraft and used aircraft originating from a MS ('transfer') or a third country ('import'). For used aircraft from a MS, it is expected that the aircraft was in compliance with the Basic Regulation and its IRs before the transfer, as an ARC should be provided by the applicant.

However, there are cases where an aircraft may come from a MS but it was not within the scope of the Basic Regulation, such as aircraft that were operated for purposes mentioned in point (3)(a) of Article 2 of the Basic Regulation (e.g. police, search and rescue, firefighting). In these cases, it was unclear which process should be applied. Therefore, the NPA proposed a new point to specifically address these cases, making the process identical to that for importing aircraft from a third country. Several comments were received in support of the new proposal for addressing this specific case; however, there were also comments suggesting that other specific cases should be addressed as well to avoid misinterpretation and to increase the standardisation level between MSs when addressing such cases. Examples of cases not covered by the proposed changes in the NPA include the issuance of an airworthiness certificate for aircraft registered in a MS where:

— responsibilities pursuant to the Chicago Convention have been transferred to a third country (Article 83 bis aircraft);

— an airworthiness certificate has not been issued in accordance with Part 21(Light); for example, after being imported from a third country (aircraft registered in a MS without an airworthiness certificate).

Based on these comments, a new structure for points 21.A.174 and 21L.A.143 is proposed in this Opinion. This change aims to simplify the rule, making it more readable, and at the same time, to increase the scope of cases where the application for a new airworthiness certificate may be requested. Therefore, for used aircraft, two distinct processes are proposed to replace the current requirements. The first process addresses cases where the aircraft has an airworthiness certificate issued in accordance with Part 21(Light) ('transfer'), implying that the aircraft is already within the EASA system. The second process applies to cases where the aircraft has no airworthiness certificate issued in accordance with Part 21(Light) ('import'), which means that the aircraft is coming from a

different regulatory framework or that its former airworthiness certificate issued in accordance with Part 21(Light) was revoked or surrendered.

'Transfer'

This process is commonly referred to as 'transfer' because it is used when the applicant wishes to change the registration of an aircraft between MSs. In this case, a new airworthiness certificate needs to be issued by the new NCA, since the airworthiness certificate is valid only if the aircraft remains on the same register. To obtain a new airworthiness certificate, the amendments proposed in this Opinion outline two paths: providing a valid ARC or a recommendation for the issuance of an ARC.

If the aircraft has a valid ARC, the 'transfer' process should be as smooth as possible, meaning that the NCA is not required to conduct investigations to issue the new airworthiness certificate and to amend the ARC with the new aircraft registration. Since the aircraft had a valid airworthiness certificate and a valid ARC, we consider that conducting additional investigation solely because the aircraft is to be registered in a new MS is normally not needed. However, the new MS should, in principle, assess the need to include the aircraft in their ACAM programme.

The proposed amendments to the 'transfer' process allow for providing a recommendation for the issuance of an ARC in place of a valid ARC. This may occur in cases where the former ARC was revoked, surrendered or expired, and a new ARC cannot be obtained due to the conditions established in the proposed new point M.A.901(b). For example, if an aircraft under Part-M has an expired ARC, and its continuing airworthiness was not managed in accordance with point M.A.201 for years. In this scenario, even though the aircraft still has an airworthiness certificate, the lack of continuing airworthiness management may raise concerns about the aircraft's condition. Therefore, contrary to the 'normal transfer' where the former ARC was valid, in this case, it is expected that the new NCA carries out sufficient investigations to be satisfied that the aircraft is airworthy. These investigations should be conducted in conjunction with the investigations needed to assess the recommendation.

'Import'

For used aircraft that do not have an airworthiness certificate issued in accordance with Part 21(Light), a more comprehensive process for issuing the airworthiness certificate is expected, compared to the 'transfer' process. This applies to cases where an airworthiness certificate in accordance with Part 21(Light) has never been issued (e.g. for third-country aircraft, state aircraft or aircraft under the ICAO Article 83 bis agreement), or where a previously issued airworthiness certificate in accordance with Part 21(Light) was revoked or surrendered.

According to current rules, the 'import' process is used to obtain an airworthiness certificate for aircraft coming from a third country. However, with the proposed changes, the term 'import' remains appropriate for referring to the process of issuing an airworthiness certificate for aircraft that do not have one issued in accordance with Part 21(Light), as it accurately reflects the introduction of aircraft into the EASA system.

