

ANNEX 1

AIRWORTHINESS AND ENVIRONMENTAL CERTIFICATION

1. SCOPE

1.1. This Annex covers 1) the reciprocal acceptance of findings of compliance, approvals, and documentation, and 2) technical assistance regarding:

- (a) airworthiness and continued airworthiness of civil aeronautical products (hereinafter referred to as "products"); and
- (b) noise, fuel venting, and exhaust emissions.

1.2. As provided for in Article 4 of the Agreement, the Parties shall reciprocally accept each other's findings made under the systems of the Technical Agents or Aviation Authorities, subject to the provisions of this Annex and where applicable, the technical implementation procedures concluded by the Technical Agents.

2. JOINT COORDINATION BODY

2.1. Composition

2.1.1. A joint technical coordination body called the Certification Oversight Board, accountable to the Bilateral Oversight Board, is hereby established under the joint leadership of the Technical Agents. It shall include representatives from each Technical Agent responsible for airworthiness and environmental certification, quality management systems and rulemaking.

2.1.2. The joint leadership may invite additional participants to facilitate the fulfilment of the mandate of this Certification Oversight Board.

2.2. Mandate

2.2.1. The Certification Oversight Board shall meet at regular intervals to ensure the effective functioning and implementation of this Annex. Its functions shall include in particular:

- i. Developing, approving, and revising the technical implementation procedures;
- ii. Sharing information on major safety issues and developing action plans to address them;
- iii. Ensuring the consistent application of this Annex;
- iv. Resolving technical issues falling within the responsibilities of the Technical Agents and examining other technical issues that cannot be solved at a lower level;
- v. Developing effective means for cooperation, assistance and exchange of information regarding safety and environmental standards, certification systems, and quality management and standardization systems;
- vi. Proposing amendments regarding this Annex to the Bilateral Oversight Board.

- 2.2.2. The Certification Oversight Board shall report unresolved issues to the Bilateral Oversight Board and ensure the implementation of decisions reached by the Bilateral Oversight Board regarding this Annex.

3. IMPLEMENTATION

3.1. General

- 3.1.1. The Technical Agents shall develop technical implementation procedures for the implementation of this Annex that further address the differences between the Parties' airworthiness and environmental certification systems.

- 3.1.2. Each Technical Agent and, if applicable, Aviation Authority, shall support the other's Party's Technical Agent's and, if applicable, Aviation Authority's, requests for access to data under the regulatory control of the other Technical Agent and, if applicable, Aviation Authority, in order to carry out the activities of this Annex.

3.2. Design Approvals

- 3.2.1. The U.S. Technical Agent shall carry out the State of Design functions applicable to the United States under Annex 8 of the Convention on International Civil Aviation done at Chicago on 7 December 1944 ("the Chicago Convention") for regulated entities over which it has jurisdiction.

- 3.2.2. The EC Technical Agent shall carry out on behalf of the EU Member States the State of Design functions applicable to them under Annex 8 of the Chicago Convention for regulated entities over which it has jurisdiction.

- 3.2.3. To benefit from reciprocal acceptance under this Agreement:

- i. EASA shall act as the certifying authority and accept certification applications only from applicants located within the territory of the European Community for the initial approval of their design, design changes and repair data, and
- ii. FAA shall act as the certifying authority and accept certification applications only from applicants located within the United States for the initial approval of their designs, design changes and repair data.

3.2.4. Each Technical Agent shall use a validation process to approve

- i. the design of aircraft, aircraft engines, propellers and appliances;
- ii. supplemental type certificates;
- iii. certain major changes to type design, as defined in the technical implementation procedures, and
- iv. acoustical and emission changes

that have been, or are in the process of being, approved by the other Party's Technical Agent in carrying out the State of Design's functions. The validation process, as defined in the technical implementation procedures, shall be based to the maximum extent practicable on the technical evaluations, tests, inspections, and compliance certifications made by the other Technical Agent. The airworthiness certification basis developed during the validation process of an aircraft, aircraft engine, or propeller shall use the applicable airworthiness standards or codes in effect on the date of application to the Technical Agent carrying out the State of Design functions. The environmental

certification basis shall be developed based on the application dates prescribed in the technical implementation procedures.

