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RE: Request to Joint Maintenance Coordination Board and Certification Oversight Board:
New Parts Installed by U.S. Repair Stations During Maintenance

Dear Ladies and Gentlemen:

The undersigned organizations request the Joint Maintenance Coordination Board (JMCB) and the Certification Oversight Board (COB)¹ correct the misinterpretation of the bilateral aviation safety agreement between the United States and European Union (BASA) that a Federal Aviation Administration (FAA) Form 8130-3 traceable to a U.S. Production Approval Holder (PAH) must accompany each new part installed by U.S. repair stations² during maintenance. The letter is being submitted jointly to both boards because it concerns the BASA, Maintenance Annex Guidance (MAG) and the Technical Implementation Procedures (TIP).

The agencies' misinterpretation has resulted in the inclusion of improper, impractical, and unnecessary parts documentation requirements in the MAG. Repair stations are in an untenable position, squeezed on one side by the European Union Aviation Safety Agency's (EASA) documentation rules for European Union PAH's and on the other by the FAA's regulatory system, which does not require an FAA Form 8130-3 for domestic shipments of new parts. As a consequence, new parts from U.S. PAH's received without

¹ The JMCB and COB were established by Annex 2, Section 3 and Annex 1, Section 2, respectively in the Agreement between the United States of America and European Union on Cooperation in the Regulation of Civil Aviation Safety. The JMCB's and COB's mandates include developing, approving, and revising the MAG and TIP, respectively, and resolving technical issues that have not been solved at a lower level.

² All references to PAHs and repair stations refer to those certificate holders located in the United States, unless otherwise specified.

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an 8130-3 are ineligible for installation in work performed under the BASA by U.S. repair stations. This has created considerable inefficiencies, undermined the effectiveness of the bilateral relationship, and added to challenges resulting from recent supply chain disruptions.

As such, we request:

- (1) The JMCB confirm that the applicable EASA Special Condition³ requires the FAA Form 8130-3 be used as an approval for return to service document for maintenance performed.
- (2) The COB and JMCB jointly confirm that a repair station's installation of a new article is maintenance, not an export of each article installed therein.
- (3) The MAG, which merely interprets the plain language of the Special Conditions, be amended to align with the language and intent of the BASA.

I. Summary

Considerable confusion has arisen among the FAA, EASA, and industry regarding application of BASA Annex 2, Appendix 1, paragraph 1.1.1(b)(iii) (EASA Special Condition) which requires repair stations to use FAA Form 8130-3 to approve work for return to service on aircraft components.

The agencies have improperly exceeded the scope of the BASA Special Condition to justify MAG obligations requiring use of the FAA Form 8130-3 to establish traceability to the PAH for each new replacement part, a purpose the Special Condition does not contemplate.

Further, the agencies have misinterpreted the TIP's definition of "export" to apply to all new replacement parts although it is the maintenance on the article being approved for return to service that is being exported. Finally, the agencies have denied a privilege granted to repair stations by FAA regulations to inspect any part to determine its suitability for installation in articles for which the repair station is rated.

This misdirection is indefensible given the plain language of the BASA and its intent to make compliance more efficient by accepting the geographic authority's regulatory system when it produces an equivalent safety outcome.

The Aeronautical Repair Station Association (ARSA) has protested to the FAA and EASA⁴, which have not produced a solution. As such, we are referring the issue to the JMCB and COB for resolution consistent with their mandates to amend guidance and resolve technical issues.

³ BASA, Annex 2, Appendix 1, Sec.1.1.1((b)(iii).

⁴ See, e.g., ARSA [letter](#) to FAA Administrator Billy Nolen (June 10, 2022).

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II. History

Each iteration of maintenance guidance issued pursuant to the BASA has included language regarding the use of FAA Form 8130-3 for new parts fitted during maintenance. Maintenance Implementation Procedure Guidance (MIP-G), issued in 2007, stated the release “should” be on the FAA Form 8130-3.⁵ MAG Changes 1 through 4 continued to use the nonobligatory “should”. However, MAG Change 5, released in 2015, made the form mandatory by changing “should” to “must”⁶. The form has been mandatory in all subsequent versions of the MAG.⁷ This provision has caused considerable consternation for U.S. industry because FAA PAHs are not required to provide an 8130-3 with new articles and many older parts do not have dated documentation.

