



Council of the  
European Union

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#### NOTE

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From:	General Secretariat of the Council
To:	Delegations
Subject:	Draft Annex to the Commission Decision approving on behalf of the European Union, an amendment to the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety

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In view of the Aviation Working Party meeting on 12 March 2018, delegations will find attached a draft Annex to the Commission Decision on the above-mentioned subject.

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EUROPEAN  
COMMISSION

Brussels, XXX  
[...] (2018) XXX draft

ANNEX 1

**ANNEX**

*to the*

**Commission Decision**

**approving on behalf of the European Union, an amendment to the Agreement between  
the United States of America and the European Community on cooperation in the  
regulation of civil aviation safety**

***BILATERAL OVERSIGHT BOARD  
FOR THE AGREEMENT  
BETWEEN  
THE UNITED STATES OF AMERICA  
AND THE EUROPEAN UNION  
ON COOPERATION IN THE REGULATION OF CIVIL AVIATION SAFETY  
  
RECORD OF DECISION  
DECISION N° 0008***

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 the amendments to the annexes to the Agreement to be effected by decision of the Bilateral Oversight Board (“BOB”) established pursuant to Article 3 of the Agreement, and recognizing the provision of Article 14 of the Agreement, the BOB hereby decides as follows:

1. To amend Annex 1 to the Agreement by replacing current paragraph 3.2.11 with the following text:
  - 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 as 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 fee<sup>1</sup>, 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.
    - (ii) For Supplemental Type Certificates classified as ‘Basic’ –
      - 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 fee<sup>2</sup> (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 a Supplemental Type Certificate 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 –

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<sup>1</sup> 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 by the European Aviation Safety Agency and repealing Regulation (EC) No 593/2007

<sup>2</sup> Idem

- (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 process<sup>3</sup>.
- (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.

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<sup>3</sup> 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 by the European Aviation Safety Agency and repealing Regulation (EC) No 593/2007

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

For the Bilateral Oversight Board:

FEDERAL AVIATION ADMINISTRATION  
DEPARTMENT OF TRANSPORTATION  
UNITED STATES OF AMERICA

EUROPEAN COMMISSION  
EUROPEAN UNION

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: Associate Administrator for  
Aviation Safety

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

DATE:

DATE:

PLACE: Washington, DC

PLACE: Brussels, Belgium