

REGULATION IMPACT STATEMENT

Amendments to the Implementation Procedures for Airworthiness Covering Design Approval, Production Activities, Export Airworthiness Approval, Post Design Approval Activities, and Technical Assistance between Authorities, done at Gold Coast on 26 September 2005 [2006] ATS 17 [2010] ATNIF 30

Introduction

1. This is a Regulation Impact Statement (RIS) for amendments to the Implementation Procedures for Airworthiness (IPA) established under the Agreement on the Promotion of Aviation Safety between the Government of Australia and the Government of the United States of America, better known as the Bilateral Aviation Safety Agreement (BASA).
2. The BASA is a technical cooperation agreement on safety oversight which facilitates recognition of aviation safety certification between the United States and Australia. It is made up of two parts: an umbrella Agreement known as the Executive Agreement (EA) and a series of Implementation Procedures (IPs) on specific topics. Both the EA and all the IPs are treaty level documents.
3. The EA was negotiated on behalf of the United States by the Federal Aviation Administration (FAA), in consultation with the Department of State and on behalf of the Government of Australia by the then Department of Transport and Regional Services (DOTARS), in consultation with the Department of Foreign Affairs and Trade (DFAT), Office of International Law (OIL) and the Civil Aviation Safety Authority (CASA). The IPA was negotiated on behalf of the United States by the FAA and on behalf of the Government of Australia by CASA, in consultation with DOTARS, DFAT and OIL.
4. The EA was signed in Canberra on 21 June 2005 by the Hon John Anderson MP, the former Deputy Prime Minister and Minister for Transport and Regional Services and Mr William A. Stanton, the United States Chargé d'Affaires ad interim. The Implementation Procedures for Airworthiness (IPA) was signed on 26 September 2005 by the Hon Warren Truss, the then Minister for Transport and Regional Services and Ms Nancy Graham, the FAA Regional Director for Asia and Pacific Region.
5. The EA provides the framework for developing the IPs which gives practical effect to the BASA. These procedures establish binding working arrangements which allow for the mutual acceptance of certifications and approvals issued by CASA and the FAA. The EA is the culmination of negotiations between the United States and Australia which took place over a number of years.
6. The BASA establishes a mechanism through which the United States will acknowledge certification and approval issued by CASA, thereby reducing the need for duplication of processes in both States. This IPA is the first set of procedures negotiated under the BASA.

The Problem

7. Australian Parts Manufacturers Approval (APMA) is a safety certification process administered by CASA which permits Australian manufacturers of aeronautical parts and appliances to manufacture and trade within Australia aircraft;

- engines,
- propellers,
- materials,
- parts,
- processes and
- appliances.

8. Australian manufacturers seeking an APMA submit an extensive array of data and compliance statements to CASA, upon which certification is either granted or denied.

9. However, CASA certified parts manufactured in Australia which are currently exported to the United States have to also obtain separate recognition from the FAA before being eligible for export to the United States.

10. This dual process is standard around the world, unless some form of mutual recognition agreement exists which effectively recognises the Australian certification standards as being equivalent to those of the receiving country. Through regulation, CASA already accepts FAA equivalent certification. The current lack of US acceptance of CASA certification has made it difficult for Australian parts manufacturers to expand in this market, which may cause lost export opportunities and jobs for Australians.

11. Due to time and resource constraints a comprehensive audit by the FAA of what they considered to be a sufficient number of Australian manufacturers was not able to be conducted in a timely manner during the original BASA negotiations. Furthermore there were some APMA processes that the United States was not comfortable with and thought warranted further investigation and improvement. As negotiations around the BASA had been in train for some time by this stage, it was agreed by both parties to proceed with the agreement omitting APMA rather than delay it any further.

12. Since the BASA was signed in 2005, CASA has established a formal oversight and audit program for all manufacturing approval holders (including APMA holders) and made significant structural and process changes to the manufacturing oversight section within the organisation. The FAA has since assessed these changes, as well as the entirety of Australian processes, legislation, policies and procedures relating to APMA and found them to be satisfactory. This included on-site audits by FAA technical personnel at several Australian manufacturers in August 2007.