In response to industry concerns and to facilitate compliance, the FAA subsequently confirmed that part 43 allows the repair station to inspect a new component, and issue an FAA Form 8130-3 (i.e., with a right-side signature) documenting the inspection, before installing that component during maintenance.⁸ In 2016, the FAA accepted a process called E100, which was developed by ARSA for repair stations to conduct and document the inspection and issue the FAA Form 8130-3.⁹ However, in 2022 the FAA acceded to EASA’s demand which was based on the legal fiction that each new piece part installed during maintenance was an export requiring a FAA Form 8130-3 traceable to the PAH. Therefore, the FAA revoked its earlier acceptance of the E100¹⁰ procedure.

The agencies’ position regarding the FAA Form 8130-3 requirement for installed parts is inconsistent with the fundamental purposes of the BASA and with EASA’s acceptance of other privileges granted to U.S. repair stations and EASA approved maintenance organizations. For example, the EASA Special Conditions authorize U.S. repair stations to install a used part released by a maintenance organization not approved under EASA Part-145 provided the installing repair station takes airworthiness responsibility for the part.¹¹ EASA also recognizes that repair stations may fabricate (i.e., make and consume) parts when performing maintenance or alterations.¹² Such parts do not require that an FAA Form 8130-3 be issued, yet the repair station is responsible for the airworthiness of the fabricated article and indeed for all the maintenance it performs, regardless whether

⁵ MIP-G, Appendix 1, Sec. 3.

⁶ MAG Change 5, Sec. B, Appendix 1, Sec. 10(k)(1)(ii).

⁷ See, e.g., MAG Change 8, Sec. B, Appendix 1, Sec. 10.11.

⁸ U.S. industry (and ARSA in particular) is not blameless for the confusion. When the use of FAA Form 8130-3 was mandated in MAG 5, the association focused on facilitating compliance with the parts documentation requirements rather than challenging the agencies’ underlying misinterpretation of the BASA.

⁹ [Letter](#) from FAA Aircraft Maintenance Division Manager Tim Shaver to ARSA dated Sept. 28, 2016.

¹⁰ [Letter](#) from FAA Flight Standards Service Executive Director David Boulter to ARSA undated, received June 1, 2022.

¹¹ See BASA, Annex 2, Appendix 1, Sec.1.1.1(b)(ix).

¹² See 14 CFR § 21.8(d), FAA Advisory Circular [43-18](#), Change 2, and MAG Sec. 10.11.1.3.

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the installed components were received with FAA Form 8130-3. Additionally, the FAA permits PAHs to authorize shipments of articles to customers from the PAH's designated suppliers ("direct ship authorization").¹³ The FAA-approved articles are accompanied by a copy of the PAH's direct ship authorization letter but not necessarily the FAA Form 8130-3.

The agencies current position renders numerous airworthy parts in repair station and distributor inventories (including parts produced prior to the conclusion of the BASA and MAG and before EASA even existed) worthless for use in dual release situations. By prohibiting U.S. repair stations from exercising regulatory privileges to inspect articles under part 43, regulators are leaving them with only two alternatives: hire a Designated Airworthiness Representative (DAR; at considerable expense for each individual part)¹⁴ or refrain from using the part in a dual release work scope.¹⁵ The current situation has added considerable cost and inefficiency during a time of unprecedented supply chain disruptions while doing nothing to improve safety.

III. Discussion

A. The Agencies Have Misinterpreted the EASA Special Condition

To be issued an EASA Part-145 certificate, a U.S. repair station must first comply with 14 Code of Federal Regulations (CFR) parts 43 and 145¹⁶ and then the Special Conditions applicable to U.S. repair stations set forth in the BASA. Among these is the requirement to have an EASA Supplement containing:

Procedures for the approval for release or return to service that meet the requirements of EASA Part-145 for aircraft and the use of the FAA Form 8130-3 for aircraft components, and any other information required by the owner or operator as appropriate.¹⁷ (Emphasis added.)

MAG Change 8 states as follows:

10.11 Only the following new and used serviceable components that meet the requirements listed below may be fitted during maintenance.

¹³ See, e.g., FAA Advisory Circular 20-62E, Change 1, Sec. 9(f).

¹⁴ While the agencies are apparently taking the position that an FAA Form 8130-3 issued by a DAR is acceptable under MAG sec. 10.11.1.1, given that the documentation is issued by a representative of the FAA, not the PAH, we question whether it should be acceptable based on the agencies' current interpretation.