In light of comments received, and building on what was already proposed in the NPA, the proposed amendments in this Opinion clarify that the 'import' process should be followed to obtain an airworthiness certificate for:

— used aircraft imported from a third country;

— aircraft that were operated for purposes mentioned in point (3)(a) of Article 2 of the Basic Regulation (e.g. police, search and rescue, firefighting).

— aircraft registered in a MS, where regulatory safety oversight has been delegated to a third country, i.e. under the ICAO Article 83 bis agreement;

— aircraft that had an airworthiness certificate issued in accordance with Part 21(Light) but which was revoked or surrendered;

— aircraft that were registered in a MS after being imported from a third country and which have not been issued with an airworthiness certificate by a MS.

Regarding the proposals in the NPA about the application for an airworthiness certificate for 'state aircraft', comments were received against a limitation introduced in the requirement. This limitation stated that the application could only be made to the MS where the aircraft previously operated as a 'state aircraft'. The rationale for this limitation was that this MS would be better positioned to evaluate the differences between the regulatory frameworks that applied previously and the one established by European regulations. However, such a limitation creates barriers to free movement, and it was suggested that the issue could be addressed differently. Based on this and the comments received, it was decided not to propose this limitation as proposed in the NPA. Instead, an AMC will be developed to mitigate the risks associated with a MS receiving an aircraft that was operated as a State aircraft under the regulations of a different MS. In this case, coordination between MSs should be ensured.

Evaluation programme

In order to 'import' an aircraft that was under a different regulatory framework, an airworthiness statement, such as an ExCofA, issued by the exporting authority is required. This statement confirms that the aircraft was airworthy in accordance with the continuing airworthiness requirements of that country. However, there are cases where obtaining such a statement is not possible. To address these situations, the NPA proposed a new alternative based on an evaluation programme. Several comments were received in favour of having an alternative, and overall, this new proposal was well received. Some comments suggested improvements, which were taken into consideration, such as:

— allowing the NCA to develop and conduct the investigations identified in the evaluation programme, for aircraft bellow 2 730 kg MTOM, upon request;

— including the development and execution of the evaluation programme as a privilege in Part-CAMO and Part-CAO.

Even though the evaluation programme is added as an alternative to the airworthiness statement, it is intended to be used only in exceptional cases. The airworthiness statement issued by the exporting authority remains the preferred method to confirm that the aircraft complies with the former aviation regulations. Therefore, the importing authority should insist on receiving such a statement and allow for the evaluation programme only when the absence of such a statement is well justified. In cases where an evaluation programme is the only option, it must be ensured that the airworthiness statement was not denied by the former aviation authority due to airworthiness concerns, unless there is evidence that those concerns have been corrected or addressed.

GM was proposed in the NPA, which defines the cases considered to be exceptional. However, some comments mentioned that the GM did not account for situations where the owner decides to deregister the aircraft before requesting the airworthiness statement, making it impossible for the

exporting authority to issue one. This scenario was highlighted as the most common reason for the absence of such a statement. Based on the comments, the GM will be revised accordingly to ensure that this case is not excluded from the scope of the evaluation programme. However, NCAs should not accept repetitive cases where there is an indication that this method is used to circumvent the process of requesting an airworthiness statement and to avoid the associated costs.

Economic impact

Regarding the economic impact of the measures proposed in the NPA, the stakeholders were invited to provide any other quantified justification elements on the possible economic impacts (including benefits) of the options proposed, or alternatively to propose another justified solution to the issue. On this point, no comments were received during the consultation phase.

Comments related to the proposed AMC and GM

Comments related to the proposed AMC and GM in the NPA will be addressed in more detail when EASA issues the AMC and GM corresponding to the regulatory proposals in this Opinion.

2.4.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting

For further details regarding the stakeholder feedback and how EASA considered it, please refer to CRD 2016-19.

2.4.4. MAB advice sought in accordance with Article 6(9) of the Rulemaking Procedure

From 23 July to 4 September 2024, EASA sought the advice of the MAB, in accordance with Article 6(9) of MB Decision No 01-2022, with regard to potentially and/or substantially divergent MS views on the matter.

Most MSs that provided comments neither expressed any major concerns nor identified significant divergences. However, there were cases where some MSs highlighted specific comments as important or representing significant divergences. EASA reviewed all the feedback from the MSs and considered it into the proposed amendments to the rules.

