



Council of the
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AVIATION 158
RELEX 662
USA 17

DECLASSIFICATION¹

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Subject: Recommendation for a COUNCIL DECISION authorising the Commission to negotiate an amendment to the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety as regards additional areas of cooperation and acceptance

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

¹ Document declassified by the European Commission on 17 February 2023.



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COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 5 August 2014

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No Cion doc. COM(2014) 502 final

Subject: Recommendation for a COUNCIL DECISION authorising the Commission
to negotiate an amendment to the Agreement between the United States of
America and the European Community on cooperation in the regulation of
civil aviation safety as regards additional areas of cooperation and
acceptance

Delegations will find attached Commission document COM(2014) 502 final.

Encl.: COM(2014) 502 final

RESTREINT UE



EUROPEAN
COMMISSION

Brussels, 5.8.2014
COM(2014) 502 final

Recommendation for a

COUNCIL DECISION

authorising the Commission to negotiate an amendment to the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety as regards additional areas of cooperation and acceptance

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EXPLANATORY MEMORANDUM**1. CONTEXT OF THE PROPOSAL**

Following the Council decision concerning its conclusion², the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety³ entered into force on 1 May 2011. The Agreement was negotiated on the basis of the Council Decision of 9 March 2004 authorising the Commission to open negotiations.

The purpose of the Agreement is inter alia to ensure the continuation of the high level of cooperation and harmonisation between the United States and the European Union in the fields within the scope of the Agreement. This approach is also supported by the evidence gathered throughout the years. A number of commonly undertaken actions including comparison of the EU and US regulatory frameworks, initial confidence building (visits to observe and assess each other's systems) as well as continued confidence building (in the case of the existing Annexes) have shown that on the whole there is an equivalent level of safety afforded by both legal orders even if the standards remain different.

The current scope of the Agreement, as reflected in its Article 2.B, covers:

- Airworthiness approvals and monitoring of civil aeronautical products;
- Environmental testing and approvals of civil aeronautical products; and
- Approvals and monitoring of maintenance facilities.

Notwithstanding the above, the negotiations directives accompanying the Council Decision of 9 March 2004 also addressed the need for this Agreement to include procedures for its extension to other areas of cooperation, based on a joint determination of the signatory parties to the Agreement. The relevant procedures are to be found in the Agreement's Article 2.C and 19.B.

In the course of the implementation of the Agreement, notably through discussions in the Bilateral Oversight Board, the United States' Federal Aviation Administration (FAA) and the Commission have found that there is a mutual desire to enhance the possibilities for further aviation safety cooperation beyond the current provisions of the Agreement.

The Parties discussed the subsequent areas of cooperation that could be developed in the near future such as aeronautical products (sub-areas not yet covered), personnel licensing and training, air operations, aerodromes and air traffic management and navigation services (ATM/ANS). New Annexes in those areas would allow both sides to strongly reduce the practical requirements for obtaining certificates, approvals or licences by taking the full possible account of the work already undertaken by the authorities of the other side (FAA resp. EASA). By avoiding duplication of controls, significant financial and organisational costs can be saved to the benefit of European manufacturing industry but also to SMEs and

² Decision 2011/719/EU., OJ L 291, 2.11.2011, p. 1.

³ OJ L 291, 2.11.2011, p. 3.

individual citizens active on both sides of the Atlantic in any aviation related activity such as flying, maintenance or training. It is worth noting that in the subsequent areas of cooperation (air operations, aerodromes as well as air traffic management and navigation services) the confidence building measures constituting the basis for exploring further future cooperation are still ongoing.

Both sides noted that greater cooperation, should be developed as a priority in pilot licensing and training, and have tasked experts to examine options and develop technical proposals. Already during the negotiations of the European rules on pilot licensing, it became clear that thousands of pilot licence holders (above 10000) having a foreign licence would benefit from such an Annex by avoiding significant financial and organisational costs for pilot licence holders to convert their licences as foreseen by European rules. This point has been forcefully advocated by several pilot associations. This cooperation would in practice mean the reciprocal acceptance of findings of compliance and documentation and would provide for technical assistance regarding private pilot licences and compliance monitoring. Member States will be able to issue a pilot licence on the basis of the US licence following a simplified procedure whereby only a few special conditions will need to be verified. EASA will watch over maintaining the level of cooperation by participating in continued confidence exercises.

