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Subject:	COMMISSION REGULATION (EU) .../... of XXX amending Regulation (EU) No 965/2012 as regards the specific approval of single-engined turbine aeroplane operations at night or in instrument meteorological conditions and the approval requirements for the dangerous goods training relating to commercial specialised operations, non-commercial operations of complex motor-powered aircraft and non-commercial specialised operations of complex motor-powered aircraft

Delegations will find attached document D045909/03.

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Brussels, **XXX**
[...](2016) **XXX** draft

COMMISSION REGULATION (EU) .../...

of **XXX**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC¹, and in particular Article 8(5) thereof,

Whereas:

- (1) Pursuant to Regulation (EC) No 216/2008, the Commission should adopt the necessary implementing rules for establishing the conditions for the safe operation of aircraft. Commission Regulation (EU) No 965/2012² establishes those conditions.
- (2) The application of Regulation (EU) 965/2012 to ferry-flights would lead to a disproportionate administrative burden on the industry and on competent authorities. In order to introduce a more proportionate and risk-based approach to the application of that Regulation, one-off flights carrying no passengers or cargo where the aircraft is ferried for refurbishment, repair, maintenance checks, inspections, delivery, export or similar purposes should be exempted from the application of Regulation (EU) 965/2012.
- (3) The International Civil Aviation Organisation (ICAO) standards and recommended practices, set out in Part I of Annex 6 to the Convention on International Civil Aviation, signed in Chicago on 7 December 1944, include provisions for the operation of single-engined turbine aeroplanes at night or in instrument meteorological conditions. Those provisions contain, inter alia, a requirement that, in approving such operations, the State of the operator needs to ensure that certain conditions are complied with, including those relating to installed equipment, engine reliability, engine monitoring, operator procedures and flight crew training. Union law should be aligned with those provisions, by ensuring that commercial air transport operations of

¹ OJ L 79, 19.3.2008, p. 1. `

² Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

single-engined aeroplanes at night or in instrument meteorological conditions are subject to the approval of the competent authority.

- (4) That alignment makes the possibility of operating, by means of a derogation, single-engined aeroplanes under the conditions set out in the existing exemptions granted by Member States in accordance with Article 8(2) of Council Regulation (EEC) No 3922/91³, provided for in Article 6(5) of Regulation (EU) 965/2012, obsolete. That provision should therefore be deleted. Those exemptions for the operation of single-engined aeroplanes, including the conditions set out therein, should be considered to constitute approvals by the competent authority as required under the aligned legal framework for a suitable period after the entry into force of this Regulation, so as to ensure a smooth transition. After that transitional period, it should no longer be possible to rely upon such exemptions, such approvals being required instead. Any relevant changes to the operation of those aeroplanes during that transitional period should continue to be notified.
- (5) Operators of commercial specialised operations, as well as operators conducting non-commercial operations with complex motor-powered aircraft or non-commercial specialised operations with complex motor-powered aircraft that do not transport dangerous goods should continue to establish and maintain dangerous goods training programmes, in accordance with Annex III (Part-ORO) to Regulation (EU) 965/2012. However, in order to introduce a more proportionate and risk-based approach to the application of those rules, the competent authority should no longer be required to approve such training programmes.
- (6) Regulation (EU) No 965/2012 should therefore be amended accordingly. In particular, Annex III (Part-ORO) to that Regulation should be amended to adopt a more proportionate and risk-based approach to the approval requirements for dangerous goods training programmes and a new subpart on single-engined turbine aeroplane operations should be added to its Annex V (Part-SPA).
- (7) The measures provided for in this Regulation regarding single-engined turbine aeroplanes are based on the opinion⁴ issued by the European Aviation Safety Agency in accordance with point (b) of Article 17(2) and Article 19(1) of Regulation (EC) No 216/2008.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 965/2012 is amended as follows:

- (1) Article 6(3) is replaced by the following:

³ Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation (OJ L 373, 31.12.1991, p. 4)

⁴ European Aviation Safety Agency Opinion No 06/2015 of 11 November 2015 for a Commission Regulation establishing technical special approval requirements for the operation of single engine turbine aircraft at night or in instrument meteorological conditions.

"3. By way of derogation from Article 5 and without prejudice to Regulation (EC) 216/2008 and Commission Regulation (EU) No 748/2012⁵ related to the permit to fly, flights related to the introduction or modification of aircraft types conducted by design or production organisations within the scope of their privileges, as well as flights carrying no passengers or cargo where the aircraft is ferried for refurbishment, repair, maintenance checks, inspections, delivery, export or similar purposes shall be operated under conditions set out in Member States' national law."

(2) Article 6(5) is replaced by the following:

"5. Until [OP – Insert the date of publication of this amending Regulation + six months], exemptions granted before [OP – Insert the date of entry into force of this amending Regulation] in accordance with Article 8(2) of Regulation (EEC) No 3922/91, as provided for in Article 6(5) of Regulation (EU) 965/2012 as applicable before [OP – Insert the date of entry into force of this amending Regulation], shall be considered to constitute approvals referred to in point (a) of CAT.POL.A.300 of Annex IV (Part-CAT). After [OP – Insert the date of publication of this amending Regulation + six months], those exemptions shall no longer be valid for the operation of single-engined aeroplanes.

If any change to the operation of those aeroplanes that affects the conditions set out in those exemptions is envisaged between [OP – Insert the date of entry into force of this amending Regulation] and [OP – Insert the date of publication of this amending Regulation + six months], that envisaged change shall be notified to the Commission and the Agency before it is implemented. The Commission and the Agency shall assess the envisaged change in accordance with Article 14(5) of Regulation (EC) No 216/2008."

(3) Annexes II, III, IV and V are amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁵ Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p.1)

Done at Brussels,

For the Commission
The President
Jean-Claude JUNCKER