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ASD POSITION PAPER

CONSIDERATIONS ON THE REVISION OF THE COUNCIL REGULATION (EC) N°1147/2002 ON CUSTOM SUSPENSIONS ON CERTAIN GOODS IMPORTED WITH AIRWORTHINESS CERTIFICATES.

About ASD

The AeroSpace and Defence Industries Association of Europe (ASD) represents the aeronautics, space, defence and security industries in Europe in all matters of common interest with the objective of promoting and supporting the competitive development of the sector. Based in Brussels, ASD's membership is composed of 15 major European aerospace and defence companies and 27 member associations in 20 countries. In 2013, these industries reach a turnover of €197.3 billion, invest €20 billion in R&D, employ close to 778.000 people and counts over 3000 companies, 80.000 supplies, many of which are SMEs.

Context & Elements of Understanding

In the context of EU customs clearance procedures, some modifications to the Council Regulation (EC) n°1147/2002¹ are currently being discussed at the European level. This regulation allows the benefit of a tariff suspension of customs duties (*zero-rated import*) on certain goods imported with an “Airworthiness Certificate” and which are intended to equip an aircraft.

For the time being, only three certificates are recognized by some EU Member States (e.g. France, Netherlands) as “Airworthiness Certificates” within the meaning of Council Regulation (EC) n°1147/2002: EASA Form 1, FAA Form 8130-3, and TCCA Form 1. These certificates are an alternative to the “*procedure de destination particulière*” (end-use procedure) and as a consequence, a simplification for economic operators.

However, this Regulation presents some uncertainties, including:

- Differences in terms of wording and language about the destination of the goods (some versions, the French for instance, suggest that the goods benefiting from the suspension should be integrated in civil aircraft only).
- Absence of a clear definition of an “Airworthiness Certificate” in the Regulation, that leads to a legal vacuum. Indeed, this definition should take into account the distinction between “Certificate of conformity” for parts and engines and “Airworthiness Certificate” which is for fully complete aircraft.

In this context, and in order to avoid any legal uncertainty for operators and national control authorities, the European Commission has decided to revise and amend the Council Regulation (EC) n°1147/2002. A decision is foreseen to be taken in May, this year.

With this revision of Council Regulation (EC) n°1147/2002, there is the clear opportunity to act collectively in order for every Aeronautics industry – big companies as well as small and medium-sized enterprises – to benefit from these tariff suspensions.

Considering the above and the high importance of this Regulation and its potential consequences for the Aeronautics Industry and the functioning of the European internal market, ASD’s expectations and recommendations can be found below.

¹ Accessible [here](#)

ASD Expectations & Recommendations

① Take into consideration a variety of acceptable documents, provide a clear method for the definition of Airworthiness certificates and a regular update of that list of documents

The Council Regulation (EC) n°1147/2002 deals with the temporary suspensions of EU tariff duties on certain goods imported with airworthiness certificates but, does not give **any precise definition** of what should be understood by such certificates.

Moreover, EU Customs only accept for the time being the following authorized release certificates: EASA Form 1, FAA Form 8130-3, and TCCA Form 1. These certificates certify that the parts have been manufactured in conformity to design data or released to service after a MRO² operation. This excludes an important number of parts such as COTS (Commercially “Off the Shelf” items), raw materials and parts returned for maintenance and repair which are also aimed at being incorporated or used in an aircraft.

Therefore, ASD strongly asks the European Commission to recognize additional acceptable documents and to resolve this legal uncertainty that could potentially lead to misunderstandings and to a non-harmonized application of the Regulation across the EU.

Considering the above, **ASD suggests the EC to consider replacing the evidence provided with Airworthiness Certificates for finished parts by a broader list of equivalent documents for the other types of goods.** Consequently, the term “Airworthiness Certificate” should be replaced in the revised Regulation by “Airworthiness Certificate or any approved equivalent document”.

