

**National Interest Analysis [2016] ATNIA 3  
with attachment on consultation**

**Amendment 1 to Revision 1 of the Implementation Procedures for Airworthiness  
Covering Design Approval, Production Activities, Export Airworthiness Approval,  
Post Design Approval Activities, and Technical Assistance Between Authorities,  
under the Agreement on the Promotion of Aviation Safety between the Government  
of Australia and the Government of the United States of America**

**and**

**Addendum to the Implementation Procedures for Airworthiness  
between the Government of Australia and the  
Government of the United States of America**

**[2016] ATNIF 1  
[2011] ATS 32**

## **NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY**

### **SUMMARY**

**Amendment 1 to Revision 1 of the Implementation Procedures for Airworthiness Covering Design Approval, Production Activities, Export Airworthiness Approval, Post Design Approval Activities, and Technical Assistance Between Authorities, under the Agreement on the Promotion of Aviation Safety between the Government of Australia and the Government of the United States of America**

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#### **Nature and timing of proposed treaty action**

1. The proposed treaty action will amend implementation procedures made under the Agreement on the Promotion of Aviation Safety between the Government of Australia and the Government of the United States of America ('the Agreement'), and add an addendum to those procedures.
2. The Agreement, signed in Canberra on 21 June 2005, provides for cooperation to sustain an equivalent level of aviation safety between the Parties. The Agreement facilitates acceptance by each Party of the other Party's approvals, evaluation and monitoring associated with civil aeronautical products, personnel and facilities.
3. The Agreement provides for the preparation of implementation procedures in relevant technical areas. Under the Agreement, implementation procedures have been developed in one technical area: airworthiness. These procedures, known as the Implementation Procedures for Airworthiness covering Design Approval, Production Activities, Export Airworthiness Approval, Post Design Approval Activities, and Technical Assistance ('the Implementation Procedures'), were done at the Gold Coast on 26 September 2005. A subsequent revision was done at Washington on 7 May 2010 ('Revision 1 of the Implementation Procedures').
4. The proposed treaty action is to bring into force the following instruments, once signed: (i) Amendment 1 to Revision 1 of the Implementation Procedures; and (ii) an Addendum that will form an integral part of the Implementation Procedures (together, 'the amendments'). The purpose of the amendments is to identify additional Civil Aviation Safety Authority (CASA) design approvals which will be accepted by the United States as the basis for Federal Aviation Administration (FAA) Design Approval in accordance with paragraphs 2.1.3 and 2.3.2 of

Revision 1 of the Implementation Procedures, and consistent with Article 4 of the Agreement.

5. Pursuant to paragraph 1.7.0 of the Implementation Procedures and article 7 of the Agreement, the amendments, once signed, will enter into force when Australia notifies the United States in writing that its requirements for entry into force of these instruments have been satisfied. The Australian Government will provide its diplomatic note to the United States Government as soon as practicable after the conclusion of the tabling process and receipt of recommendations from JSCOT.

### **Overview and national interest summary**

6. It is Government policy to pursue airworthiness certification arrangements with other countries. In line with this policy, CASA and the FAA have developed these amendments in order to increase the range of Australian design approvals and Australian manufactured aviation products accepted by the FAA.
7. The entry into force of these amendments will provide significant financial benefits to the design and manufacturing sectors of the Australian aviation industry. It will improve access to one of the biggest aviation markets in the world and allow for export of Australian designs and products without any additional commitments for Australia.
8. These amendments represent a great advantage to Australia. The improved balance of mutual recognition evidences a mature relationship between CASA and the FAA, which has been facilitated by the current Implementation Procedures and will be further strengthened by these amendments. CASA has been canvassing the amendments with the FAA since mid-2013. The technical teams in both agencies are in agreement that the amendments meet the spirit of equivalency in aviation safety.

### **Reasons for Australia to take the proposed treaty action**

#### Removing barriers to entry into the United States market

9. Under the current Implementation Procedures, CASA already accepts specified design approvals from the FAA. These amendments provide an opportunity to balance the acceptance of design approvals. Under these amendments, the FAA will accept more design approvals by CASA; there is no additional regulatory acceptance required by CASA.
10. Currently, the Implementation Procedures only allow for the export of designs and products for normal category aeroplanes (covered in Title 14, Part 23 of the Code of Federal Regulations (US) and in Part 23 of the Civil Aviation Safety Regulations (Cth)). These designs and products represent less than 43 per cent of

supplemental type certificates (STCs<sup>1</sup>) issued by CASA. Examples of normal category airplanes manufactured by Australia are Seabird Aviation Australia manufactured SB7L-360 Seeker and Gippsland Aeronautics manufactured GA8 Airvan. These aircraft are generally limited by weight to 5700 kg and by number of passengers to 9 or fewer.

