

Notification of a Proposal to issue a Certification Memorandum

EASA Design Organisation Approval Holders validation procedures for Design Changes under applicable Bilateral Aviation Safety Agreement (BASA)

EASA CM No.: Proposed CM-21.A-J-002 Issue 01 issued 01 October 2024

Regulatory requirement(s): BASAs between the EU and third countries in force

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Log of issues

Issue	Issue date	Change description
01	01.10.2024	First issue.

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1. Introduction

1.1. Purpose and scope

The purpose of this Certification Memorandum (CM) is to provide guidance to Design Organisation Approval Holders (DOAHs) having validated or intending to validate their (Supplemental) Type Design Changes under an applicable Bilateral Aviation Safety Agreement (BASAs)¹. This CM addresses changes to TCs and changes to STCs, and is without prejudice to legal obligations of DOAHs associated with the validation of design approvals under BASAs.

EASA also recommends to ADOA holders, to organisations conducting activities on the basis of Certification Programme provisions and to Part 21 Light Declared Design Organisations to follow the guidance laid down in this CM where applicable.

The focus of this CM underlines the need for robust foreign validation procedures by the DOAH to ensure that changes are classified in accordance with BASAs and that compliance with the Validating Authority's (VA) certification basis is properly demonstrated especially as changes to TCs and STCs, depending on their classification as per the applicable BASAs and TIPs, may be automatically accepted without any direct involvement from the VA.

1.2. References

It is intended that the following reference materials be used in conjunction with this Certification Memorandum:

Reference	Title	Code	Issue	Date
Commission Regulation (EU) No 748/2012 (including its subsequent amendments)	Implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations	N/A	N/A	3 August 2012
Regulation (EU) 2018/1139 of the European Parliament and of the Council	Common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91	N/A	N/A	4 July 2018

¹ <https://www.easa.europa.eu/en/document-library/bilateral-agreements>

Reference	Title	Code	Issue	Date
Council decision of 7 March 2011 (2011/719/EU)	Council decision of 7 March 2011 concerning the conclusion of the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety	N/A	N/A	9 November 2011
Council decision of 30 March 2009 (2009/469/EC)	Council decision of 30 March 2009 on the signature of an Agreement on civil aviation safety between the European Community and Canada	N/A	N/A	17 June 2009
Council decision of 26 September 2011 (2011/694/EU)	Council decision of 26 September 2011 on the conclusion of an Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety	N/A	N/A	19 October 2011
Official Journal of the European Union L240 Volume 63	Council decision (EU) 2020/1075 of 26 June 2020 on the conclusion of the Agreement on civil aviation safety between the European Union and the Government of the People's Republic of China Annex 1	N/A	N/A	24 July 2020
Official Journal of the European Union L229	Agreement on civil aviation safety between the European Union and Japan	N/A	N/A	16 July 2020
Official Journal of the European Union L149 Volume 64	Council decision (EU) 2021/689 of 29 April 2021 on the conclusion, on behalf of the Union, of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information Annex 30	N/A	N/A	30 April 2021

1.3. Abbreviations

AMC	Acceptable Means of Compliance
ANAC	Agência Nacional de Aviação Civil (Brazil)



BASA	Bilateral Aviation Safety Agreement
CERT	Certification
CA	Certifying Authority (Exporting Party)
CM	Certification Memorandum
DAH	Design Approval Holder
DMS	Design Management System
DOA	Design Organisation Approval
DOAH	Design Organisation Approval Holder
EASA	European Union Aviation Safety Agency
EU	European Union
FAA	Federal Aviation Administration (USA)
FAQ	Frequently Asked Questions
GM	Guidance Material
IMF	Independent Monitoring Function
SMS	Safety Management System
TC	Type Certificate
TCCA	Transport Canada Civil Aviation (Canada)
TIP	Technical Implementation Procedure
UK	United Kingdom
USA	United States of America
VA	Validating Authority (Importing Party)

1.4. Definitions

BASA	A BASA is signed between the EU and a non-EU country. It is an international agreement enabling reciprocal acceptance of certificates and findings of compliance issued by the respective Competent Authorities. (see also Bilateral agreements EASA (europa.eu)).
Type Design Change	In the context of this CM, a change to the TC or STC processed and classified in accordance with EASA Part 21 Subpart D and E.



