

European Aviation Safety Agency

**DECISION NO 2004/04/CF
OF THE EXECUTIVE DIRECTOR OF THE AGENCY**

of 10 December 2004

**on the acceptance of certification findings made by the Federal Aviation
Administration (FAA) for products designed in the United States of America
and repealing Decision No 2004/01/RM**

THE EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION SAFETY AGENCY,

Having regard to Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, thereafter the “Basic Regulation”, in particular Articles 4, 9(2), 13 and 15(1)(a) and (e) thereof,

Having regard to the Commission Regulation (EC) No 1702/2003, of 24 September 2003, laying down 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 organisations¹, thereafter the “Commission Regulation”, in particular 21A.103 and 21A.437,

Whereas:

- (1) Several Member States have concluded bilateral agreements with the United States of America covering the reciprocal acceptance of certification findings, in particular the approval of changes and repairs to products designed in the United States of America.
- (2) The Basic Regulation requires the Agency to issue type-certificates, supplemental type-certificates and to approve changes thereto, to products subject to that Regulation.
- (3) The Basic Regulation recognises under Article 9 the possibility for the Agency to rely on foreign States of design regulatory systems to make its decisions.
- (4) The Commission Regulation specifies the conditions for the Agency to issue approvals for changes and repair designs for products for which a type-certificate has been issued or defined in accordance with Article 2 thereof.

¹ OJ L 243, 27.9.2003, p. 6. Due to be re-published.

- (5) When exercising its certification tasks, the Agency is bound by existing agreements between Member States and the United States of America, in particular their provisions related to the procedures to be followed for the approval of changes and repairs and the update of type designs.
- (6) The Commission Regulation prescribes the conditions under which Member States issue individual airworthiness certificates, in particular how proof of compliance of individual product with the type-certificate issued or defined in accordance with Article 2 of the Commission Regulation shall be attested.
- (7) The Decision No 2/2003 of the Executive Director of the Agency of 14 October 2003 on the implementation of airworthiness directives for products, parts and appliances designed in third countries and repealing Decision No 1/2003 of the Executive Director of the Agency of 26 September 2003 on the implementation of airworthiness directives for aircraft designed in third countries prescribes how airworthiness directives from third countries State of design are adopted by the Agency.
- (8) The Decision No 2004/01/RM of the Executive Director of the Agency of 9 January 2004 on the acceptance of design changes and repairs to products designed in the United States of America needs to be further developed to clarify its scope and its addressees.

HAS DECIDED:

Article 1

Approval of type-certificate holder's changes and repairs

An approval is hereby issued by the Agency to an organisation under the regulatory oversight of the FAA for:

- a major level 2 or minor change to a type design; or
- a repair design,

when:

- (a) such change or repair is of a product whose type-certificate:
 - (i) has been issued by the Agency; or
 - (ii) is deemed to have been issued in accordance with article 2.3(a) of the Commission Regulation; or
 - (iii) has been determined by the Agency in accordance with article 2.3(c) of the Commission Regulation; and
- (b) this organisation is the holder of the type-certificate of the product; and

- (c) such change or repair has been approved by the FAA in accordance with the procedures of an agreement in force between a Member State and the United States of America.

Article 2

Approval of supplemental type-certificate holder's changes and repairs

An approval is hereby issued by the Agency to an organisation under the regulatory oversight of the FAA for:

- a major level 2 or a minor change to a supplemental type-certificate; or
- a repair design related to a supplemental type-certificate

of a product whose supplemental type-certificate has been issued by the Agency or deemed to have been approved under the provisions of article 2.3(b) of the Commission Regulation, when:

- (a) this organisation is the holder of the supplemental type-certificate of the product; and
- (b) such change or repair has been approved by the FAA in accordance with the procedures of an agreement in force between a Member State and the United States of America.

Article 3

Approval of minor changes and repairs designed by other legal or natural persons

An approval is hereby issued by the Agency to a legal or natural person under the regulatory oversight of the FAA for a minor change or a minor repair design of a product for which the United States of America is State of design whose:

- (a) type-certificate:
 - (i) has been issued by the Agency; or
 - (ii) is deemed to have been issued in accordance with article 2.3(a) of the Commission Regulation; or
 - (iii) has been determined by the Agency in accordance with article 2.3(c) of the Commission Regulation,
- (b) supplemental type-certificate:
 - (i) has been issued by the Agency; or
 - (ii) is deemed to have been approved under the provisions of article 2.3(b) of the Commission Regulation,

when such change or repair design has been approved by the FAA in accordance with the procedures of an agreement in force between a Member State and the United States of America.

Article 4

Approval of type-certificate holder's alternative means of compliance (AMOC) with an airworthiness directive

An approval is hereby issued by the Agency to an organisation under the regulatory oversight of the FAA for an AMOC with an airworthiness directive when:

- (a) it is applicable to a product whose type-certificate:
 - (i) has been issued by the Agency; or
 - (ii) is deemed to have been issued in accordance with article 2.3(a) of the Commission Regulation; or
 - (iii) has been determined by the Agency in accordance with article 2.3(c) of the Commission Regulation; and
- (b) the related airworthiness directive has been adopted by the Agency in accordance to Decision No 2/2003; and
- (c) this organisation is the holder of the type-certificate of the product; and
- (d) such AMOC has been approved by the FAA.

Article 5

Approval of supplemental type-certificate holder's alternative means of compliance (AMOC) with an airworthiness directive

An approval is hereby issued by the Agency to an organisation under the regulatory oversight of the FAA for an AMOC with an airworthiness directive applicable to a product whose supplemental type-certificate has been issued by the Agency or deemed to have been approved under the provisions of article 2.3(b) of the Commission Regulation, when:

- (a) the related airworthiness directive has been adopted by the Agency in accordance to Decision No 2/2003; and
- (b) this organisation is the holder of the supplemental type-certificate of the product; and
- (c) such AMOC has been approved by the FAA.

Article 6

Production
Statements of conformity and authorised release certificates

It is hereby determined that the system of the FAA includes the same independent level of checking of compliance as provided by the Commission Regulation in the field of production.

Article 7

Final provisions

1. Decision No 2004/01/RM is hereby repealed from the date of entry into force of this Decision.
2. This Decision will remain into force as long as the bilateral agreements on which it is based remain into force, unless the Executive Director determines that the conditions for the reciprocal acceptance of certification findings for the approvals of changes, repairs and AMOC are not met anymore.

Done at Cologne, 10 December 2004

P.GOUDOU