- 3.2.5. The Technical Agents shall ensure that information related to operational requirements that impact design is made available to each other during the validation process. The Aviation Authorities shall make such information available to EASA.
- 3.2.6. The Technical Agents may also use a joint certification process, where appropriate. Joint certification is an alternative form of validation when mutually agreed by the applicant and both Technical Agents, as defined in the technical implementation procedures. Joint certification is particularly appropriate when components of a new product are designed by a regulated entity located within the territory of the other Party. Under joint certification, compliance demonstration and findings are expected to be made locally by the other Party's Technical Agent.
- 3.2.7. Because the Parties' regulatory systems for parts, repair design data, and design changes other than those covered by 3.2.4, are considered sufficiently comparable such that a separate approval by the importing Party's Technical Agent or Aviation Authority is not required, the importing Technical Agent shall accept a part, repair design data or design change when it has already been approved or otherwise accepted by the other Party's Technical Agent in carrying out the State of Design functions for the part, repair design data, or design change. The technical implementation procedures shall identify when a separate approval by the importing Technical Agent is necessary.
- 3.2.8. Certifying statements related to design approvals, including information on noise and emission levels, shall be defined in the technical implementation procedures.

- 3.2.9. In the event that a design approval holder transfers its approval to another entity, the Technical Agent responsible for the design approval shall promptly notify the other Technical Agent of the transfer. The Technical Agents shall define procedures to facilitate the transfer of certificates between the Parties' regulated entities in the technical implementation procedures.
- 3.2.10. EASA shall accept the U.S. certification procedures as an acceptable alternative to the European Community's requirements for demonstrating the capability of an applicant.
- 3.2.11.
- (a) A validation performed by a Technical Agent under 3.2.4 shall reflect the efficiencies gained by using such a process instead of a certification process. Efficiencies, resulting from the reduced involvement of the validating authority as substantiated by relevant data, shall subsequently be reflected in associated fee limitations.
 - (b) The reduced involvement of the validating authority as referred to in (a) shall reflect the progress made under the Validation Improvement Roadmap approved and signed by the Certification Oversight Board on 29 February 2016 (and may be revised in the future).
 - (c) The Technical Agents shall revise the technical implementation procedures to include procedures to implement each initiative defined in the Validation Improvement Roadmap. The Certification Oversight Board shall determine the indicators to be used to measure and monitor the effective and demonstrable reduction in the involvement of the validating authority, both in terms of technical working hours and overall application/project processing time.

- (d) Verification and confirmation of the reduction in the involvement of the validating authority, and the associated fee limitations, shall be based on the following:
- 1) Approvals classified under “acceptance” do not require an application to be submitted to the validating authority. Therefore:
 - i) the Technical Agents’ involvement is removed in its entirety; and
 - ii) no associated fee or service charge shall be imposed.
 - 2) For approvals classified under “Streamlined Validation,” as defined in the Technical Implementation Procedures, the following limitations to the involvement of the validating authority and associated fees shall apply:
 - i) For Type Certificates classified as ‘Basic’ –
 - a) The involvement of the validating authority shall not exceed 8 working hours. The associated fee shall not exceed the published hourly rate associated with 8 working hours or the published fee¹, whichever is lower.
 - b) The validating authority shall ensure that the overall application/project processing time, representing only administrative involvement, to issue a type certificate is limited to 20 working days.

