EUROPE AIR SPORTS

The Association representing National Aero Clubs and European Air Sports Organizations in Regulatory Matters with European Authorities and Institutions.

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To: European Commission

Brief explanations of Europe Air Sports' proposals to amend Annex II of Regulation 1592/2002

1. Weight thresholds for exemption from the Regulation for gliders and / or sailplanes, in relation to the weight thresholds for exemption of aeroplanes as incorporated in the current Annex II

Background

Microlight powered aircraft (up to 300 kg MTOM single seat, up to 450 kg MTOM two seat) have become very popular in Europe over several years now. In many EU countries the number of microlight pilots has increased rapidly and a significant small industry manufacturing microlight powered aircraft and equipment has developed (vide – the Aero 2005 fair at Friedrichshafen in April 2005), with associated economic benefits apart from the positive social aspects for the users.

A similar trend has been developing for light and ultra light gliders for the benefit of the gliding movement. Ultra-light gliders not certified under Certification Specification (CS) 22 (formerly JAR 22) have indeed been designed, developed and manufactured in the last few years. Unfortunately Regulation 1592/2002 and its Annex II have inadvertently blocked this important development.

The relevant exemptions in the current Annex II are:

(a) Gliders below 80kg (single seat) or 100kg (two seat) 'structural mass', including foot launched gliders.

(b) Aeroplanes (*i.e. powered aircraft*) below 300 kg Maximum Take Off Mass – MTOM - (single seat) or below 450 kg MTOM (two seat).

Such aeroplanes are generally referred to in the General Aviation community as microlight aircraft / aeroplanes but the term 'microlight' is not a term used in Regulation 1592, Annex II, nor is it defined anywhere.

Consequences

Only hang gliders (i.e. foot launched), para-gliders, some special very light gliders and a limited number of historic or vintage gliders are exempted from European regulation under the current Annex II criteria, i.e. they remain under national regulation. Light and ultra light gliders above 80 kg structural mass (single seat) or 100 kg (two seat) have to be certified by EASA. However, the Certification Specification applied to gliders by EASA is CS-22 (ex JAR 22), which does not provide for gliders in the ultra-light glider category. Light and ultra light gliders above the 80 or 100 kg structural mass are thus no longer allowed to fly in Europe because they no longer have any legal existence.

Manufacturers of such light / ultra light gliders have therefore either cancelled their projects or modified the designs of light / ultra light gliders to include engines, thereby creating self-launching gliders. But instead of

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being classified as gliders, they are being treated, de facto, as aeroplanes and have become part of the microlight community and not the conventional gliding community.

These aircraft are in reality gliders (or sailplanes), and are not microlight aeroplanes. They are designed to soar and glide without the engine being operated. The introduction of engines into these ultra light gliders – with the associated weight penalties – has arisen as a means of achieving exemption from EU regulations under the current Annex II, whereby aeroplanes (powered aircraft) have a higher weight threshold to qualify for exemption.

There is no common sense logic in terms of risk assessment (particularly the risk to unconnected third parties) as to why microlight aeroplanes, weighing a maximum of either 300 kg (single seat) or 450 kg (two seat), should be exempt from EU regulation, whilst gliders which are only up to a significantly lower (structural mass) weight limit (80 / 100 kg) should be exempt.

Concerns of Europe Air Sports and the European Gliding Union (EGU)

These are twofold:

1. Regulation 1592/2002 and its Annex II have inadvertently created a distortion in the marketplace for gliders by forcing manufacturers of non-CS 22 compliant gliders into either stopping design and production, or introducing engines for self-launching of these aircraft, thus allowing them to be treated as exempt from EU regulation by being classified as a microlight aeroplanes.

2. The FAI officially recognised sporting category of ultra-light sailplanes (up to 220 kg MTOM) is being compromised by the anomalies created by the new regulations outlined above, thus threatening an existing sporting class and creating a distortion of sporting competition. The effect will be for non-European countries to be able to compete in a class which European countries will not be able to.

EAS Proposals

The EAS proposals are:

1. to request the introduction of an additional exemption in the revised Annex II to Regulation 1592 / 2002, for:

   "Light sailplanes and powered light sailplanes with a maximum take-off mass (MTOM) of less than 300 kg when single seater or 450 kg when two seater, plus an additional 5% mass allowance of the above masses if equipped with an airframe mounted total recovery parachute system."

2. to request an amendment to paragraph (g) in the EASA submitted exemptions to 1592/2002 as follows:

   " 'ultra-light gliders with structural mass of less than 80 kg when single seater or 100 kg when two seater, including those which are foot launched; or an empty mass less than 120 kg when single seater or 140 kg when two-seater, including those which are foot launched."

The reason for the second proposal above is that the introduction of the criteria of empty mass above the structural mass threshold provides greater flexibility in design of ultra light 'gliders' without significantly altering the intent of the regulatory framework.

Impact of EAS proposal

The gliding community will embrace, and already has embraced, this new sector of ultra-light gliders (up to 300/315* kg single seater, 450/472.5* kg two seater), primarily because:

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(* with extra weight for total recovery parachute system)

1. the gliding community can provide an established environment for appropriate and specific training of new (glider) pilots, and a safety framework.

2. the gliding community can provide a structure within which the ultra-light gliding community can flourish in club environments.