A significate part of the feedback was in the form of questions, largely due to the introduction of new concepts. Where necessary and appropriate, the proposed requirements were clarified to eliminate any ambiguity. In other cases, GM and AMC were already planned to be developed to support the implementation of certain requirements, which will address some of the questions raised by the MSs. For those cases where GM or AMC were not yet envisaged, consideration has been given to further developing the AMC and GM to address the issues raised by the MSs.

Certain divergent views from the some MSs and how they were addressed in this Opinion are as follows:

— *Lack of clarity on the objectives of the evaluation programme, especially when compared to a standard 'import' process, and how it differs from an airworthiness review*

  Additional information was added to the proposed requirement, expanding on what was proposed in NPA 2016-08, by more clearly defining the objectives of the evaluation programme. In summary, the evaluation programme is a new step in the 'import' process, with the primary goal of replacing investigations that were not conducted by the former aviation authority. This

new step should take place at the beginning of the import process to ensure that the aircraft is in a condition suitable for integration into the EASA system.

The evaluation programme should be developed and the associated investigations carried out by organisations approved for such activities. This will serve as a commitment by these organisations to the NCA, outlining how and what investigations are to be performed to ensure that the aircraft is in the appropriate condition. The evaluation programme is not intended to replace the tasks carried out by the person or organisation responsible for continuing airworthiness or AR tasks, but rather to complement them.

Additionally, as already foreseen in the AMC and GM proposed in the NPA, further guidance will be provided as soft law to assist the applicant, organisations and the competent authority in understanding the evaluation programme and the corresponding expectations.

— *The requirements defining the airworthiness review process, including the documented review and physical survey, do not specifically address aircraft imported from non-ICAO countries or ICAO countries with low levels of SARPs (Standards and Recommended Practices) implementation.*

The ToR for RMT.0521 and RMT.0278 did not identify the import of aircraft from non-ICAO contracting states, or from contracting ICAO states with low levels of SARPs implementation, as a specific issue.

It is the responsibility of the organisations and competent authorities involved in importing aircraft from countries with lower standards to assess the risks and implement appropriate mitigating actions. As a result, it is expected that importing aircraft from such countries will require a more comprehensive inspection and investigation to ensure airworthiness. But no specific aditional provisions are envisaged in the Opinion in that respect.

Furthermore, points M(L).A.903 state that during the AR, maintenance records must be checked to verify that all maintenance has been properly released. While the AR is a crucial part of the import process, it is only one step. Prior to this review, when a person or organisation becomes responsible for managing the continuing airworthiness of an aircraft, they must be satisfied with the aircraft's airworthiness status. This may involve deciding whether any maintenance should be re-performed, particularly if there are concerns about the accuracy of the records received or the quality of the previous maintenance.

— *The evaluation programme should be first agreed by the competent authority before applying for an airworthiness certificate without an airworthiness statement (ExCofA).*

The evaluation programme is expected to be significantly complex, potentially involving extensive technical assessments and documentation reviews. This complexity may result in significant financial implications and be time-consuming for the applicant. To avoid creating false expectations and prevent unnecessary pressure on the competent authorities to accept an evaluation programme after the applicant has already made siginificat efforts to obtain one, it was decided to propose the suggestion made in the comment. This means that the NCA must first agree to the possibility of accepting an application for an airworthiness certificate with an evaluation programme.

— *While transitioning from Part-ML to Part-M, EASA Form 15c should remain valid, or a smooth process for transitioning aircraft from Part-ML to Part-M should be established. The same approach should be adopted for aircraft transitioning from Part-M to Part-ML.*

The process for aircraft transitioning from Part-ML to Part-M is established in Article 3(3) of Regulation (EU) No 1321/2014, which, among other requirements, requires that an AR be carried out and a new ARC, EASA Form 15a or 15b, be issued. Amending this process was not part of this rulemaking task and would require additional assessment to justify developing a smoother process at this point.

Additionally, regarding aircraft transitioning from Part-M to Part-ML, the process is already smooth today.

Further advice was collected as follows:

— *It should be possible to transfer an aircraft even if it is undergoing maintenance or has overdue maintenance.*

In NPA 2015-17, changes were proposed to the conditions that invalidate the ARC. One of the proposed conditions for maintaining ARC validity is compliance with all applicable requirements established in the corresponding Annex, Part-M or Part-ML, to Regulation (EU) No 1321/2014. This condition could significantly affect how aircraft transfers are conducted. If a valid ARC is required for an aircraft transfer, any defect not yet adressed or overdue maintenance — such as when the aircraft is preserved — could prevent the transfer.