¹ In case of EASA the applicable published fee is contained within the COMMISSION REGULATION (EU) No 319/2014 or 27 March 2014 on the fees and charges levied by the European Safety Agency and repealing Regulation (EC) No 593/2007

- ii) For design changes classified as “Basic” that only need reissuance of certificates or datasheets –
 - a) The involvement of the validating authority shall not exceed 4 working hours. The associated fee shall not exceed the published hourly rate associated with 4 working hours or the published fee² (associated with ‘Simple’), whichever is lower.
 - b) The validating authority shall ensure that the overall application/project processing time, representing only administrative involvement, to issue the approval is limited to 15 working days.
- 3) For approvals classified as ‘Non-Basic’ and processed under a Validation Work Plan, as defined in the Technical Implementation Procedures –
 - i) The involvement of the validating authority shall not exceed 25% of the actions associated with the issuance of an equivalent approval using its certification process.
 - ii) The associated fee shall not exceed 25% of the fees that the Technical Agent would have imposed on the applicant or regulated entity in the issuance of an equivalent approval using its certification process².

² In case of EASA the applicable published fee is contained within COMMISSION REGULATION (EU) No 319/2014 of 27 March 2014 on the fees and charges levied on the European Aviation Safety Agency and repealing Regulation (EC) No 593/2007

- (e) The relevant fee limitations set forth in paragraph (d) shall be given effect upon the agreement by the Bilateral Oversight Board, on the basis of a recommendation of the Certification Oversight Board, verifying and confirming that the level of involvement per para 3.2.11 has been achieved by both parties. The fee limitations shall remain in effect as long as the COB confirms in its regular reports the continued achievement of those criteria. Any fee limitations shall come into effect for all new applications for validations and for on-going validations for the next billing cycles one month after the agreement by the BOB. The Certification Oversight Board shall continue to measure performance of the improvement initiatives and ensure that the overall process turnaround time to issue an approval remains commensurate with the principles set forth here and associated metrics in the Technical Implementation Procedures. The Certification Oversight Board shall report on a regular basis to the Bilateral Oversight Board regarding the progress of the Validation Improvement Roadmap and the associated means of measurement to ensure the continued implementation of paragraph 3.2.11, and associated fee limitations.
- (f) Annual fees levied to the holder of an EASA Type Certificate of a Non-EU Design shall be subject to a fee reduction of approximately 2/3 of the amount that EASA imposes on the applicant or a regulated entity following the issuance of an equivalent approval using its certification process for an EU Design. The exact amount is reflected in Commission Regulation (EU) No. 319/2014 of 27 March 2014 or later versions.
- (g) Paragraph 3.2.11 should be reassessed in case of revision of the charging scheme of the validating authority.

3.2.12. As of 19 June 2018, fees imposed during any calendar year by a Technical Agent on an applicant or regulated entity for a validation performed by that Technical Agent under 3.2.4 to approve:

- i. the design of an aircraft, aircraft engine, propeller, or appliance;
- ii. a supplemental type certificate;
- iii. certain major changes to a type design, as defined in the technical implementation procedures; or
- iv. acoustical and emissions changes

shall not exceed the fee limitations as stipulated in paragraph 3.2.11(d) as confirmed by decisions of the Bilateral Oversight Board taken in accordance with paragraph 3.2.11(e), or until those fee limitations are given effect in accordance with paragraph 3.2.11(e), shall be 95% of the fees that the Technical Agent would have imposed on the applicant or regulated entity during that same calendar year in the issuance of an equivalent approval of a design, supplemental type certificate, major change or acoustical or emissions change using a certification process.

3.3. Continued Airworthiness

3.3.1. The Technical Agents are committed to take action to address unsafe conditions in products that they have certificated. The Technical Agents shall exchange information on failures, malfunctions and defects received from its approval holders to support the other Technical Agent's investigation of service difficulties or other potential safety issues. The exchange of this information between the Technical Agents shall be considered to fulfil the obligation of each approval holder to report failures,

malfunctions, and defects to the other Party's Technical Agent under that other Party's applicable law. Actions to address unsafe conditions and exchange of safety information shall be defined in the technical implementation procedures.

3.3.2. Unless otherwise notified by either Party's Technical Agent:

- i. The FAA shall carry out the continued airworthiness State of Design functions applicable to the United States under Annex 8 of the Chicago Convention for aircraft, aircraft engines, propellers and appliances for the life cycle of the product.
- ii. EASA shall carry out on behalf of the EU Member States the continued airworthiness State of Design functions applicable to them under Annex 8 of the Chicago Convention for aircraft, aircraft engines, propellers and appliances for the life cycle of the product.