13. The primary purpose of the amendments to the IPA is to enable CASA-granted APMA processes for certain aircraft parts to be accepted and recognised by the FAA. Under this proposal, Australian-made new and replacement parts for all products that are eligible for installation in an aircraft which has been granted a FAA design approval and conform to FAA-approved design data will be accepted by the FAA. This will be regardless of the state of design of the aircraft or product in which the replacement part is being installed. The CASA-granted APMA will be sufficient and the manufacturer will not have to obtain an equivalent, additional approval in the United States.

14. As both Australia's largest market for aircraft parts and largest point of origin for imported parts (see Table 1), the restrictions on Australian parts recognition within the United States is

believed to pose significant obstacles for the viability of Australian aviation design, manufacturing and maintenance businesses which have the potential to service the global market.

Table 1 – Value of 2008/2009 Aircraft Manufacturing Exports/Imports

Exports Top Ten Countries of Destination	2008/2009 Value \$M	Imports Top Ten Countries of Origin	2008/2009 Value \$M
United States of America	579	United States of America	1055
France	134	France	1352
New Zealand	114	United Kingdom	341
United Kingdom	66	Canada	140
Singapore	54	Brazil	122
Canada	34	Germany	44
Germany	29	Italy	33
Papua New Guinea	26	Singapore	33
Hong Kong	23	Netherlands	23
China	15	Japan	20

Source: ABS Special DATA Service 2009- ANZSIC Code 2824- Aircraft Manufacturing

15. As part of the review of the IPA for the inclusion of the technical requirements for recognition of the APMA process, it was discovered that there were some errors, out of date information and inconsistent use of terms in the existing text. The amendment provides an opportunity to address these issues.

16. There are also additional opportunities for enhanced recognition of CASA certification which have been identified. These include FAA validation of CASA Supplemental Type Certificates (STC) for a number of products and parts (including products for which the State of Design is not the United States or Australia) and FAA acceptance of CASA approved repair data. The technical work for this has commenced but it might be some time before further amendment to the IPA is agreed.

Objective

17. The overall objective of the BASA and its associated IPs is to provide more efficient and effective safety regulation, oversight and associated processes. The IPA amendments outline the detailed technical processes which CASA and the FAA will undertake in recognising each other's processes when certifying, approving and overseeing the airworthiness of aeronautical parts. Consequently, these proposed amendments to the IPA will result in the reduction of costs to Australian parts manufacturers who wish to export to the United States.

Options

18. Australia currently has a range of aviation safety related agreements and arrangements with a number of nations.

19. Through treaty-level agreements such as the BASA, the regulatory parties agree that each others' safety framework and oversight processes are of equivalent standard, or exceed their own. In practice, this means that such agreements bind the two parties to a much greater extent than arrangements and usually cover a range of aviation activities.

20. An IP negotiated under the BASA is the US-preferred method of concluding a technical cooperation agreement. It establishes a mechanism for the development of binding agreements in a range of aviation safety certification and licensing areas on an ongoing basis which are also easily

amendable, but does not necessitate the need for the United States to make changes to its domestic regulations.

21. The Australian Government is seeking to improve export opportunities for aviation manufacturers without compromising safety by negotiating bilateral arrangements relating to aircraft certification standards. The proposed amendments to the IPA seek to expand the scope of Australian certification through the inclusion of APMA. The proposed amendments to the IPA will mean that only one approval process is required for Australian manufacturers in order to gain access to the US market. If an Australian manufacturer wishes to sell their products or parts in the United States at present, they need to obtain APMA approval in Australia, as well as the equivalent approval in the United States. Such an approval would require a comprehensive initial audit by the FAA and then ongoing onsite yearly audits (at the manufacturer's cost) in order to ensure the manufacturer's ongoing compliance with FAA rules. Under current arrangements a CASA-granted APMA is not sufficient. At present there are no known Australian manufacturers with both CASA and FAA approvals as the cost is far too prohibitive.

Impacts

22. Consistent with the DFAT policy, the Government seeks to pursue new trade opportunities and greater access to overseas markets for Australian businesses.