Declaration of compliance	'Declaration of compliance' should be understood in the context of the BASA, i.e. as a declaration of compliance with the VA Certification Basis. It should not be misinterpreted as the declaration of the compliance with the applicable Certification Basis of the CA that the applicant provided to get approval of the change under the certification system of the Exporting Party.
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2. Background

2.1. Problem statement

A Bilateral Aviation Safety Agreement (BASA) is an international agreement enabling reciprocal acceptance of certificates and findings of compliance issued by the respective Competent Authorities.

It allows derogation from domestic laws and creates rights and obligations for the signatories (including regulators, states and organisations under the jurisdiction of these states).

The BASA is based on the premise that each Party's civil aviation standards, rules, practices and procedures are sufficiently compatible to permit acceptance of approvals and findings of compliance. On the EU side the airworthiness certification system includes the DOAH process which is accepted by the other Authorities under the BASA. When applying the Technical Implementation Procedures (TIP) of the BASA for validation of Type Design Changes, the EASA teams rely on the DOAH process to classify the Type Design Change, demonstrate compliance, and declare compliance with affected VA basis/requirements.

If DOAH do not follow appropriate procedures for validation of Type Design Changes under a BASA, EASA might not be in a position to accept any data originating from the DOAH for showing compliance with the Validation Certification Basis. For instance, issuance of the Declaration of Compliance at the end of a validation project, is an essential element of the whole validation process, and EASA teams need to have the certainty that there are adequate DOAH processes in place to support this issuance.

Therefore this CM aims to:

- 1) remind about the duties of an EASA DOAH to benefit from the relevant BASA provisions in relation to the validation of Type Design Changes,
- 2) provide guidance on generic principles for validating an EASA Type Design Change approval under related BASA,
- 3) raise attention that foreign validation procedures of the DOAH are eligible to compliance monitoring and EASA surveillance.

2.2. Regulatory context

A BASA is considered a legal framework between the EU and non-EU country, and therefore constitutes legally binding material for all involved parties, including those intending to benefit from that legal framework (refer to Article 68 of Basic Regulation 2018/1139).



3. EASA Certification Policy

3.1. General

In the context of the validation activities with bilateral partners, EASA expects that the DOAH will rely on its procedural certification framework. This will help minimizing EASA's compliance checking activities and associated timelines.

More precisely, as compliance with validating authority (VA) requirements needs to be considered for certain validation activities, the design assurance element of the Design Management System should include, where appropriate, a description of the process to conduct, control and supervise these activities. This should typically be described in the handbook or in a DOA procedure.

It may be noted that, in the various TIPs of interest, some of the obligations are formulated as being applicable to the Certifying Authority/to the Exporting party (EASA in this context). However, it should also be recognised that the corresponding activities shall be performed by the DAH and are typically a prerequisite for EASA to provide the requested statements to the Validating Authorities. Therefore and indirectly, it should be considered that these obligations are also cascaded down and applicable to DAH holders. It should be noted that this CM does not introduce any new or additional requirement, it only builds on obligations stemming from the BASA which are already applicable.

Regarding the procedure principles, the validation process as per relevant BASA and its associated Technical Implementation Procedures (TIP) as well as any supporting materials (e.g. FAQs) should be followed. This material can be found here:

- [EU - USA Bilateral Agreement](#)
- [EU - Canada Bilateral Agreement](#)
- [EU - Brazil Bilateral Agreement](#)
- [EU - China Bilateral Agreement](#)
- [EU - Japan Bilateral Agreement](#)
- [EU-UK Trade and Cooperation Agreement](#)

In its compliance monitoring activities, the DOAH IMF should consider also the assessment of the third country validation procedures, their alignment with the provisions of the applicable BASAs and that these procedures are complied with.

The EASA DOATL can review related procedure principles in the course of surveillance activities. The DOATL may raise, where relevant, observations or actions or provide information that could be relayed to the EASA certification teams and/or the bilateral partners.