As a starting point, the following documents, when produced by a party authorized by an aviation authority, could constitute an acceptable documents: authorized released certificate recognized by any aviation authority (EASA Form 1, FAA Form 8130-3 [United States], TCCA 24-0078 [Canada], ANAC Form F-100-01B [Brazil], CAAS (AW) 95 [Singapore], ...), statement of compliance with airworthiness standards (i.e. the FAA Form 8110-3 for interior materials that comply with FAA Flammability requirements, for instance) and other documents that refer to the certificate of the type of product or its alias (i.e. certificate of conformity, commercial invoice).

For aircraft parts returned for repair or maintenance, ASD proposes that the EC grants the EU tariff suspension upon the submission of the original Airworthiness Certificate or subsequent release to Services certificates (notion of “endless airworthiness certificates”).

Finally, regarding the methodology to define and update the list of acceptable documents aforementioned, **ASD recommends that the definition of these documents should not be included in the Regulation but**

² Maintenance, Repair and Overhaul

rather be the subject of a guidance note, elaborated together with EASA³ and with support of relevant stakeholders, which will precise for each document the information to be mentioned therein and their validity period. Furthermore, the future amended Regulation (EC) n°1147/2002 should think of giving a delegated power to EASA to establish and regularly update a **guidance note** with the list of acceptable certificates or documents used to prove the end-use.

② Simplify the customs clearance by accepting electronic formats of Airworthiness certificates and other acceptable documents and requesting their submission only for post-clearance examinations

The Council Regulation (EC) n°1147/2002 does not precise which formats for the “Airworthiness Certificate” are appropriate or not, and no mention is given to the possibility to have electronic versions of the “Airworthiness Certificate”. **ASD fully supports the acceptance of an electronic format** of the submitted documents as already accepted by the Civil and Military Airworthiness Authorities today. A copy of the Airworthiness Certificates should also be accepted and not only the originals.

Moreover, in order to not lengthen the customs clearance process beyond reasonable time, ASD suggests the EC to verify the documents during post-clearance examinations and not request the systematic submission of the documents at the time of customs clearance.

③ Align the future Regulation with the existing recognized practices that grant the EU tariff suspensions to goods for incorporation in aircraft parts

The Council Regulation (EC) n°1147/2002 does not give any indications on whether or not it applies exclusively to goods to be incorporated or used in aircraft parts.

In order to avoid any uncertainties, unnecessary administrative burden, and to ensure an harmonized application of the future Regulation across the EU, **ASD strongly recommends that the Regulation to explicitly mention that the EU tariff suspension applies to goods to be incorporated in, or used for, aircraft, or parts thereof.**

³ European Aviation Safety Agency


④ Extend the EU tariff suspensions to goods for incorporation in military aircraft

With regards to the recent evolution of Article 544c of the CCIP which extends a simplified custom clearance specific to civil parts to military products, **ASD strongly welcomes the extension of the scope of application of the Regulation to goods to be incorporated in, or used for, military aircraft.**

However, if this extension is not accepted by the European Commission, as the Regulation does not distinguish whether it applies to civil parts that could be also incorporated in military aircraft⁴, ASD suggests clarifying this uncertainty by stating that the suspension of customs duties does not apply to parts, components, and other goods of a kind to be exclusively incorporated in or used for military products.

Last but not least, ASD members take this opportunity to recall their concerns about a potential extension of the scope of the future Regulation to the import of completed aircraft; only parts, components and other goods of a kind to be incorporated in, or used for, civil or military aircraft should be eligible for EU tariff suspensions.

These proposed improvements to Council Regulation (EC) n°1147/2002 will avoid the potential differences of interpretation – and therefore their consequences in terms of implementation – within the EU Member States. Indeed, administrative simplification for the Member States as well as for the companies concerned by this Regulation is the main advantage of these suggested modifications. They will also contribute to bolster the competitiveness of the EU Aviation sector, in particular for SMEs.



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⁴ While military equipment benefiting from custom suspensions are governed by Regulation (EC) 150/2003, accessible [here](#)