3.3.3. The FAA shall exercise the State of Manufacture functions applicable to the United States under Annex 8 to the Chicago Convention for aircraft, aircraft engines, propellers and appliances for the life cycle of the product over which it has jurisdiction. The Aviation Authorities and, where applicable, EASA shall exercise the State of Manufacture functions applicable to the EU Member States under Annex 8 to the Chicago Convention for aircraft, aircraft engines, propellers and appliances for the life cycle of the product over which it has jurisdiction. Actions to address unsafe conditions shall be defined in the technical implementation procedures.

3.3.4. Any changes to the ownership or airworthiness status of a certificate issued by either Party's Technical Agent shall be timely communicated to the other Technical Agent.

3.4. Production

- 3.4.1. The Technical Agents and, where applicable, the Aviation Authorities, grant production approvals, based upon an acceptable production quality/inspection system, to a manufacturer under their own regulatory system when that manufacturer is involved in the export of aircraft, aircraft engines, propellers, appliances, or parts to the other Party. Such production approvals shall ensure that all aircraft, aircraft engines, propellers, appliances and parts conform to the approved design of the importing Party, have undergone an operational check if applicable, and are in a condition for safe operation at the time of export.
- 3.4.2. Because the Parties' regulatory systems for production are considered sufficiently comparable, the importing Technical Agent or Aviation Authority shall not issue its own production approval for those manufacturers regulated by the exporting Party.
- 3.4.3. Each Technical Agent and, where applicable, Aviation Authorities, shall recognize the other Technical Agent's or Aviation Authorities' production approvals including:
- i. production approvals granted or extended for the manufacture of aircraft, aircraft engines, propellers, appliances or parts within their territories; and for the manufacture of aircraft, aircraft engines, propellers or parts outside their territories, and
 - ii. production approvals granted for the manufacture of aircraft, aircraft engines, propellers, or parts, based upon a manufacturer's licensing agreement or appropriate arrangement with a design approval holder in the other Party's territory or a third country. When a licensing agreement for the production of an aircraft, aircraft engine, or propeller separates the State of Design and State of

Manufacture responsibilities between the two Parties, the FAA and EASA, or an Aviation Authority if appropriate, shall enter into a working arrangement.

3.4.4. Each Party's Technical Agent and, if applicable, Aviation Authorities, shall fulfil their respective regulatory obligations to oversee manufacturers, and suppliers approved under the manufacturer's quality system, located within the other's Party's territory by relying on the other Party's surveillance system when all the following conditions are met:

- i. The Technical Agent or Aviation Authority responsible for oversight of the production approval holder officially requests surveillance assistance;
- ii. The manufacturing facility additionally has been granted a production approval of similar scope, issued by either the Technical Agent or Aviation Authority of the territory in which the facility is located;
- iii. The other Party's Technical Agent or Aviation Authority is willing and able to undertake such activities as its resources permit, and
- iv. The Technical Agents or Aviation Authority shall document, as appropriate, the details of any agreed surveillance assistance.

3.4.5. For parts manufactured under the regulatory system of one Party at a facility located in the other Party's territory, the Technical Agents and Aviation Authorities shall accept Authorized Release Certificates or other documents, as agreed, in lieu of their own documentation under the following conditions:

