



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 17 September 2013  
(OR. en)**

**12300/13**

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**Interinstitutional File:  
2013/0132 (NLE)**

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**AVIATION 106  
USA 31  
RELEX 652**

**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the Bilateral Oversight Board under the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety, concerning Decision N° 0004 amending Annex 1 to the Agreement

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**COUNCIL DECISION**

**of**

**on the position to be taken on behalf of the European Union  
within the Bilateral Oversight Board under the Agreement  
between the United States of America and the European Community  
on cooperation in the regulation of civil aviation safety,  
concerning Decision N° 0004 amending Annex 1 to the Agreement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Decision 2011/719/EU of 7 March 2011 concerning the conclusion of the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety<sup>1</sup> entered into force on 1 May 2011.
- (2) Pursuant to Article 3.C.2 of the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety<sup>2</sup> ('the Agreement'), the Bilateral Oversight Board established by Article 3.A of the Agreement may amend the annexes to the Agreement in accordance with Article 19.B thereof.
- (3) It is appropriate to establish the position to be adopted on the Union's behalf within the Bilateral Oversight Board in accordance with Article 4(4) of Decision 2011/719/EU with regard to Decision N° 0004 of the Bilateral Oversight Board amending Annex 1 to the Agreement,

HAS ADOPTED THIS DECISION:

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<sup>1</sup> OJ L 291, 9.11.2011, p. 1.

<sup>2</sup> OJ L 291, 9.11.2011, p. 3.

*Article 1*

The position to be adopted on behalf of the European Union within the Bilateral Oversight Board, as referred to in Article 3.A of the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety, with regard to the adoption of a Decision amending Annex 1 to the Agreement, shall be based on the draft Decision N° 0004 of the Bilateral Oversight Board, attached to this Decision.

*Article 2*

This Decision shall enter into force on the day of its adoption.

Done at ,

*For the Council*

*The President*

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DRAFT

BILATERAL OVERSIGHT BOARD  
FOR THE AGREEMENT  
BETWEEN  
THE UNITED STATES OF AMERICA  
AND THE EUROPEAN COMMUNITY  
ON COOPERATION IN THE REGULATION OF CIVIL AVIATION SAFETY  
RECORD OF DECISION  
DECISION N° 0004

In accordance with Article 19.B of the Agreement between the United States of America and the European Community on Cooperation in the Regulation of Civil Aviation Safety (the "Agreement"), which provides for amendments to the annexes to the Agreement to be effected by decision of the Bilateral Oversight Board established pursuant to Article 3 of the Agreement, the Bilateral Oversight Board hereby decides as follows:

1. To amend Annex 1 to the Agreement by adding a new paragraph 3.2.11 with the following text:

"3.2.11(a) As of January 1, 2014, 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 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.

- (b) 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 shall reflect the efficiencies gained by using a validation process instead of a certification process. Such efficiencies and associated fee reductions shall be substantiated by relevant data. Therefore, the Bilateral Oversight Board shall periodically review, and appropriately adjust by decision, the percentage in (a) above."

2. The periodic review indicated in the new paragraph 3.2.11 (b) shall be undertaken at the request of either Party but no more frequently than every two years. As provided for in paragraph 2.2.1 of Annex 1 to the Agreement, the Bilateral Oversight Board shall be assisted by the Certification Oversight Board in conducting such reviews and developing any necessary decisions. The review and decision shall be based on data provided by the Technical Agents.

The amendment shall take effect on the date of the last signature below.

For the Bilateral Oversight Board:

FEDERAL AVIATION ADMINISTRATION

EUROPEAN COMMISSION

DEPARTMENT OF TRANSPORTATION

EUROPEAN UNION

UNITED STATES OF AMERICA

BY:

BY:

TITLE: Associate Administrator for  
Aviation Safety

TITLE: Director, Aviation and  
International Transport Affairs,  
Directorate-General for Mobility  
and Transport

DATE:

DATE:

PLACE: Washington, DC

PLACE: Brussels, Belgium