In order to reflect these developments it is necessary to amend the Agreement's Article 2.B.

Provisions for the amendment of the Agreement are addressed in Article 4.4 of the Council Decision of 7 March 2011 concerning the conclusion of the Agreement⁴. In order to comply with the provisions of this article, and with the relevant provisions of the Treaty on the Functioning of the European Union, formal negotiations with the United States must be undertaken.

Consequently, the Commission is making the recommendation to the Council to authorise the Commission to negotiate this amendment to the Agreement.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Discussions have taken place between the Commission and the FAA, the preliminary conclusion of which has been an acknowledged mutual desire to pursue extending the scope of the Agreement to other areas. The aviation sector in general consistently advocates closer cooperation, recognition and harmonisation between the two largest markets, i.e. the U.S. and EU, in order to reduce unnecessary transaction costs which add little or no safety value but diminish the industry's overall competitiveness particularly at a moment when new market entrants are appearing in other parts of the world. This consideration is further reinforced by the confidence building, EASA audits which have been carried out, and the continued airworthiness oversight activity of the FAA undertaken by EASA in the context of the existing Annexes, to verify that the FAA is indeed carrying out oversight of Part 145 Approved Maintaining Organisations in the U.S. on behalf of EASA correctly.

⁴ OJ L 291, 2.11.2011, p. 1.

In view of this, an initial comparison of the EU and US regulatory frameworks, covering the extension areas mentioned under point 1 has suggested that it would be advisable to simplify the regulatory requirements and procedures on both sides of the Atlantic further to also include the new areas. This could bring the two systems closer together and provide for significant savings as to the organisational structure, resources, training programmes, internal processes as well as oversight programmes.

Additional Annexes to the Agreement which are necessary in order for reciprocal acceptance to effectively apply in a given area, will be elaborated and adopted according to the specific procedures provided for in the agreement and in Decision 2011/719/EU. They will be subject to a separate and additional Commission proposal for a Council Decision.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

The proposed amendment of the Agreement would create the possibility to cooperate in additional areas under the competence of the Parties, subject to a specific decision to be taken for each new area which is added. Those additional areas could include civil aeronautical products (sub-areas not yet covered), personnel licensing and training, air operations, aerodromes, air traffic management and air navigation services, and other areas where considered appropriate. The proposed extension of the Agreement complies with the spirit and the letter of the basic EU aviation safety legislation and would contribute to the Union reaching the objectives as set out in Article 12 of Regulation 216/2008 with regard to cooperation with third countries.

Legal basis

Legal basis is Article 218(3) and (4) of the Treaty on the Functioning of the European Union.

As part of the background, Article 12 of Regulation 216/2008 also deserves to be mentioned. It sets out the objectives with regard to cooperation with third countries, in particular the recognition agreements between the European Union and third countries.

4. BUDGETARY IMPLICATION

No impact on the EU budget.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas,

- (1) The Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety⁵ entered into force on 1 May 2011,
- (2) The current scope of the Agreement, as reflected in its Article 2.B, covers airworthiness approvals and monitoring of civil aeronautical products, environmental testing and approvals of civil aeronautical products; and approvals and monitoring of maintenance facilities,
- (3) In the course of the implementation of the Agreement, notably through discussions in the Bilateral Oversight Board, the United States' Federal Aviation Administration (FAA) and the European Union represented by the Commission have found that there is a mutual desire to enhance the possibilities for further aviation safety cooperation beyond the current provisions of the Agreement,
- (4) Both parties noted that greater cooperation should be developed. Expert work has confirmed the feasibility and need for extending the Agreement to additional areas of cooperation and acceptance,
- (5) While the Bilateral Oversight Board is entitled to modify existing annexes and to adopt new annexes within the scope of the Agreement, it is not entitled to modify the scope of the Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the European Union, an amendment to the Agreement between the United States of America and the European

⁵ OJ L 291, 9.11.2011, p.3.

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Community on cooperation in the regulation of civil aviation safety as regards the extension of its scope to other areas of cooperation .

Article 2

The Commission shall conduct the negotiations in accordance with the negotiating directives set out in Annex 1 to this Decision.

Article 3

The negotiations shall be conducted in consultation with [name of the special committee]

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*

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