Since this outcome is not desirable, the condition is no longer proposed as a reason to invalidate the ARC. Instead, it is proposed to be included in points M(L).A.902(d), which state that the aircraft must not be flown if the ARC is invalid or if that condition is not met. Therefore, to ensure a 'normal' transfer of an aircraft between MSs, a valid ARC must be provided, meaning that it has not expired, been revoked, surrendered or suspended. Additionally, the airworthiness certificate must not be suspended, surrendered or revoked.

In cases where major airworthiness issues arise before the transfer, it is the responsibility of the previous authority to suspend or revoke the ARC if these issues are known to that NCA. If major issues are identified or known by the competent authority of the new MS after the transfer, the ARC may still be suspended or revoked, and an ACAM inspection can be conducted if there are doubts.

— *When importing a used aircraft, the applicant must provide either a recommendation for the issuance of an ARC or an ARC issued in accordance with Part-ML. However, the case when the NCA issues the ARC for Part-M aircraft below 2 730 kg is not specified.*

The corresponding requirements, related to the issuance of airworthiness certificates for 'imported' aircraft, are proposed to be amended to include all cases where an ARC can be obtained.

— *The NCA should be allowed to develop the evaluation programme and carry out the investigation for any aircraft if there is no approved organisation for that task.*

EASA considers that this comment addresses a double fall-back scenario (1. there is no airworthiness statement (e.g. ExCofA), and 2. there is no organisation approved to develop the evaluation programme for that aircraft). The Regulation cannot contemplate all particular

cases, at the risk of becoming difficult to read, and such scenario would be better addressed by an exemption under Article 71 of the Basic Regulation. Besides, allowing such deviations would dilute the message that it is the normal responsibility of the organisation (and not the competent authority) to develop such a programme.

— *Why is there no requirement for follow-up on occurrence reporting in M(L).A.202?*

The requirement to submit a follow-up report is proposed to be removed, as the follow-up process is more organisational in nature and not suitable for individuals working on their own behalf, which is what M(L).A.202 intends to regulate. In organisations, where higher workloads, greater aircraft complexity, and larger numbers of staff are involved, the safety benefits of requiring a follow-up of the occurrence to verify the effectiveness of the correction and corrective actions are significant. This contrasts with individuals, for whom such follow-up would provide limited safety benefits. Additionally, unlike organisations, which can demonstrate corrective actions to the competent authority — such as by amending procedures or providing additional training, and verifying the effectiveness of these measures — this may not be practical or appropriate for individuals.

— *In Subpart I of Part-M(L), the phrase 'imported into the Union' is used; however, the requirements where this phrase is applied can also refer to aircraft that are already in the Union, such as state aircraft or aircraft with a revoked CofA.*

It is proposed that terms like 'imported' be replaced to encompass all cases where an application for an airworthiness certificate is made for aircraft without an airworthiness certificate issued in accordance with Part 21.

— *Add a new requirement to include a list of evaluation programme staff in the CAME and CAE.*

Similar to the list of staff for AR and permit to fly, it is proposed that organisations with the evaluation programme privilege also identify the staff responsible for these tasks.

Some suggestions made in the comments were not implemented for the following reasons:

— They were outside the scope of these RMTs;

— They addressed very specific exceptions, which would result in overly complex requirements;

— They would lead to excessive amendments to the Regulation concerning the new privilege of the evaluation programme, such as modifying the CA(M)O certificate to include this new privilege.

2.5. Other relevant information

Comments related to the proposed AMC and GM in the NPAs will be addressed in more detail when EASA issues the AMC and GM corresponding to the regulatory proposals in this Opinion.

3. What are the expected benefits and drawbacks of the proposed regulatory material

As explained in Section 2.4, the amendments proposed in this Opinion are based on the original proposals in NPA 2015-17, NPA 2016-08 and NPA 2016-19, along with changes resulting from feedback received from comments on the NPAs, results from RG meetings and consultations with Advisory Bodies. These changes also affect the result of the analysis previously performed, as identified in Chapter 4 of both NPAs; consequently, this chapter will highlight the significant differences between the initial analyses in the NPAs and the revised expectations of benefits and drawbacks stemming from the changes.

