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VIA E-MAIL TO: claude.probst@easa.eu.int

Mr. Claude Probst
Rulemaking Director
European Aviation Safety Agency
Postfach 10 12 53
D-50452 Köln, Germany

Dear Mr. Probst:

The Aeronautical Repair Station Association (ARSA) is again requesting your assistance in interpreting a "repair data" issue, specifically the "grandfather provision" contained in Article 2, paragraph 3(b) of Commission Regulation (EC) No. 1702/1003. Pending the implementation of a new bilateral agreement between the United States and the European Union, we would appreciate EASA clarifying the scope of this provision.

As you know, ARSA is a non-profit trade association whose members are repair stations certificated by the United States Federal Aviation Administration (FAA), EASA and other NAA's. A clear understanding of EASA requirements is therefore essential for our members.

The issue is whether a major repair design that was approved on a specific component by an EU Member State prior to 28 September 2003 must be reevaluated by EASA before the component may be installed on an EU-registered aircraft. A secondary issue is whether the identical repair may be performed on an article after the above date based on the same data approved by a Member State before the above date without submitting it to EASA for evaluation.

Many ARSA members develop major repair designs on non-critical components that are typically approved by Designated Engineering Representative (DER). Prior to 28 September 2003, if the component was intended for installation on an aircraft registered in one of several EU Member States, the FAA-approved data may have also been approved by the affected EU Member State under the terms of the pertinent bilateral agreement. (In other cases, the EU Member State issued its own approval of the data.) With the entry into force of EC Regulation No. 1702/2003, such approvals are now issued by EASA.

The following hypothetical illustrates the dilemma faced by our members: In 2001, a U.S.-based repair station accepted under JAR 145 developed a major repair design for a flap drive mechanism for a Boeing 747-400 aircraft. A DER approved the repair and issued FAA Form 8110-3. The same repair was accomplished on many flap drive units, and a number of U.S.-registered 747-400s have this component installed. In 2002, the repair station performed the identical repair on a flap drive mechanism to be installed on a United Kingdom (U.K.)-registered aircraft. Under the terms of the U.S.-U.K. bilateral, the FAA-approved repair data on the U.S. State of Design aircraft was also approved by the CAA.

The question facing our hypothetical repair station is: on 28 September 2003, does the CAA approval of the major repair design become an EASA approval? More importantly, can the repair station use this repair design to perform major repairs on similar articles intended for installation on EU-registered aircraft without obtaining an EASA approval?

Commission Regulation (EC) 1702/2003 sets forth the provisions governing the transition of competence from the EU NAA's to EASA. Article 2 contains the requirements for the certification of products, parts and appliances. Specifically, paragraph 3(b) of Article 2 states, in part, that:

The design of an **individual aircraft** which is on the register of a Member State before 28 September 2003, shall be deemed to have been approved in accordance with this Regulation when:

(ii) all changes to this basic type design, which are not under the responsibility of the type-certificate holder, have been approved...(emphasis added)

Read literally, this provision grandfathers only those design changes that were approved by an EU Member State if they were previously installed on an aircraft. Installation of the same component on other aircraft of the same model on or after September 28, 2003 would not be automatically accepted. Neither would components that had been similarly repaired but were held in inventory, or components that are repaired in the future using the same approved data. This is despite the fact that an EU Member State's NAA had approved the repair design because it had been shown to comply with the pertinent airworthiness standards.

We believe components that are repaired based on data approved by an EU Member State before 28 September 2003 should be eligible for installation on an EU-registered aircraft. Safety is adequately assured by interpreting the grandfather provision to apply if the data was approved prior to 28 September 2003.

We sincerely appreciate your consideration of this issue. Please let us know if you have any questions or desire additional information.

Sincerely,



Marshall S. Filler
Managing Director & General Counsel

cc: Frédéric Copigneaux
Julian Hall
Norbert Lohl
Wilfried Schulze
Roger Simon