Section 5 International Civil Aviation Organization (ICAO) Article 83 bis
Leases and Interchanges

5.1 GENERAL.

5.1.1 Purpose. This section provides Federal Aviation Administration (FAA) Flight Standards Service (FS) policy requirements and information for International Civil Aviation Organization (ICAO) Article 83 bis leases and interchanges.

5.1.2 Scope. The section applies to all FAA FS personnel with responsibilities associated with international aviation operations.

5.1.3 Program Tracking and Reporting Subsystem (PTRS) Activity Codes. None.

5.1.4 Regulatory References. All regulatory references in this section are found in Title 14 of the Code of Federal Regulations (14 CFR) unless otherwise indicated.


5.2 DEFINITIONS. See Volume 12, Chapter 1, Section 1, Definitions, Abbreviations, and Acronyms, for information associated with this section.

5.3 BACKGROUND. Article 83 bis is an amendment to the Convention on International Civil Aviation (the Chicago Convention). It addresses a problem that was not envisioned when the Convention was adopted in 1944, but has become a common phenomenon around the world—aircraft based permanently or for extended periods outside their State of Registry. This has created a challenge for States to carry out oversight responsibilities for aircraft that may never appear within their borders. Current Article 83 bis agreements and their specific information can be viewed on ICAO’s internal website using ICAO’s Database of Aeronautical Agreements and Arrangements at http://cfapp.icao.int/dagmar/main.cfm.

5.3.1 Oversight Responsibilities. Article 83 bis establishes that agreements for the transfer of certain oversight responsibilities from the State of Registry to the State of the Operator shall be recognized by all other Contracting States which have ratified it. The transfer of responsibility may involve functions and duties under Articles 12, 30, 31, and 32(a) of the Convention, which address rules of the air, radio, certificates or airworthiness, and personnel licenses, respectively. Article 83 bis is an umbrella provision, in which ratification does not entail the automatic transfer of functions and duties from the State of Registry to the State of the Operator. Any agreement can only cover the functions and duties attached to Articles 12, 30, 31, and 32(a) of the Convention that may be totally or partially transferred.
Note: ICAO’s Convention, specifically Article 16, currently gives the Contracting State the right to inspect aircraft of other Contracting States within their sovereign territory.

5.3.2 Transferring the State of Registry’s Responsibilities to the State of the Operator.
With the adoption of ICAO Article 83 bis, the State of Registry may, by an agreement with the State of the Operator, transfer to another State of the Operator all or part of the responsibilities listed above as the State of Registry’s responsibilities. Article 83 bis applies to an aircraft, which is operated pursuant to a lease agreement, charter or interchange arrangement of the aircraft, or any similar agreements or arrangements by an operator, which has its principal place of business or residence outside the State of Registry.

a) If the State of Registry transfers its airworthiness oversight responsibilities under the Article 83 bis agreement, the State of the Operator will issue a Certificate of Airworthiness (C of A) to the aircraft and oversee the continuing airworthiness of the aircraft in accordance with the laws and regulations of the State of the Operator.

b) If the State of Registry transfers its personnel licensing oversight responsibilities under an Article 83 bis agreement, the flightcrew members may hold airman certificates issued or validated by the State of the Operator pursuant to the laws and regulations of the State. Each person acting as a flightcrew member must hold a certificate or license that shows the person’s ability to perform duties in connection with the operation of the aircraft. The State of the Operator cannot transfer the responsibilities for the certification and oversight of an air carrier to another State pursuant to an Article 83 bis agreement.

5.3.3 Safety Compliance and Registration in the State of Registry. Adoption of Article 83 bis is based on the State of Registry’s possible loss of control (LOC) over the safety compliance and inability to exercise its functions and duties adequately in international operations. Article 83 bis reflects the general desire of the ICAO Contracting States to transfer certain functions normally incumbent on the State of Registry to the State of the Operator. An aircraft that is subject to an Article 83 bis agreement will continue to be registered in the State of Registry and continue to bear that State’s registration marks. The registration certificates will be issued by the State of Registry. A copy of the Article 83 bis agreement will be carried aboard the aircraft under the agreement.