3.1. RMT.0521 — Airworthiness review process

The analysis of impacts is defined in Section 4.4 of NPA 2015-17; however, due to changes from what was proposed in the NPA, some of the considerations identified are no longer valid. Thus, the following should be considered for the proposals that have been changed.

Safety impact

The changes proposed in the NPA include both alleviations of some requirements and the addition or modification of others to make them more prescriptive.

However, due to the feedback received during the consultation phase, some of these changes are not proposed in this Opinion. For example, the alleviation that would have allowed the extension of the validity of the ARC when several CA(M)Os were involved in the continuing airworthiness management since the issuance of the ARC. The reason for not proposing this alleviation is related to safety concerns, as it would eliminate a proven method for mitigating risks associated with changes in the persons or organisations responsible for the continuing airworthiness, as explained in Section 2.4.1. Therefore, compared to what was proposed in the NPA, there will be an improvement in terms of safety.

On the other hand, in cases where the NPA proposed a new requirement that is not retained in this Opinion, the expected level of safety outlined in the NPA may not be achieved. Therefore, it is important to explain the safety impacts resulting from the absence of such requirements in the Opinion.

For the transfer of aircraft between MSs, a new requirement was proposed in the NPA requiring the NCA to include the aircraft that has been transferred into the ACAM programme or product audit plan. However, due to the feedback received during the consultation phase, this requirement is no longer proposed in this Opinion as explained in Section 2.4.1. In order to achieve the intended outcome of that requirement, an AMC will be developed to indicate that the NCA should carry out an assessment to determine the risk associated with the aircraft. Based on the results, the NCA will determine whether it is necessary to add the aircraft into the ACAM programme or product audit plan. With this change, it is expected that the same level of safety will be achieved with fewer resources. Rather than considering all aircraft as a potential risk and treating them all the same way, as initially proposed in the NPA, this change will allow the NCAs to use their resources in a more focused, efficient and effective way.

A new requirement is proposed in this Opinion to foster communication between MSs when level 1 findings are detected by an NCA during an aircraft survey, such as an AR or ACAM inspection. This is relevant because the NCA of MS of registry, the NCA of the organisation responsible for the continuing airworthiness management, and the NCA of the organisation that issued the ARC may all be different competent authorities. The NCA responsible for the organisations should be informed when such findings are raised so they can take necessary actions. It is worth noting that some organisations may perform work exclusively on aircraft registered in different MSs, making it challenging for the NCA of those organisations to have a complete overview of the work being performed, as these aircraft are not under their direct control. This new requirement aims to enhance communication between NCAs, providing them with better information about the organisations under their responsibility. This will help to identify and address any shortcomings, thereby improving overall safety.

Another point to consider in this section is the changes made to the conditions that determine whether a recommendation for the issuance of an ARC is required. Allowing the organisation to issue the ARC directly after a satisfactory AR, in cases where a recommendation was previously required, may initially suggest a compromise in terms of safety, since the NCA will not assess the recommendation. However, eliminating the need for a recommendation only applies to cases where the continuing airworthiness management is carried out in a controlled manner, i.e. the continuing airworthiness is managed in accordance M(L).A.201, maintenance is carried out in accordance with the applicable requirements, and the certificate of airworthiness is valid. In these cases, the assessment of the recommendation by the NCA was, in most cases, an administrative process with no added value in terms of safety.

Additionally, there are several safety barriers that should identify shortcomings with respect to the continuing airworthiness of the aircraft and the AR performed, such as RAMP inspections, product audits and ACAM inspections. With the new proposals, the recommendation is still required for the cases considered ‘critical’, where the involvement of the NCA is necessary before the issuance of the ARC, such as when aircraft are imported from a third country. The shift in focus from assessing the recommendations for ‘non-critical’ cases to ‘critical’ cases only may ultimately increase safety.

Regarding the term ‘inconclusive’, a new approach compared to the NPA is proposed in this Opinion as explained in Section 2.4.1. Instead of removing the whole requirement as proposed in the NPA, it was decided that new wording was a better option. The objective of this requirement is to prevent ‘shopping for AR’ by requesting a different entity to carry out a new AR after an incomplete AR. By establishing this requirement, the NCA will be informed of such cases and can trigger the necessary actions. Therefore, compared to the NPA, there is an improvement in terms of safety.

