

Bilateral Aviation Safety Agreement and Implementation Procedures for Airworthiness with the United States of America

Introduction

- 3.1 The treaty action before the Committee consists of two separate treaties. The first is the *Agreement on the Promotion of Aviation Safety between the Government of Australia and the Government of the United States of America* (the Agreement) which provides for bilateral cooperation in a number of areas, including aircraft certification, maintenance, flight operation and environmental certification. The Committee was informed that the Agreement is the 'umbrella agreement' and provides

The broad framework...for developing the implementation procedures which will give effect to the treaty.¹

- 3.2 The Agreement also provides for a number of technical Implementation Procedures (IPs) to be developed. The second treaty is the *Implementation Procedures for Airworthiness covering design approval, production activities, export airworthiness approval, post design approval activities, and technical assistance under the Agreement on the Promotion of Aviation Safety between the Government of Australia and the*

1 Mr John Doherty, *Transcript of Evidence*, 27 February 2006, p. 5.

Government of the United States of America (the IPA). They are the first such technical IPs to be developed under the Agreement. The IPA sets out

The detailed technical processes which CASA and the FAA will undertake in certifying, approving and overseeing a range of airworthiness activities, including design and production of aeronautical products.²

3.3 Both treaties are discussed in this chapter.

The Agreement

3.4 The Agreement is expected to reduce impediments to the Australian aviation industry gaining access to the United States of America (US) market, reduce costs imposed on the aviation industry by technical inspections, evaluations and testing, and promote aviation safety.³

3.5 Article 1 of the Agreement provides that Parties are to sustain an equivalent level of aviation safety and to facilitate the acceptance of approvals for civil aeronautical products, personnel and facilities.

3.6 Article 2 designates the Civil Aviation Safety Authority (CASA) as Australia's implementing authority and the Federal Aviation Administration (FAA) as the implementing authority for the US.

3.7 Article 4 lists a number of technical areas which the Parties may pursue cooperation on. These are:

- airworthiness approvals of civil aeronautical products
- environmental approval and environmental testing
- approval and monitoring of maintenance facilities and alteration or modification facilities
- approval and monitoring of maintenance personnel
- approval and monitoring of crews
- evaluation of flight simulator qualification
- approval and monitoring of aviation training establishments and

2 Mr John Doherty, *Transcript of Evidence*, 27 February 2006, p. 5.

3 The Agreement National Interest Analysis (NIA), paras 7 and 18.

- any other matters within the scope of this Agreement, or otherwise agreed between the Parties through an exchange of correspondence through their diplomatic channels.
- 3.8 Under Article 5, consultation with regard to implementation, interpretation or application of the Agreement or any IPs may be requested at any time, can be conducted through discussion or correspondence, and shall start within 60 days of receipt of the request unless otherwise agreed. Consultation will be undertaken by the implementing authorities.

The Implementing Procedure for Airworthiness (IPA)

- 3.9 The IPA provides for cooperation between the US and Australia in areas such as design approval activities, export airworthiness approval activities and technical assistance between authorities. They are the first technical IPs to be developed under the Agreement.
- 3.10 Paragraph 1.2 of the IPA provides many of its key principles. These include:
- certifications issued by CASA and FAA, as the designated implementing authorities, are recognised as equally valid.
 - findings made by CASA and FAA in accordance with the laws and regulations of their respective Party and in accordance with the IPA are recognised as equally valid.
 - findings made by CASA and FAA in accordance with the IPA through aircraft certification systems are as valid as those made directly by the implementing authority.
- 3.11 Under Paragraph 1.3.0, CASA and FAA agree to keep each other informed in a timely manner of significant changes within similar aircraft systems. Upon notice of change, the other implementing authority may request a meeting to review the need for amendment to, and the continued validity of, the IPA.
- 3.12 Section II of the IPA covers the scope of the IPs for products, parts and appliances and other provisions. This includes:

- Australia and the US will accept Export Certificates of Airworthiness for the import of certain products, parts and appliances made in the country of the exporting authority⁴
 - Australia and the US will accept Authorized Release Certificates for the import of certain products, parts and appliances made in the country of the exporting authority⁵
 - Australia and the US are required to accept standard parts for all products, parts and appliances when they conform to established specifications⁶
 - Australia and the US are obliged to accept without further investigation specific Australian and US Design Approvals.⁷
- 3.13 Section III of the IPA provides the agreed working procedures for design approval, production and surveillance activities, export airworthiness approval and post design approval.⁸
- 3.14 Section IV of the IPA provides for technical assistance between Australia and the US.
- 3.15 Section V of the IPA provides for special arrangements which might relate to the IPs but are not specifically addressed by them. The special arrangements will be developed by the Parties' implementing authorities in a separate working procedure and are to be listed in Appendix D of the IPA.⁹

Regulation Impact Statement

- 3.16 A Regulation Impact Statement (RIS) was prepared for this treaty action. It notes that the two-stage process for Australian designed and produced products to be certified for import by other countries is costly and time consuming.¹⁰ A bilateral aviation safety agreement, such as the one considered by the Committee in this chapter, would provide more efficient and effective safety regulations in addition to

4 IPA NIA, para. 17; Paras 2.1.0 and 2.1.2.

5 Paragraphs 2.1.1 and 2.1.3.

6 Paragraph 2.1.4.

7 Paragraph 2.3.1 for Australia's obligation and Paragraph 2.3.3 for USA's obligation.

8 Outlined in Paragraphs 3.0, 3.1, 3.2 and 3.3.

9 IPA NIA, para. 26.

10 RIS, p. 3.

removing, where applicable, technical regulatory barriers to trade in aviation products and services.¹¹

Costs and implementation

- 3.17 Administrative costs incurred by CASA as the aviation safety regulator and implementing authority are expected to be negligible.¹² The IPA does not impose any additional costs on manufacturers, exporters or State and Territory Governments.¹³
- 3.18 No amendment to current legislation is required to implement Australia's obligations under the Agreement. Implementation will occur through the *Air Navigation Act 1920* (Cth) and the *Civil Aviation Act 1988* (Cth).¹⁴

Future treaty action

- 3.19 Given the nature of the Agreement as an 'umbrella' agreement, future IPs in one of the technical areas listed in Article 4 are expected.

Conclusion and recommendation

- 3.20 The Committee supports efforts to increase aviation safety and improve the trade efficiency of aviation products and services.

11 RIS, p. 5.

12 The Agreement NIA, para. 18.

13 IPA NIA, para. 29.

14 The Agreement NIA, para. 16, the IPA NIA, para. 28.

Recommendation 1

The Committee supports the *Agreement on the Promotion of Aviation Safety between the Government of Australia and the Government of the United States of America* (Canberra, 21 June 2005) and *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 done at Canberra on 21 June 2005* (Gold Coast, 26 September 2005) and recommends that binding treaty action be taken.