- (a) The manufacturing facility has been granted a production approval of similar scope, issued by either a Technical Agent or an Aviation Authority, having regulatory authority over this manufacturing facility; and, where applicable;
 - (b) For delivery to an end user, the applicable approval holder has granted written permission to its supplier when allowed under the regulatory system of the approval holder.
- 3.4.6. For products manufactured under a licensing agreement, the Technical Agents shall establish procedures to ensure that all changes introduced into the design by the licensee are approved, through the design approval holder, by the Technical Agent carrying out the responsibilities of the State of Design for the product.
- 3.5. Export Airworthiness Certification
 - 3.5.1. Each Party's Technical Agent or, where applicable, the Aviation Authorities, shall reciprocally accept the other Party's certifications of airworthiness for all products when a product is exported from one Party's regulatory jurisdiction to the other Party's regulatory jurisdiction with the appropriate airworthiness certification. The Technical Agents and, where applicable, the Aviation Authorities or appropriately approved organizations, shall issue airworthiness documentation with each export, as specified in the technical implementation procedures.
 - 3.5.2. The Technical Agents or the Aviation Authorities (or their designated regulated entities when appropriate) shall accept a used civil aircraft for either standard or special/restricted airworthiness certification only if a type certificate or European restricted type certificate holder exists to support continued airworthiness of the aircraft and when the other Party's Technical Agent or Aviation Authority certifies that the

aircraft has been properly maintained during its service life (as evidenced by appropriate maintenance records). The inspection and maintenance records to accompany a used aircraft are detailed in the technical implementation procedures.

- 3.5.3 All airworthiness documentation shall contain appropriate certifying statements, as specified in the technical implementation procedures.
- 3.5.4. If, in the process of making an airworthiness certification, the exporting Technical Agent or Aviation Authority is unable to satisfy all applicable requirements specified in technical implementation procedures, the exporting Technical Agent or Aviation Authority shall;
- i. Immediately notify the importing Technical Agent or Aviation Authority of this fact;
 - ii. Coordinate, with the importing Technical Agent or Aviation Authority as specified in the technical implementation procedures, their acceptance or rejection of the exceptions to the requirements prior to completing the airworthiness certification; and
 - iii. Document any accepted exceptions when exporting the product.
- 3.5.5. The FAA shall continue to accept products that were included in the scope of a bilateral agreement related to airworthiness listed in Attachment 1 of the Agreement that conform to an FAA-approved design provided that they were manufactured and issued an appropriate airworthiness certification prior to the date of entry into force of this Agreement.”

- 3.5.6. The European Community shall not require the specific marking European Parts Approval (EPA) for parts imported from the United States except where EASA is acting as the State of Design.

4. ACCEPTANCE OF FINDINGS AND APPROVALS

4.1. Qualification Requirements for the Acceptance of Findings and Approvals

- 4.1.1. The Technical Agents and, where applicable, the Aviation Authorities, shall establish a certification and oversight system for the various activities included in the scope of this Annex. This system shall be documented and include the organizational structure, staff qualifications, and internal policies and procedures used to perform those activities.
- 4.1.2. Each Technical Agent and, where applicable, the Aviation Authorities, shall demonstrate sufficient knowledge of each other's system in terms of airworthiness and environmental requirements, associated policy and guidance material, procedures and organizational structure.
- 4.1.3. Each Technical Agent and, where applicable, the Aviation Authorities, shall ensure that staff are appropriately qualified and have sufficient knowledge, experience, and training to perform their responsibilities under this Agreement.
- 4.1.4. These systems shall be subject to internal quality audits, accreditation or standardization inspections. The technical implementation procedures shall define the Technical Agents' periodic participation in each other's internal quality audits, accreditation or standardization inspections, including the inspections of Aviation Authorities, in order to maintain mutual confidence in each other's systems. The Technical Agents and the Aviation Authorities shall submit to such inspections and ensure that regulated entities provide access to both Technical Agents.

- a) In particular, Technical Agents shall:
 - i) Have the right to participate in each other's quality audits and standardization inspections;
 - ii) Make available the reports from quality audits and standardization inspections applicable to this Annex, as specified in the technical implementation procedures; and
 - iii) Assist each other in the resolution of the inspection findings affecting the implementation of this Annex, where relevant.
- b) In particular, the Technical Agents and the Aviation Authorities shall:
 - i) Allow inspections as detailed above in this paragraph;
 - ii) Subject to applicable laws and regulations on personal data protection, make available the relevant airworthiness and environmental certification records and inspection reports including completed enforcement actions; and
 - iii) Provide language interpretation assistance at the Aviation Authority's office during the review of records and documentation that are recorded in its national language, where necessary.