5.3.4 When Possible Conflicts Arise.

5.3.4.1 Ramp Inspections. Inspectors performing ramp inspections on foreign air carriers should be aware that in some situations the provisions of an active Article 83 bis agreement between two Civil Aviation Authorities (CAA) may permit the transfer of oversight functions under ICAO Annex 1 (Personnel Licensing), Annex 6 (Operation of Aircraft), and Annex 8 (Airworthiness of Aircraft) for aircraft on the registry.

5.3.4.2 Appearance of Conflict. In those situations where there is an appearance of conflict, the inspector should coordinate with their supervisor and contact the FS International Program Division. The International Program Division will assist in obtaining the information from ICAO in regard to the status of any active Article 83 bis agreements between the State of the Operator
and the State of Registry. The International Program Division will also provide guidance to the FAA’s position in regard to the appearance of conflict.

5.3.4.3 Aircraft Entering Another Contracting State’s Airspace. When the Contracting State that is not a party to Article 83 bis, or who has not been duly advised about a transfer agreement in accordance with this provision, the State of Registry:

a) Should issue or render valid those certificates and licenses on board the aircraft; and

b) Would remain fully responsible with regard to Articles 30, 31, and 32 of the Convention despite the transfer agreement with the State of the Operator.

5.4 ARTICLE 83 bis AGREEMENTS BETWEEN THE UNITED STATES AND IRELAND AND THE UNITED STATES AND SAUDI ARABIA.

5.4.1 Limiting Provision to the Agreement.

a) Scope. The scope of these agreements are limited to General Aviation (GA) aircraft on the register of civil aircraft of the United States. These agreements have a limiting provision, which allows lease, charter, or interchange of the aircraft or any similar type agreement or arrangement for a term of no more than 180 calendar-days by operators whose principal place of business is in, or who permanently reside in, Ireland or Saudi Arabia.

b) Aircraft Covered. The aircraft covered by these agreements are identified by make and model, registration number, and serial number on the list format provided in the agreement.

5.4.2 State of the Operator. The State of the Operator shall inform the International Program Division prior to any aircraft subject to being made the object of a subsidiary lease agreement, charter or interchange arrangement, or similar type of agreement or arrangement.

5.4.3 The Need for Consultations. Consultations between the FAA and CAAs are necessary to discuss both operations and airworthiness matters resulting from inspections that have been conducted by their respective inspectors.

a) Consultations shall take place for the purpose of resolving any discrepancies found as a result of the inspections, and to ensure that all parties are fully informed about the aircraft operator’s operations.

b) The following subjects may be reviewed during these consultations:

- Flight operations continuing airworthiness and aircraft maintenance;
- Flight training, when applicable;
- Any other significant matters arising from inspections; or
- Review of the agreement, including addition or subtraction of aircraft to or from the agreement.
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<thead>
<tr>
<th>ICAO DOC</th>
<th>RESPONSIBILITIES OF THE STATE OF REGISTRY (United States)</th>
<th>RESPONSIBILITIES OF THE STATE OF THE OPERATOR (Foreign)</th>
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<tbody>
<tr>
<td>Annex 1</td>
<td>Assume State of Registry’s licensing and ratings as defined in Annex 1, chapters 2 and 3.</td>
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<td>Annex 2</td>
<td>Assume State of the Operator’s responsibilities pertaining to the rules of the air defined in Annex 2, chapters 1, 2, and 3.</td>
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<tr>
<td>Annex 6</td>
<td>Assume State of the Operator and State of Registry responsibilities as defined in Annex 6, Parts II and III.</td>
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<td>Annex 8</td>
<td>Issue airworthiness certificate</td>
<td>Perform surveillance in accordance with Annex 8, Airworthiness of Aircraft (Part II chapter 4, 4.2.3(b) to “determine the continuing airworthiness of an aircraft in relation to the appropriate airworthiness requirements in force for that aircraft”).</td>
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