



Islamic Republic of Afghanistan
Civil Aviation Authority

GUIDELINES ON THE IMPLEMENTATION OF ARTICLE 83 BIS

Afghanistan Civil Aviation Directive
(CAD)

CAD-AIR-022.1

Airworthiness

31 MAY 2016

Revision 1

H.E. Capt. Hamid Zaher
Director General
Civil Aviation Authority

Approved:





Intentionally Left Blank



Table of Contents

0	Administration and Control	9
0.1	Abbreviations	9
0.2	Record of Revision	10
1	Purpose	11
2	General	13
2.1	Transfer of functions	13
2.2	Eligibility of the State of the Operator	13
2.3	Clear identification of the aircraft	13
2.4	Any commercial arrangement needs a transfer agreement	13
2.5	Transfer agreement not only for commercial operations	13
2.6	Duration of the agreement	13
2.7	Required level of authority	14
2.8	Binding of the transfer agreement	14
2.9	Permission in national legislation required	14
2.10	Recognition of national approvals and licenses	14
2.11	Transfer of Information	15
2.12	Copy of the transfer agreement must be available in aircraft	15
2.13	Validity of documents outside of Contracting States	15
3	Procedures	17
3.1	Coordination	17
3.2	Operators obligation	17
3.3	Meeting	17
3.4	Operators manual	17
4	Task Outcomes	19
5	Future Activities	21
Appendix I	NIL (No Item Listed)	23



Intentionally Left Blank



List of Tables

No tables in this document.



Intentionally Left Blank



List of Figures

No figures in this document.



Intentionally Left Blank



0 Administration and Control

The following list contains key abbreviations used in this document, as well as others likely to be in common use in the respective area.

0.1 Abbreviations

ACAA	Afghanistan Civil Aviation Authority
ACAAP.....	Afghanistan Civil Aviation Advisory Directive
AIP	Aeronautical Information Publication
AOC	Air Operator Certificate
CAA	Civil Aviation Authority
CAD	Civil Aviation Authority Directive
ICAO.....	International Civil Aviation Organization



1 Purpose

This Afghanistan Civil Aviation Authority (ACAA) Directive (ACAD) contains regulatory and administrative procedures for the implementation of article 83 bis for Afghan certified operators.

This section provides guidance for implementation of Article 83 bis in accordance with ICAO, Annex 6, Part I, Chapter 8, Annex 8, Part II Chapter 4, Doc 9760, Vol II, Part B, Chapter 10, Doc 8335 Chapter 10 Circular 295. See Form ACAF-AIR-022.0-1

The present ACAD provides information and guidance and serves as an acceptable means of compliance with regulatory requirements.



Intentionally Left Blank



2 General

2.1 Transfer of functions

All or part of the duties and functions pertaining to Articles 12, 30, 31 and 32)a of the Convention may be transferred from the State of Registry to the State of the Operator. The duties and functions to be transferred must be mentioned specifically in the transfer agreement as, in the absence of such mention; they are deemed to remain with the State of Registry.

Note: Guidance on the transfer of airworthiness-related duties and functions may be found in the Airworthiness Manual (Doc 9760), Volume II, Part B, Chapter 10 — International Leasing Arrangements.

Authorities concerned shall give special consideration to the objectives of continuing airworthiness and to the transfer of information as required in Annex 6, Part I, 8.3 to 8.8, as well as in Annex 8, Part II, and Chapter 4.

Additional guidance regarding operational surveillance may be found in the Manual of Procedures for Operations Inspection, Certification and Continued Surveillance (Doc 8335), Chapter 10 — Lease, Charter and Interchange Operations.

2.2 Eligibility of the State of the Operator

States should not enter into a transfer agreement if the State of the Operator concerned is not capable of adequately performing the duties and functions that are envisaged for transfer.

2.3 Clear identification of the aircraft

The aircraft concerned should be clearly identified in the agreement by including reference to the aircraft type, registration and serial numbers.

2.4 Any commercial arrangement needs a transfer agreement

Any type of commercial arrangement for cross-borders lease, charter or interchange of aircraft, or any similar arrangement, may give rise to a transfer agreement.

Note: Article 83 bis refers inter alia to “lease” in general, not excluding wet leases in principle. Nevertheless, the application of Article 83 bis to wet lease arrangements would then require that foreign wet-leased aircraft concerned be operated under the lessee’s AOC. Such cases are rare, in view of the difficulty for the State of the lessee, as State of the Operator, to implement the operational requirements of Annex 6 to the Convention.

2.5 Transfer agreement not only for commercial operations

The issuance of an AOC, as required by Annex 6 for international commercial operations, is not an absolute precondition for such a transfer agreement, the object of which may be general aviation aircraft as well.

2.6 Duration of the agreement

The duration of the agreement on the transfer should not exceed the period covered by the corresponding commercial arrangement (for example, the lease). According-



ly, the period of validity of the transfer should be mentioned in the agreement, taking into consideration that the registration of the aircraft concerned will not be changed.

2.7 Required level of authority

The level of authority for signing transfer agreements should be equivalent to that required for administrative arrangements between aeronautical authorities.

Note: Pursuant to Article 83, as referred to in Article 83 bis b), the Rules for Registration with ICAO of Aeronautical Agreements and Arrangements (Doc 6685) apply to any agreement or arrangement relating to International civil aviation. Implementation of Article 83 bis may be made through administrative agreements or arrangements between civil aviation authorities, usually signed at the level of director general, i.e. they do not require diplomatic credentials for signature, nor do they require ratification. More formal agreements (e.g. bilateral agreements) are, of course, also legally adequate.