4.2. Qualifications of the Technical Agents and Aviation Authorities

- 4.2.1. Each Technical Agent has demonstrated to the other Technical Agent the effectiveness of its respective system for the certification and oversight of activities covered under this Annex through initial confidence building activities. The Technical Agents have also demonstrated to each other the effectiveness of their internal quality audits, accreditation and standardization inspections, including inspections of the Aviation Authorities, as referred to in paragraph 4.1.4.
- 4.2.2. The Technical Agents and Aviation Authorities shall continue to ensure effective oversight as detailed in paragraph 4.1 of this Annex and in accordance with the relevant provisions of the technical implementation procedures.
- 4.2.3. The Technical Agents shall notify each other at the earliest opportunity in the event that a Technical Agent or an Aviation Authority is not able to meet a requirement of this Annex. If either Technical Agent believes that technical competency is no longer adequate, the Technical Agents shall consult each other and propose an action plan, including any necessary corrective activities, in order to address deficiencies.
- 4.2.4. In the event that a Technical Agent or an Aviation Authority does not correct deficiencies within the timeframe specified in the action plan, either Technical Agent may refer the matter to the Certification Oversight Board.
- 4.2.5. When a Party intends on suspending acceptance of findings or approvals made by a Technical Agent or an Aviation Authority, the Party shall promptly notify the other Party in accordance with Article 18.A of the Agreement.

5. COMMUNICATIONS

All communications between the Technical Agents and, where applicable, the Aviation Authorities, including documentation, shall be in the English language. The Technical Agents may agree to exceptions for certification compliance data on a case-by-case basis.

6. TECHNICAL CONSULTATIONS

The Technical Agents agree to resolve issues associated with implementation of this Annex through consultation. The Technical Agents shall make every effort to resolve issues at the lowest possible technical level using the process outlined in the technical implementation procedures before elevating the issue to the Bilateral Oversight Board.

7. TECHNICAL ASSISTANCE

- 7.1. Upon request and after mutual agreement, each Party's Technical Agent or, where applicable, an Aviation Authority, shall provide technical assistance to the other Party's Technical Agent or, where applicable, an Aviation Authority, in certification and continued airworthiness oversight activities related to design, production, airworthiness, and environmental certification within each other's territory. The process for conducting such assistance is described in the technical implementation procedures.
- 7.2. The Technical Agents or the Aviation Authorities may decline to provide such technical assistance due to lack of resource availability, because the product is not within the scope of this Agreement or there is no regulatory involvement with the facility.
- 7.3. When technical assistance is provided, the Technical Agent or, where applicable, the Aviation Authority, providing the assistance shall apply their respective Party's regulatory system and procedures, unless otherwise agreed by the Technical Agents or, where applicable, the Aviation Authority. Technical assistance including conformity

inspection, test witnessing, and compliance determinations may be conducted by approved/delegated organizations. In cases where a European Community approved organization does not have these privileges within its production authorisation, Aviation Authorities may provide such assistance directly or by extending to the organization such privileges. In cases where a European Community approved organization does not have such privileges within its design authorisation, EASA may provide the technical assistance directly or by extending to the organization such privileges.

- 7.4. Technical assistance may also be requested related to the import of used aircraft that were originally exported from the United States or the European Community. Each Party's Technical Agent or, where applicable, the Aviation Authorities, shall assist the other Party's Technical Agent or Aviation Authority, as applicable, in obtaining information regarding the configuration of the aircraft at the time it left the manufacturer.

8. NOTIFICATION OF INVESTIGATION OR ENFORCEMENT ACTION

Each Party's Technical Agents and, where applicable, the Aviation Authorities shall notify the other Party's Technical Agent and, where applicable, the Aviation Authorities, promptly of their own investigation or enforcement action that may involve 1) a product or regulated entity for airworthiness or environmental certification or 2) an action of a Technical Agent or Aviation Authority that appears not to comply with this Annex. The Technical Agents and, where applicable, the Aviation Authorities, shall cooperate in sharing information needed for any such investigation or enforcement action including its closure.