3.2. Applicability

This CM is addressed to EASA DOA Holders, which hold a Type Certificate or Supplement Type Certificate that has been validated by a BASA-Partner Authority.

3.3. Validation procedure

The validation procedure should address the following main elements:



Step 1: Identification of applicable BASAs and TIPs

TC Holders are free to decide, depending on their own business interests, in which Country and by which Authority their Product Type Certificate should be validated.

As a result, not all European TCs are validated by each Authority with whom EASA has signed a Bilateral Agreement.

For the same reasons, each BASA and TIP obligations only apply to a DAH if the baseline TC, in relation to which the Design Change Approval is being sought, is already validated in the corresponding Country with which a BASA and TIP have been signed.

Therefore, for each Application to EASA for a Design Change Approval, the DOAH should identify in which Countries the baseline TC will be or has been validated, and as a result, which BASA and TIP need to be considered in the context of an acceptance or validation of this Design Change.

Step 2: Classification

The validation procedure should define the classification criteria laid down in the applicable BASA and TIPs. Those classification criteria differ from one BASA/TIP to another and should be managed distinctly in the validation procedure established by the DOAH. They should also be kept up-to-date as those BASAs and TIPs evolve.

Step 3: Validation route

As a result of the classification, the identification of the applicable validation process (automatic acceptance, administrative validation, streamlined validation, technical validation, etc.) should be described in the validation procedure established by the DOAH. The validation route should follow the applicable BASA/TIP provisions. Where applicable, it should be based on the compliance demonstration process already described in the DOAH procedures, and consider the VA Certification Basis requirements, when applicable.

Step 4: Declaration of compliance with the VA Certification Basis

The DOAH procedure should describe how the declaration of compliance to the BASA third country certification basis/requirements is issued, when applicable.

This is all the more important for the design changes for which no application for validation is required (typically Basic changes under EASA/FAA TIP and Major Level 2 changes under EASA/TCCA and EASA/ANAC TIP) but where the changes need to be approved **against the CA (here EASA) and the VA applicable requirements** in order to be considered as accepted in the VA system.

Without this compliance activity against the applicable VA requirements, such design changes cannot be considered as accepted/valid under the BASA partner system.

Step 5: Record keeping and reporting

Configuration Control and Record Keeping

The DOAH should describe in sufficient detail the configuration control system and record keeping of foreign validation project data (containing ICA, variations to manuals, etc.).

For aircraft modifications that are made available to operators for installation, and for each VA that has issued a validated TC, the DOAH should provide information to operators regarding the validation status of those modifications. This is particularly important for Manual Supplements that are available by download and may not have been approved or accepted by the VA (yet).

Reporting to VA

Where applicable, all major design changes classified as Level 2 or Basic will be approved by the Exporting Party (CA) in accordance with its procedures, against the certification basis of both the Exporting and Importing Parties (VA). The Importing Party will not receive notification of such changes, but all such changes will be reciprocally accepted and included in the TCH/STCH Type Design definition which defines the Importing Party's approved build standard, which has to be provided to the VA. While the TIP with Canada and Brazil establishes an obligation for the DOAH to report on a periodic basis (Brazil at least annual), DOAH are obliged to report to FAA upon request only. Usefulness of such reporting is reminded, as VAs need this information to verify the conformity of used aircraft with the VA approved build standard, upon import.

General provisions

Authorized Personnel and Competences

DOAH Personnel involved into the foreign validation activities should be selected based on their qualification and experience, and competencies in validation processes. As a general pre-condition, minimum qualification requirements for the function(s) involved into validation processes should be defined commensurate to the described activities. Authorized personnel should be identified in the DOAH procedures.

Independent Monitoring Function and SMS

The DOAH procedures on validation principles should be regularly monitored by the DOAH IMF. Procedures, personnel and other validation principles related elements should become part of the DOAH SMS.

4. Remarks

1. This EASA Proposed Certification Memorandum will be closed for public consultation on the **22nd of October 2024**. Comments received after the indicated closing date for consultation might not be taken into account.
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