11. The benefits will be significant for the operators and aircraft owners of Parts 25, 27 and 29 aircraft who intend to export their aircraft to the US. Currently, exporters need to engage the FAA-approved design organisations and individuals to validate CASA-approved STCs before these aircraft can be exported to the US. Part 25 aircraft, also known as transport category aircraft, are generally multi engine aircraft without limitations on passenger numbers and with a weight of more than 5700 kg. Typical examples are Boeing and Airbus manufactured aircraft. Part 27 aircraft or normal category helicopters are limited by weight to 2750 kg while Part 29 aircraft or transport category helicopters do not have weight limitations. A typical example of a normal category helicopter is Robinson R44 and an example of a transport category helicopter is Super Puma EC225.
12. The amendments are expected to eliminate significant costs associated with design validation. In some cases, such as high capacity transport aircraft operated by Qantas and Virgin, these costs are significant.
13. The proposed amendments also remove a limitation related to the State of Design (SoD). The current Implementation Procedures limit the FAA acceptance of CASA STCs for Part 23 aircraft where the US is the SoD. In practical terms this means that, at present, the FAA can only accept CASA STCs for American-made aircraft, such as Boeing, Bell and Cessna and not Airbus, Agusta and ATR. The amendments will mean that the FAA will be able to accept CASA STCs even for those aircraft where the US is not the SoD.
14. The proposed amendments provide for direct acceptance of Australian STCs, issued for major modifications, for normal and transport category helicopters (Parts 27 and 29) and transport category aircraft (Part 25) with some limitations. The direct acceptance is limited to areas where it was deemed that Australian industry and CASA were able to demonstrate a sufficient level of experience through existing / already approved STCs. However, the amendments also provide an avenue for the FAA validation of STCs that are outside the scope of the automatic acceptance scheme, a process under which the FAA may conduct an additional technical valuation before deciding whether to accept an application. This approach will allow for the majority of CASA approved designs to be accepted or validated by the FAA.
15. Furthermore, the FAA will, with every STC acceptance and successful validation, issue an FAA STC that will allow for the equivalent Australian / CASA-approved

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<sup>1</sup> A supplemental type certificate (STC) is a CASA approval for a change to a type-certificated aircraft, aircraft engine or propeller. See: <https://www.casa.gov.au/airworthiness/standard-page/supplemental-type-certificates>

modification to be installed on US registered aircraft. The amendments also allow for parts manufactured in Australia, in accordance with designs approved by those STCs accepted or validated by the FAA, to be exported to the US and installed on US registered aircraft. This will allow the Australian manufacturing industry to export its products to the US in numbers significantly higher than at present.

#### Potential market comparative analysis and industry statistics

16. There are currently 197 CASA STCs that are approved and 33 STC projects that are open. Of these, more than 57 per cent of the approved STCs and 69 per cent of currently processed STCs will benefit from these amendments.
17. There are currently between 40 and 45 Australian design businesses approved by CASA under Subparts 21.M and 21.J of the Civil Aviation Safety Regulations 1998 and Regulation 30 of the Civil Aviation Regulations 1988 that will be able to sell their designs / STCs in the US market.
18. There are currently between 80 and 85 CASA approved Production Approval holders that will be able to sell aeronautical products they manufacture in accordance with CASA approved STCs in the US market.
19. There are approximately 840 Air Operator's Certificate holders in Australia, and approximately 15,000 registered aircraft on the Australian register. The holders of these certificates and the owners of these aircraft could benefit from these amendments by not incurring additional design validation costs for their CASA STCs when exporting their aircraft to the US and other countries that accept FAA but not CASA STCs.
20. There are approximately 207,450 registered aircraft on the US register. The owners and operators of these aircraft are potential customers that could use CASA approved STCs after the amendments are approved. The number of aircraft indicates the size of the potential market that will be open to the Australian STC and production approval holders after the amendments are brought into force.

#### **Obligations**

21. There are no new obligations for Australia that would arise from this treaty action. Under the extant Revision 1 to the Implementation Procedures, CASA already recognises a large volume of FAA approvals. Amendment 1 to Revision 1 will address an imbalance whereby the FAA currently recognises fewer CASA approvals.