The AR is an essential part of the continuing airworthiness requirements, and it should be carried out properly and consistently. It is of utmost importance to record the outcome of the AR in an appropriate manner and with the relevant and expected information. The NPA proposed, as an AMC, a more robust way of describing what information should be part of the AR report. However, at the rule level, there was no requirement for both organisations and individuals to record the outcome of the AR. Therefore, a new requirement is proposed in this Opinion, establishing that the AR must be subject to a report. It is expected that this change will have a safety benefit, as it is now clear that all ARs need to be documented and sufficiently detailed, providing proper evidence of the performed AR.

Amending the ARC with the new registration when the aircraft is transferred between MSs is to be done only by the NCA, contrary to what was proposed in the NPA, which proposed that organisations

can do this themselves. As explained in Section 2.4.3, this raised some comments, particularly from the NCAs, mentioning the risk of ARCs being amended incorrectly. Since the burden of amending the ARC is not significant, it was decided that there was no need to introduce additional risks by involving new parties in the amendment process. Therefore, compared to the NPA, there is an improvement in terms of safety.

An amendment is proposed in this Opinion to the record-keeping requirements of Part-CAMO and Part-CAO. According to the NPA and the current rules, the organisation issuing an ARC, a recommendation or a permit-to-fly must keep a copy of these documents and the associated documentation for 3 years after the responsibility for the continuing airworthiness management of aircraft is permanently transferred to another person or organisation. When the organisation issuing such documents is not the same as the one managing the aircraft, this requirement becomes difficult to implement, since the issuing organisation may not know when the management of the aircraft is going to be transferred. At the same time, there are no requirements for the organisation managing the continuing airworthiness to keep such records if they are not issuing them. Therefore, the requirement has been rewritten to establish that the organisations issuing such certificates must keep a copy for 5 years after issuance, and the organisation managing the continuing airworthiness must keep the records for 3 years after the responsibility for the continuing airworthiness management of the aircraft is transferred. There is an exception for the permit-to-fly, which must be kept for 3 years after being issued. By clarifying which records need to be kept, by whom, and the required retention period, we expect an improvement in the overall safety level of the system. This will enhance transparency and facilitate oversight activities and investigations whenever these records need to be reviewed.

The current requirement under M(L).B.903 defines the actions that the competent authority must take when conducting aircraft surveys, including AR and ACAM inspections. However, some NCAs have noted a lack of requirements to address level 2 findings that are not corrected within the agreed period. It is important to note that for findings detected during the oversight of organisations, there is a requirement stating that a level 2 finding not corrected within the agreed period must be escalated to a level 1 finding. The absence of a similar requirement for ACAM inspections leaves NCAs without the necessary tools to act when operators/owners are unwilling to correct the findings. Therefore, it is proposed in this Opinion to include a similar requirement for findings detected during aircraft surveys, aligning it with the existing requirement for organisations. With these amendments, NCAs will be better equipped to enforce the Regulation and take appropriate action when necessary, preventing potential abuses. Consequently, a safety improvement is expected.

In summary, the overall safety level is expected to improve due to the fact that the AR process follows a more risk-based approach where the requirements covering the riskier aspects of the AR are reinforced and those covering the less risky areas are alleviated.

Social impact

No consequences according to the social impact criteria are expected.

Economic impact

In Section 4.4.4 of the NPA, an analysis was conducted on the economic impact associated with the extension of ARCs when several CA(M)Os managed the continuing airworthiness of the aircraft in the previous 12 months. However, since this flexibility is no longer proposed in this Opinion, the results

of that analysis are no longer valid. This means that the current processes for the extension of the ARC will remain unchanged, which will lead to a drawback in terms of economic benefits in comparison with the NPA.

Regarding the transfer of aircraft between MSs, the changes proposed in this Opinion adhere to what was proposed in the NPA, excluding some steps considered as administrative processes that do not add value in terms of safety. Therefore, economic benefits are expected due to a quicker transfer process (resulting in less aircraft ground time) and without the administrative burden associated with certain steps proposed in the NPA.

The changes proposed in this Opinion regarding the recommendations for the issuance of the ARC will allow for organisations to issue the ARC directly after performing a satisfactory AR in most cases. This will significantly reduce the number of recommendations issued by organisations and the corresponding assessments by the NCA. This improvement will enhance the efficiency of the AR process, thereby yielding economic benefits.