3. Such an amendment would re-establish the design and manufacturing of non-CS22 conforming ultra-light, non-powered, gliders / sailplanes, a market which has been threatened with extinction in Europe as a result of the current Annex II categorisation.

All three of the above points would improve safety.

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2. Modification of the EASA draft amendment to cater for weight allowances for amphibian aeroplanes / helicopters and for weight allowances for airframe mounted total recovery parachute systems

In its submission to the Commission EASA has accepted a proposal to increase the current weight threshold for exemption for aeroplanes, helicopters and powered parachutes where

a. the aeroplane or helicopter is an amphibian (take off from / land on water); or
b. an airframe mounted total recovery parachute system is installed

The draft submitted by EASA lists separately, in sub paragraph (e), each weight threshold for single seat and two seat aeroplanes etc according to whether it is an amphibian or is equipped with an airframe mounted total recovery parachute system.

EAS recommends that the wording be simplified so that the basic weight thresholds for single and two seat aeroplanes etc are adjusted by an increased allowance of 10% for an amphibian and / or an increased allowance of 5% for an airframe mounted total recovery parachute system. The percentage increases equate to the weights embodied in the EASA draft.

The EAS proposed revised wording (using 'and / or') would also cater for an amphibian aeroplane or helicopter equipped with an airframe mounted total recovery parachute system, something the EASA draft does not accomplish as only the word 'or' is used in sub paragraph (e) on points (iii) to (vi).

Air sports: Aerobatics, Aeromodelling, Airships, Amateur-built Aircraft, Ballooning, Gliding, Hang-gliding, Microlight Aircraft, Parachuting, Paragliding, Powered General Aviation, Rotorcraft/Helicopters.
Regulatory: Air Displays, Airspace, Airworthiness, ComNav Equipment, Environment, Insurance, Legal, Licenses, Maintenance, Medical, Safety.

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3. Modification of the criteria of 'complexity' for historic aircraft

EASA has made significant proposals to amend the current Annex II definitions or criteria for historic aircraft that can be exempt from Regulation 1592. These are embodied in sub paragraph (a).

However, there remains a point on which our members are very uncomfortable, and upon which EAS makes a recommendation.

In the current Annex II and the EASA proposed amendment, the term 'non complex' is used as part of the qualifying criteria. The impact of this qualification is likely to be that many historic aircraft, being assessed as 'complex', will not be granted an EASA Certificate of Airworthiness as they are not supported by an active type certificate holder (they are effectively 'orphan' aircraft, as the original type certificate holder no longer exists). As a result the only option is for them to be transferred to a more restrictive Permit to Fly in Member States.

Until the advent of EASA, such aircraft have been under the satisfactory supervision of various National Aviation Authorities, and their continuing (safe) airworthiness has been matter for each Member State to determine. The danger is that, if such aircraft are not exempt from EU regulations, and bearing in mind the changes embodied in the new regulations with regard to airworthiness compliance, they may no longer be able to operate.

This will have the effect of taking out of the sky many historic aircraft, many of which form the backbone of the air display sector in Europe, which is a very significant economic driver in the outdoor leisure field.

Further, the removal of the words 'non complex' in relation to historic aircraft would align civil historic aircraft with ex-military historic aircraft, which are exempted under sub paragraph (d) of the Annex II exemptions.

EAS therefore recommends that the term 'non complex' should be removed, so that all historic aircraft qualifying for exemption under the historic criteria can remain under Member State supervision, at least for original and continuing airworthiness.

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4. Modification of the age criteria for historic aircraft

Further to point 4 above, and quite separately, EAS members make a recommendation with regard to the age criteria for defining historic aircraft.

EASA has proposed fixed dates for the criteria of what constitutes an historic aircraft in terms of (i) the initial design – 1 January 1955 and (ii) cessation of production – 1 January 1975.

Once legislation is enacted, these dates will have the effect of freezing the definition of historic aircraft, whereas in reality, as time goes by, more aircraft will become regarded as historic.

Therefore, EAS recommends that, rather than fixed dates used as the criteria, the Commission should consider adopting dates relative to the current date. The proposed draft therefore adopts the criteria of "initial design was established at least 50 years ago" and "production (has been) stopped at least 30 years ago".

The "has been" in the latter EASA text is unnecessary.

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5. Replica Aircraft

The relevant paragraph is (h) in the EASA proposed amendments to exemptions in Annex II.

EAS proposes

(1) the addition of the phrase "or external aspect is similar to the original Aircraft" after "….for which the structural design is similar to the original aircraft"

and

(2) the additional reference to paragraph (b) within the text of paragraph (h) so as to embrace aircraft specifically designed or modified for research, experimental or scientific purposes, and likely to be produced in very limited numbers.

EAS would wish these proposals to be considered separately; they are not dependent upon each other, but relate to the same exemption paragraph.

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6. Consistency of phraseology

We have taken the opportunity to propose some minor changes in phraseology (highlighted in yellow in the accompanying comparison text) with a view to consistency between the different exemption paragraphs.

For example, we suggest the consistent use, when referring to weight thresholds, of "no more than" as used in paragraph (e) exemption, rather than the mixture in the current text of "a maximum……" and "less than" which are used in other exemption paragraphs.

Europe Air Sports
20th June 2005

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