¹⁵ Pursuant to 14 CFR, part 21, subpart L (Export Airworthiness Approvals), the maintained article could be exported to almost any non-bilateral country.

¹⁶ 14 CFR section 145.201(a)(1) and (3) requires FAA repair stations to comply with part 43.

¹⁷ BASA, Annex 2, Appendix 1, Sec.1.1.1((b)(iii)).

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10.11.1 New Components. New components must be traceable to the PAH and be in a satisfactory condition for installation. An authorized release document, as detailed below, must accompany the new component.

10.11.1.1 For new components from a U.S. PAH, a release must be documented on an FAA Form 8130-3 as a new part.

Although the Special Condition in the BASA is often cited as the authority for the language in the guidance (i.e., the MAG), the former is limited to approval for return to service of both aircraft and component maintenance. The BASA recognizes that the purpose of the FAA Form 8130-3 is to verify that maintenance on a component was performed in accordance with parts 43 and 145 and the BASA Special Conditions. Thus, the requirement in section 10.11.1.1 of the guidance that an FAA Form 8130-3 traceable to the PAH accompany all new parts installed by a repair station impermissibly exceeds the scope of the Special Condition.

B. Installation During Maintenance is not an Export

The TIP defines “export” to mean:

[T]he process by which a product or article is released from a civil aviation authority’s regulatory system for subsequent use in another civil aviation authority’s regulatory system.¹⁸

The language is clear: an export does not occur until a product or article is released or transferred from one authority’s regulatory system to the other. Under Annex 2—Maintenance, the change of jurisdiction occurs when the dual release is signed. In other words, it only applies to maintenance on the article being approved for return to service. Stated another way, the TIP and its definition of “export” applies to new articles that are sold separately; Annex 2 and the MAG apply to maintained (used) articles.

Historically, the TIP has not been directly applicable to maintenance except for the approval of technical data used to accomplish major repairs and alterations. Recently, the MAG was amended to also reference the TIP when discussing the need for FAA Form 8130-3 traceable to the PAH for all new replacement parts. However, this cross-reference is based on the incorrect assumption that an export of the installed replacement part has occurred.

Unfortunately, the agencies’ current interpretation has turned the concept of an export on its head by insisting that new parts – installed before the approval for return to service is issued – are exports. That interpretation is not only inconsistent with the BASA but is a significant departure from how these issues are handled without a BASA and were handled under prior BASAs between the United States and individual European Union members.

¹⁸ TIP, Rev. 6, Sec. 1.13.27.

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IV. Request for Relief

In view of the foregoing, the undersigned request that:

- (1) The JMCB confirm that the requirement in the MAG that all new installed parts be accompanied by an FAA Form 8130-3 traceable to the PAH exceeds the scope of the applicable Special Condition in the BASA requiring the use of FAA Form 8130-3 as an approval for return to service document.
- (2) The COB and JMCB jointly confirm that a repair station's installation of a new airworthy article received without an FAA Form 8130-3 traceable to the PAH, and subsequently installed in a dual release repair, does not make the article an export as defined in the TIP. No transfer of regulatory control occurs until the dual release is signed. Therefore, the fact that the repair station installed an airworthy article traceable to the PAH (i.e., fully compliant with the FAA's regulatory system) but received without an FAA Form 8130-3 does not make the installed article an export under the TIP. Rather, the subsequent maintenance is being exported when the dual release is signed. At that time, the Special Condition in BASA Annex 2 requires only that the 8130-3 be used as an approval for return to service document.
- (3) MAG Section B, Appendix 1, Sec. 10.11.1 be amended as follows to align it with the BASA:

10.11.1 New Components. New components must be traceable to the PAH and be in a satisfactory condition for installation. ~~An authorized release document, as detailed below, must accompany the new component.~~

~~10.11.1.1 For new components from a U.S. PAH, a release must be documented on an FAA Form 8130-3 as a new part.~~

~~NOTE: New parts that were received into inventory prior to October 1, 2016 must, at a minimum, have a document or statement (containing the same technical information as an FAA Form 8130-3) issued through a design approval holder (DAH), the PAH, or supplier with direct ship authority. These parts in inventory, documented with the required information, will be grandfathered and remain suitable for installation into EU articles, provided the certification/release date of these parts is prior to October 1, 2016.~~

We appreciate your consideration and look forward to a swift resolution of these issues.

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