This Opinion proposes a requirement stating that the time elapsed between the physical survey and the documented review should be as short as possible, without defining a specific interval period as was proposed in the NPA. Additionally, unlike the NPA, the proposed amendment in this Opinion does not specify the order in which the AR must be conducted, so it is no longer suggested that the AR should start with the documented review followed by the physical survey. This flexibility allows ARS to use their best judgement and expertise to determine the most effective approach for each specific case. Consequently, compared to the NPA, economic benefits may be achieved through a more personalised AR, which in some cases may improve the efficiency of the process.

Concerning organisations located in a third country that manage the continuing airworthiness of aircraft, when an AR is necessary, they may request an organisation (with the appropriate privileges) located in Europe to perform the AR. This differs from the NPA proposal, which stated that the AR had to be performed exclusively by the NCA. This proposed amendment has a positive economic impact compared to the NPA, as it allows organisations in Europe to provide this service, thereby expanding their business opportunities.

The current rules and the text proposed in the NPA state that an ARC cannot be issued with open findings and that implementation of corrective action is required to close them. It should be noted that implementing the corrective action can take a long time, depending on the non-compliance. Therefore, it is proposed in this Opinion that the findings detected during the AR can be closed by demonstrating that the non-compliance has been corrected or properly deferred. By correcting (i.e. eliminating) the non-compliance, there is no reason to withhold the ARC, even if the corrective action is not yet fully implemented. The organisation responsible for the continuing airworthiness management should determine the root cause and implement the corresponding corrective action in accordance with their internal procedures. This amendment prevents unnecessary ground time for the aircraft, thereby providing economic benefits.

In essence, the proposed amendments in this Opinion are expected to have a positive economic impact.

General Aviation (GA) and proportionality issues

Since the introduction of Part ML, most of the amendments proposed in the NPA related to general aviation have already been incorporated into the Regulation. Therefore, the analysis provided in Section 4.4.5 of the NPA is no longer valid. Therefore, no impact is expected on General Aviation.

3.2. RMT.0278 — Import of aircraft from other regulatory systems, and Part 21 Subpart H review

All the assessments and considerations remain unchanged from what was written in the NPA, except for issues numbered 4 and 5 referred in Section 4.1 of NPA 2016-08, where there are some changes. These points were referred as 'Two cases not explicitly addressed by the current provisions: aircraft with invalid certificates and aircraft considered ''state aircraft'''.

In the NPA, a new requirement was proposed for the issuance of an airworthiness certificate for aircraft that had previously been operated as 'state aircraft' (e.g. military, customs or police). These provisions are similar to those used for aircraft originating from a third country.

During the consultation phase, several comments were received stating that there are other cases, such as aircraft under the ICAO Article 83 bis agreement, for which no provisions exist, leaving certain aspects unaddressed or up to the discretion of the involved parties.

Therefore, and for the sake of simplification, the requirements that define the rules for the issuance of the airworthiness certificate were changed to include all the cases where an airworthiness certificate may be requested, while maintaining the current processes already in use.

As explained in Section 2.4.2, this Opinion proposes two different paths for applying for an airworthiness certificate: one for aircraft with an airworthiness certificate issued in accordance with Part 21(Light), i.e. transfer of aircraft, and another for aircraft without such a certificate. The latter path includes cases addressed in the NPA, such as airworthiness certificates that have been revoked or surrendered, aircraft originating from a third country and state aircraft. However, it also includes cases where the regulatory safety oversight of the aircraft has been delegated to a third country under the ICAO Article 83 bis agreement, and aircraft that were registered in a MS after being imported from a third country without having been issued with an airworthiness certificate by a MS.

The benefits of such a change are the same as those already identified in the NPA for issues 4 and 5; however, the impact of those benefits is increased. Considering the impact of this proposal and the other changes now proposed, as explained in Section 2.4.2, the assessment of the benefits and drawbacks is as follows:

Safety impact

The proposed amendments in this Opinion are expected to have a positive safety impact, as they address scenarios involving the import of aircraft that are not thoroughly considered in the current rules or in the NPA, such as ICAO Article 83 bis aircraft. The current scenario and the NPA proposal leave certain aspects unaddressed or at the discretion of the involved parties.

The amendments proposed in this Opinion better define the responsibilities of the organisation managing the continuing airworthiness of imported aircraft and the organisations performing the AR, if different, preventing tasks from being overlooked due to role ambiguity. For example, the NPA proposed that during the AR, the ARS had to conduct a comprehensive assessment of the

configuration, evaluating the interrelation of different modifications and repairs, and then send that assessment to the NCA. Although this assessment is part of the AR, it should be performed by the person or organisation responsible for the continuing airworthiness management before the AR is conducted. The AR will then serve as a filter to verify that nothing was overlooked by the entity responsible for the continuing airworthiness management.

