

**STATEMENT ON GUIDING PRINCIPLES FOR CROSS BORDER TRANSFERABILITY OF AIRCRAFT****RELEASE DATE: 7 DECEMBER 2021**

**A.** This document (this **document**) comprises a statement on guiding principles (the **principles**, and, each, a **principle**) which the Aviation Working Group (**AWG**) recommends in order to facilitate the ‘cross-border transfer’ of aircraft while maximizing safety and efficiency. That safety objective reflects and reinforces the first principle of aviation. That efficiency objective seeks to ensure resources are focused on safety-related activities.

**B.** A cross-border transfer (an **XBT**) is a change of nationality registration of the aircraft in accordance with the framework established by international aviation law (Chicago Convention of 1944) and the law of the States where the aircraft was registered (**exporting State**) and will be registered (**importing State**).

**C.** This statement of principles has been prepared by AWG as an elective guidance tool.<sup>1</sup> It is designed for use by, and benefit of, regulators, leasing companies, and airlines.

**D.** Where this document is referred to, including in correspondence or legal documentation, that reference should be to the **AWG statement on cross border transferability of aircraft principles, released 7 December 2021**, or, in short, the **AWG XBT principles, 7.12.21**. If this document is amended, an updated reference will be included.

**E.** The principles are as follows:

**Principle 1: Use of prevailing best practices**

An XBT should be effected in accordance with prevailing best practices, as reflected in leading guidance materials. That means, in a coordinated manner, the guidance materials produced by the International Civil Aviation Organization (**ICAO**) and the AWG practitioners’ guide, including their respective commentary, forms and checklists.

Given the nature of aviation, all such practices should be global. Specific national practice deviations should be limited, explicitly justified, predictably and consistently applied, and transparent.

**Principle 2: Use of standardized and simplified procedures**

An XBT should be effected in accordance with standardized and simplified procedures. Studies have shown that in safety-critical industries standardization and simplification promote consistency, transparency, and accountability, which, in turn, enhances safety outcomes.

Specific national procedure deviations should be limited, explicitly justified, predictably and consistently applied, and transparent.

**Principle 3: Harmonization to avoid non-safety-related inefficiency**

An XBT should involve procedures harmonized between the exporting State and importing State to avoid duplication and regulatory overlap, which adds substantial time and costs to the system without enhancing safety outcomes. That includes unnecessary or out-of-sequence inspections, modifications, and repairs. Following principles 1 and 2 minimizes the risk and effects of such duplication and overlap.

Direct, active, and structured communication among the importing State, the exporting State, and the other parties involved in an XBT further reduces such risks and effects.

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<sup>1</sup> This document is not intended to, and should not be construed as, representing the policies, positions or views of, nor an agreement among or binding upon, the Aviation Working Group’s members, or any of them, either as a general matter or with regard to any specific circumstance.

#### Principle 4: Expeditious and digitized procedures

An XBT should be effected with maximal expedition, meaning the minimum time required by safety objectives. Such expedition reduces regulatory and industrial resources used, and thus the costs to, the air transport sector, allowing those resources to focus on safety-related activities.

All XBT procedures susceptible to digitization, and the overall XBT process itself, should be digitized.

#### Principle 5: Use and recognition of electronic records

Aircraft maintenance and other records should be kept in electronic formats, and regulators should accept such electronic records without requiring duplicative paper records. Such electronic records enhance transparency, safety, and security, in addition to supporting global sustainability objectives.

Such records should be kept in standardized formats to maximize interchangeability between operators. Protocols should be developed to permit non-operator stakeholders, such as regulators and lessors, real-time access to aircraft electronic maintenance records (though not operators' commercial or propriety data).

#### Principle 6: Use of task delegation

The use of delegation to qualified third parties in an XBT should be encouraged, and national regulation should facilitate and recognize such delegation.

Delegation allows resources and expertise to be pooled and maximized, minimizes regulatory costs, and prevents avoidable delay. It is important in addressing resource constraints, whether structural, most commonly but not exclusively in States with few XBTs, or situational, in States with many. Main areas of delegation include import due diligence and ongoing maintenance and airworthiness oversight.

Determinations and certifications made by qualified airworthiness organizations and individuals should be given *prima facie* acceptance, subject to non-duplicative oversight and audit. National regulation should facilitate and recognize such delegation.

#### Principle 7: Data-based import criteria

In an XBT, import criteria should be based on conformity of the aircraft to OEM-derived data applicable to the aircraft type design, rather than restrictions based on aircraft calendar age. Studies have shown that the former, not the latter, correlates to safety for aircraft up to at least 27 years.

States should reconsider existing calendar age-based import restrictions given such studies and improvements in materials and oversight capabilities since initial promulgation of such restrictions. Delegations, encouraged by principle 6, will help address any resource or expertise issues arising in connection with the import or regulation of older aircraft.

#### Principle 8: Minimizing time of non-registration

The time between the de-registration of an aircraft from the exporting State and its re-registration by an importing State should be minimized. That minimizes the costs arising where an unregistered aircraft has no assessable standard of airworthiness.<sup>2</sup> Regulatory coordination, encouraged by principle 3, will help minimize that time.

This principle 8 may not be used to limit or otherwise affect the automaticity of IDERA-based de-registration under the Cape Town Convention, which, where applicable, is a binding international law obligation.

**F.** AWG may issue revisions to this statement and/or supplemental materials to aid in or facilitate its use, interpretation, or application.

**END**

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<sup>2</sup> ICAO guidance (1) notes that placing an aircraft on a registry does not require or guarantee that the aircraft will be deemed airworthy and (2) suggests temporary or provisional registration as alternatives to delaying registration pending an airworthiness determination.