2.8 Binding of the transfer agreement

Any transfer agreement signed between States parties to Article 83 bis will be binding upon the other States parties thereto, on condition that it has been formally registered with the Council of ICAO and made public in accordance with Article 83 of the Convention, or that any third State concerned has been officially advised by way of direct notification, normally by the State of the Operator. Consequently, the State of Registry shall be relieved of responsibility (and, where applicable, of liability) in respect of the functions and duties duly transferred to the State of the Operator, and the latter shall comply with them in accordance with its own laws and regulations.

Note: The Protocol relating to Article 83 bis (Doc 9318) came into force on 20 June 1997 in respect of the States which have ratified it. While direct notification of a transfer agreement may be preferable for the parties in certain circumstances, for instance in the case of short-term arrangements, attention is drawn to the fact that the States' obligation to register such agreements with ICAO, nevertheless, remains unaffected pursuant to Article 83 of the Convention. The registered agreements are published in the quarterly List of Agreements and Arrangements Concerning International Civil Aviation Registered with ICAO, which is issued by ICAO.

2.9 Permission in national legislation required

For the purpose of entering into transfer agreements, and with reference to Assembly Resolutions A23-3 and A23-13, States should ensure that, as a State of Registry, their national legislation enables them to divest themselves of the functions and duties which are the object of a transfer agreement. Furthermore, as a State of the Operator, States should ensure that their national legislation will apply to foreign-registered aircraft subject to a transfer agreement.

2.10 Recognition of national approvals and licenses

Under Article 33 of the Convention, Contracting States must recognize the validity of each other's C of As and crew licenses, provided the conditions of issuance meet the minimum requirements established by the Standards governing personnel licensing (Annex 1) and airworthiness of aircraft (Annex 8). Article 33, it should be



emphasized, refers to certificates and licenses “issued or rendered valid by the Contracting State in which the aircraft is registered”. The entry into force of Article 83 bis requires a new reading of Article 33: if the authority to issue these certificates and licenses has been formally transferred to the State of the Operator, Contracting States which have ratified Article 83 bis will be obliged to recognize the validity of the certificates and licenses if they have been officially informed of the transfer (on the proviso that the State of the Operator has issued them or rendered them valid, while fully meeting the requirements of Annexes 1 and 8). Accordingly, States ratifying Article 83 bis should ensure that their rules and policies allow the recognition of C of As and crew licenses issued by the State of the Operator, in addition to those issued by the State of Registry.

2.11 Transfer of Information

States which have ratified Article 83 bis should ensure that the information they have received concerning the existence of transfer agreements relating to aircraft operating to/from their territory is promptly relayed to the national authorities involved in inspection. Adequate procedures need to be developed and implemented for that purpose.

2.12 Copy of the transfer agreement must be available in aircraft

For the purpose of identifying the States responsible for safety oversight on the occasion of any verification process such as ramp inspections, a certified true copy of the transfer agreement should be carried on board the aircraft at all times while the transfer agreement is in force. It is also recommended that a certified true copy of the AOC under which the aircraft is operated, and in which it should be listed, be carried on board.

2.13 Validity of documents outside of Contracting States

In case the aircraft is to enter the airspace of Contracting States which are not parties to Article 83 bis, or which are parties but have not been duly advised about a transfer agreement in accordance with this provision, the certificates and licenses on board the aircraft should be issued or rendered valid by the State of Registry as the latter would, in this case, remain fully responsible in regard to Articles 30, 31 and 32 a) of the Convention despite the transfer agreement with the State of the Operator.



Intentionally Left Blank



3 Procedures

3.1 Coordination.

This task requires coordination among Director General's office, Legal Unit, Directorate of Operations & Training and the Directorate of Airworthiness Standards and may also require coordination with the regulatory authority of the State of Registry/State of Operator (as the case may be).

The Director General will determine the officers that will attend the meeting to draw up the agreement in accordance with the draft agreement.

3.2 Operators obligation

The Operator is required to submit the following:

- A copy of the lease/transfer agreement
- Aircraft Technical Specifications
- Operators Manuals

3.3 Meeting

Meeting must be arranged between State of Registry/Operator and the Afghan CAA to discuss all areas of safety oversight functions such as:

- Continuing airworthiness of aircraft
- Communication with State of Design
- Maintenance Responsibility
- Aircraft Maintenance Program
- Maintenance Records
- Continuing Airworthiness Information
- Modification and Repairs
- Maintenance Organization
- Aircraft affected by the agreement
- Any significant matters arising out of inspection.

3.4 Operators manual

Ensure that the Operator's Manual includes procedures on:

- Aircraft modification and repairs
- Maintenance arrangements
- Maintenance Program
- Maintenance responsibility.



Intentionally Left Blank



4 Task Outcomes

[1] Completion of this task will result in one of the following:

- Signing of safety oversight functions transfer agreement between the State of Registry/Operator and Afghanistan in accordance with Article 83bis.
- Notification of ICAO on the existence of such agreement.

[2] Document Task

- File all supporting paperwork in the operator/applicant's office file.



Intentionally Left Blank



5 Future Activities

- Meeting should be held between the State of Registry/Operator and the Afghan CAA to review the agreement at interval specified in the agreement
- Normal surveillance.



Intentionally Left Blank



Appendix I NIL (No Item Listed)

No appendices in this document.



End of Document