Regarding the application for an airworthiness certificate after the previous one was revoked or surrendered, a more robust method is now proposed compared to the NPA, as explained in Section 2.4.2. The application process is similar to that for aircraft imported from a third country, except in respect of the airworthiness statement, i.e. ExCofA. Instead of the ExCofA, the applicant has to provide a statement explaining some details relevant for the NCA to determine the level of investigations needed. Additionally, an evaluation programme is required unless otherwise agreed by the MS. A new requirement, point M.B.906, is now proposed that establishes the exchange of information between the new MS and the MS that issued the former airworthiness certificate. This requirement is similar to the one already in place for the transfer of aircraft with a valid certificate of airworthiness. With all these proposed changes, the process is expected to be more transparent and detailed, providing a benefit in terms of safety. The economic impact of such changes is explained in the corresponding paragraph.

Economic impact

Having provisions for the issuance of the airworthiness certificate for aircraft that were previously excluded from the Basic Regulation could provide an economical solution for operators in need of aircraft. The proposed amendments will increase the mobility of the aircraft within and outside the EASA remit and provide adequate flexibility to the operators/owners. These changes are designed to provide more certainty to stakeholders importing aircraft by covering scenarios not addressed by existing rules and by the NPA, thereby fostering a more harmonised process for importing aircraft into Europe.

The requirements to be an ARS are proposed to be the same regardless of the type of AR performed, whether for a used aircraft coming from a MS or from a third country, contrary to what was proposed in the NPA. This new proposal avoids having two types of ARS, which would cause additional burden and unnecessary limitations. It should be noted that the additional requirements proposed in the NPA, such as having knowledge of the applicable bilateral agreements, are requirements that are expected to be fulfilled by any ARS, therefore there is no safety degradation compared to the NPA.

Regarding the application for an airworthiness certificate after the previous one was revoked or surrendered, a more robust method is now proposed compared with the NPA, as explained in Section 2.4.2. These changes are expected to have safety benefits; however, having a more comprehensive process may incur additional costs for the applicant. On the other hand, it could be a business opportunity for the organisations that develop the evaluation programme.

Compared with the NPA, more flexibility is now provided to the applicant to choose which NCA they want to apply to for the airworthiness certificate. For example, in the NPA, it was proposed that in cases where the previous airworthiness certificate was revoked or surrendered, the applicant could only apply for a new airworthiness certificate in the MS which issued the former airworthiness certificate. A similar limitation was also established for ‘state aircraft,’ where it was proposed that only the NCA of the MS where the aircraft was operated as ‘state aircraft’ could issue the airworthiness

certificate. The changes proposed in this Opinion offer a significant economic benefit by allowing applicants to apply for an airworthiness certificate to the NCA of the MS where they wish to register the aircraft. This avoids the need to duplicate the process by first requesting an airworthiness certificate from one NCA and then requesting another from the NCA of the MS where they wish to register the aircraft.

In case an evaluation programme is needed for aircraft below 2 730 kg, the applicant may request the NCA, which, upon acceptance, may develop and carry out the investigations defined in the programme. This follows the same approach established for the AR. With this change, the applicant has more flexibility and options, which may come with economic benefits.

In summary, the proposed amendments in this Opinion are expected to have a positive impact on safety and the economy compared with the NPA.

3.3. RMT.0681 — Alignment of the implementing rules of the EASA Basic Regulation and of the associated AMC & GM with Regulation (EU) No 376/2014 — Occurrence reporting

No IA is provided as this Opinion transposes requirements of Regulation (EU) No 376/2014 already applicable since 15 November 2015.

4. Proposed regulatory material

The proposed regulatory material is presented as annexes to this Opinion.

5. Monitoring and evaluation

No specific monitoring actions are envisaged.

6. Proposed actions to support implementation

EASA intends to support the implementation of the new changes by:

— Focused communication for Advisory Body meeting(s);

— Clarifications via electronic communication tools between EASA and NCAs;

— Dedicated thematic workshop/session;

— Whenever necessary, publishing FAQs and guidelines.

7. References

— Feedback on the survey conducted by the Agency in September 2012 — presented in Section 5.3 of NPA 2015-17

— ICAO Doc 9760 — considered during the working group discussions in order to ensure alignment of European rules with ICAO