#### **Implementation**

22. No changes to Australian civil aviation regulations will be necessary as a result of this amendment. Australian legislation and the Civil Aviation Safety Regulations already allow for the acceptance of certain FAA approvals. The amendments do not include any changes to the previously agreed Australian commitments under

the Agreement and the Implementation Procedures and do not include any new commitments for Australia.

### **Costs**

23. This action does not include any foreseeable costs to Australian business or government.
24. The cost to the Australian aviation industry when doing business with the United States may be reduced as the result of acceptance of certain CASA approvals.
25. The changes to the Implementation Procedures for Airworthiness are covered by a standing agreement between CASA and the Office of Best Practice Regulation that does not require a Regulation Impact Statement for Aviation Bilateral Agreements (OBPR ID: 14326).

### **Future treaty action**

26. The amendments are expressed to be made in accordance with paragraph 1.7.0 of the Implementation Procedures. Paragraph 1.7.0 in turn provides that amendments to the Implementation Procedures will enter into force in accordance with article 7 of the Agreement. Under article 7, such amendments will enter into force on the date on which Australia notifies the United States, in writing, that Australia's domestic requirements necessary for entry into force of the amendments have been completed.
27. The Agreement itself may, in accordance with article 7, be amended at any time by the written agreement of the Parties. Such amendment shall enter into force on the date of the latter note of an exchange of diplomatic notes between the Parties confirming that each Party has completed its domestic requirements necessary for the entry into force of the amendment.
28. The Agreement also establishes a mechanism for establishing new implementation procedures. Article 4 of the Agreement provides for the execution of additional written implementation procedures describing the methods, and any agreed statements, by which reciprocal acceptance shall be made with respect to relevant technical areas. In addition to airworthiness approvals of civil aeronautical products, areas which may be addressed in future implementation procedures are:
  - (i) environmental approval and environmental testing;
  - (ii) approval and monitoring of maintenance facilities and alteration or modification facilities;
  - (iii) approval and monitoring of maintenance personnel;
  - (iv) approval and monitoring of crews;
  - (v) evaluation of flight simulator qualifications;
  - (vi) approval and monitoring of aviation training establishments; and

(vii) any other matters within the scope of the Agreement, or otherwise agreed between the Parties through an exchange of correspondence through the diplomatic channel.

29. Future treaty action such as amendments to the Implementation Procedures, or new implementation procedures, will be subject to Australia's domestic treaty process.

### **Withdrawal or denunciation**

30. Article 8 of the Agreement outlines the mechanism for termination of the Agreement and any implementation procedures made under it. The Agreement may be terminated by either Party twelve months from the date of written notice to the other party through the diplomatic channel of its intention to terminate. Any implementation procedures may be terminated in accordance with the termination provisions stipulated within those implementation procedures.

31. No change is proposed to Paragraph 1.8 of Revision 1 of the Implementation Procedures for Airworthiness in this treaty action, and it will remain that:  
'Either Party may terminate the Implementation Procedures six months from the date of written notice to the other Party of its intention to terminate. Termination shall not affect the validity of activity conducted under the Implementation Procedures prior to termination.'

32. A decision to terminate the Agreement or the Implementation Procedures would be a major treaty action and would be subject to Australia's domestic treaty process.

### **Contact Details**

International Relations Section  
Stakeholder Engagement Group  
Civil Aviation Safety Authority

## **ATTACHMENT ON CONSULTATION**

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#### **Consultation**

1. In 2002, the Australian Government Department of Transport and Regional Services consulted extensively with aircraft and aviation component manufacturers, aviation maintenance and service industries, relevant associations, airlines, Commonwealth and State/Territory Departments and Agencies and a number of interested individuals as part of the consultative process for the original Agreement and Implementation Procedures. All respondents expressed firm support for the Agreement, stressing the expectation of not only cost savings but also anticipated strong growth of industry in Australia.
2. Since this time, and with experience working under the Agreement and Implementation Procedures, CASA has had regular discussions with the Australian aviation industry regarding the success of the Agreement and canvassing areas for expansion of the Implementation Procedures. These discussions have taken place at industry forums and through one-on-one consultations between technical standards setting experts and business representatives.
3. CASA has had discussions with industry about these amendments to the Implementation Procedures and the response has been overwhelmingly positive. All sectors of industry, from small (sole operator) design organisations and second tier parts suppliers, to large regular passenger transport carriers, see this as an opportunity not only to sell their existing designs and products but also to grow their business.