23. In line with this emphasis on trade, the proposed inclusion of APMA in the BASA will remove impediments to Australian aeronautical parts manufacturers gaining access to the US market by introducing FAA acceptance of CASA certification while maintaining safety.

24. Greater access to the US market by Australian parts manufacturers will foster economies of scale, generate cost efficiency and develop business capability. Greater productivity by Australian manufacturers will in turn develop an enhanced level of competition in the global marketplace; stimulate exports, creating less reliance on imports and produce Australian jobs. The regulatory proposal will not restrict competition or impose additional costs on businesses.

25. Under current arrangements, Australian manufacturers have to apply for separate recognition of their Australian certificated products when importing into the United States, adding time and cost while diminishing the competitiveness of products. The proposed amendments to the IPA are necessary to remove or minimise the duplication of the certification process so that Australian certification of aerospace products may be accepted in the United States, as this is the only mechanism for securing the required FAA recognition.

26. The purpose of the proposed amendments to the IPA is to define the civil aeronautical products, parts and appliances eligible for import into the United States and Australia, in addition to those already accepted under the existing IPA. This will allow recognition by the FAA of APMA for Australian designed and manufactured aircraft and civil aeronautical parts, including both aircraft engines and propellers. There are also a number of minor amendments to the IPA that update information and terminology and correct some inconsistencies that were not detected in the first iteration of the document. These are administrative amendments only.

Consultation

27. The Government places a high priority on consultation with business and the community, to ensure that trade policy objectives developed by the Government sufficiently reflect the views, concerns and ambitions of the relevant industry sector and the Australian public.

28. The aerospace manufacturing sector comprises several hundred small to medium enterprises spread over a wide range of specialist and technical businesses that are either independent or form part of the critical supply chain to the prime companies and assembly operations.

29. The latest statistical data shows that the industry is mostly concentrated in NSW (38.56%), Victoria (24.40%) and Queensland (23.87%). The rest states and territories comprise for the remaining 13.17%. (ABS Data ANZSIC Code 28224- Aircraft Manufacturing 2008/09).

30. Consultation processes associated with the original IPA in 2005, which at the time included recognition of APMA, found that no respondents opposed the proposed agreement. Indications are that relevant small businesses anticipated savings in certification costs allied with opportunities for increased markets. It is concluded that only positive impacts on business could be anticipated in the future.

31. In September 2009 the Department of Infrastructure, Transport, Regional Development and Local Government and CASA invited public, industry and state and territory governments to comment on the proposed amendments. While there were only a small number of respondents (six), all responses were supportive of the proposal.

32. Although data is not available to prepare a full economic analysis of impacts of the amendments, the resultant streamlining of processes for gaining US certification will undoubtedly reduce costs for those Australian manufacturers seeking to export aviation parts into the United States. It will also increase the competitiveness of those parts in respect of current US manufacturers which are not required to undertake duplicated processes.

Conclusion and Recommended Option

33. Despite Australia's emerging capacity to develop and produce world class aerospace technologies and products, the aerospace industry is facing significant challenges in its position in the global market. The proposed amendments to the IPA have the potential to greatly benefit Australia by reducing the regulatory hurdles in relation to the safety certification associated with the manufacture and export of Australian aeronautical products and parts to the United States.

34. The proposed inclusion of APMA in the IPA will provide a means of enhancing the competitiveness of exported Australian aeronautical parts.

35. As amendment to the IPA is the only mechanism currently available for securing US recognition of CASA's certification, it is recommended that the proposed amendment be made.

36. This amendment process also provides the opportunity to update and correct the text of the IPA.

Implementation and Review

37. No change to Australian legislation or process is required to implement the amendments. As noted previously, CASA already recognises US equivalent certification through existing regulations.

38. Under the terms of the EA, the IPA is able to be modified and extended after consultation between the agencies. It is expected that further amendment will be agreed in respect of specific processes, such as recognition of CASA approved repair data, when both implementing agencies are satisfied that equivalency exists. At that time a supporting RIS will be prepared.

Aviation Environment Branch
Aviation and Airports Business Division
Department of Infrastructure, Transport, Regional Development and Local Government

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