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**UNITED STATES OF AMERICA
and
AUSTRALIA**

Exchange of notes constituting an agreement relating to certificates of airworthiness for imported aeronautical products and components. Washington, 24 December 1974 and 11 June 1975

Authentic text: English.

Registered by the United States of America on 7 May 1976.

**ÉTATS-UNIS D'AMÉRIQUE
et
AUSTRALIE**

Échange de notes constituant un accord relatif aux certificats de navigabilité des produits et éléments aéronautiques importés. Washington, 24 décembre 1974 et 11 juin 1975

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 7 mai 1976.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN
THE UNITED STATES OF AMERICA AND AUSTRALIA RELATING
TO CERTIFICATES OF AIRWORTHINESS FOR IMPORTED AERO-
NAUTICAL PRODUCTS AND COMPONENTS

I

The Secretary of State to the Australian Chargé d'affaires ad interim

December 24, 1974

Sir:

I refer to conversations which have taken place between representatives of the Government of the United States of America and the Government of Australia relating to the reciprocal acceptance of airworthiness certifications, in the course of which discussions were held regarding appropriate actions necessary to work towards common safety objectives and to establish standards which will be as similar as practicable. It is my understanding that the two Governments have reached an agreement as set out below. It is also my understanding that this agreement does not relate to noise abatement or anti-pollution requirements.

1. This Agreement applies to civil aeronautical products (hereinafter referred to as "products") and certain components referred to in paragraph 3 of this Agreement when such products or components are produced in one Contracting State (hereinafter referred to as the "exporting State") and exported to the other Contracting State (hereinafter referred to as the "importing State"), and to products produced in another State with which both Contracting States have agreements similar in scope for reciprocal acceptance of airworthiness certifications.

2. (a) If the competent authority of the exporting State certifies that a product produced in that State complies either with its applicable laws, regulations and requirements as well as any additional requirements which may have been prescribed by the importing State under paragraph 4 of this Agreement, or with the applicable laws, regulations and requirements of the importing State, as notified by the importing State as being applicable in the particular case, the importing State shall give the same validity to the certification as if the certification had been made by its own competent authority in accordance with its own applicable laws, regulations and requirements.

(b) In the case of a product produced in another State with which both Contracting States have agreements similar in scope for reciprocal acceptance of airworthiness certifications, if the competent authority of the State exporting the product provides a certification that the product conforms to the design covered by the certificate or approval issued by the importing State and certifies that the product is in a proper state of airworthiness, the importing State shall give the same validity to such certification as if the certification had been made by its own competent authority in accordance with its applicable laws, regulations and requirements.

(c) In the case of a product being exported by one Contracting State to the Contracting State where the product was originally produced, if the competent authority of the State exporting the product provides a certification that the product conforms to the design covered by the certificate or approval issued by the State importing the product and certifies that the product is in a proper state of airworthiness, the State importing the product shall give the same validity to such certification as if the certification had been made by its own competent authority in accordance with its applicable laws, regulations and requirements. This provision will apply only if the product was under the jurisdiction of either of the Contracting States continuously from the time it was exported from the Contracting State where it was produced to the other Contracting State.

¹ Came into force on 11 June 1975, the date of the note in reply, in accordance with the provisions of the said notes.

3. In the case of a component which is produced in the exporting State for export and use on a product which is or may be certificated or approved in the importing State, if the competent authority of the exporting State certifies that the component conforms to the applicable design data, meets the applicable test requirements and has been produced in accordance with the applicable quality control requirements, which have been notified by the importing State to the exporting State, the importing State shall give the same validity to the certification as if the certification had been made by its own competent authority. This provision shall only apply to those components which are produced by a manufacturer in the exporting State pursuant to an agreement between that manufacturer and the product manufacturer in the importing State. Furthermore, it shall only apply in those instances where, in the judgement of the importing State, the component is of such complexity that determination of conformity and quality control cannot readily be made at the time that the component is assembled with the product.

4. The competent authority of the importing State shall have the right to prescribe any additional requirements which the importing State finds necessary to ensure that the product meets a level of safety equivalent to that provided by its applicable laws, regulations and requirements which would be effective for a similar product produced in the importing State. These additional requirements may include any special conditions which the importing State considers necessary for safety because of novel or unusual design features of the particular product. The competent authority of the importing State shall promptly advise the competent authority of the exporting State of any such additional requirements.

5. The competent authority of each Contracting State shall keep the competent authority of the other Contracting State fully informed of all mandatory airworthiness modifications and special inspections which it determines are necessary in respect of imported or exported products to which this Agreement applies.

6. The competent authority of the exporting State shall, in respect of a product produced in that State, assist the competent authority of the importing State in determining whether major design changes and major repairs made under the control of the competent authority of the importing State comply with the laws, regulations and requirements under which the product was originally certificated or approved.

7. The competent authority of each Contracting State shall keep the competent authority of the other Contracting State currently informed of all relevant laws, regulations and requirements in its State.

8. In the case of conflicting interpretations of the laws, regulations or requirements pertaining to certifications or approvals under this Agreement, the interpretation of the competent authority of the Contracting State whose law, regulation or requirement is being interpreted shall prevail.

9. For the purposes of this Agreement:

(a) "Product" means an aircraft, engine, propeller or appliance;

(b) "Aircraft" means a civil aircraft of any category, whether used in public transportation or for other purposes, and includes replacement and modification parts therefor;

(c) "Engine" means an engine intended for use in an aircraft as defined in (b) and includes replacement and modification parts therefor;

(d) "Propeller" means a propeller intended for use on an aircraft as defined in (b) and includes replacement and modification parts therefor;

(e) "Appliance" means an instrument, equipment, mechanism, apparatus or accessory used or intended to be used in operating an aircraft, which is installed in, intended to be installed in, attached to, or intended to be attached to an aircraft as defined in (b), but is not part of an airframe, engine or propeller, and includes replacement and modification parts therefor;

(f) "Component" means a material, part, or sub-assembly not covered in (b), (c), (d), or (e) for use on or in an aircraft, engine, propeller or appliance;

(g) "Produced in one Contracting State" means that the product or component as a whole is fabricated in the exporting State, even though portions thereof may have been fabricated in another State;

(h) “Applicable laws, regulations and requirements” means:

- (i) those airworthiness laws, regulations and requirements which are effective on the date on which application is made for certification of the product in the importing State; or
 - (ii) for a product of a type currently in production, those airworthiness requirements which were required to be used for the certification of the product in the exporting State or those requirements of the importing State applicable to a similar product of the importing State at the date of application for type certification of the former product in the exporting State, together with such other airworthiness requirements as the competent authority of the importing State considers necessary to establish a level of safety equivalent to that required for similar products produced in the importing State and were notified to the exporting State prior to the date of application for certification in the importing State; or
 - (iii) for a product of a type no longer in production, such airworthiness requirements as the competent authority of the importing State finds acceptable in the particular case; and
- (i) “The competent authority” for the purposes of paragraphs 2 and 3 of this Agreement includes a person holding a delegation from the competent authority of a Contracting State to exercise powers or perform functions relating to the certification of airworthiness of products or components under the law of that Contracting State.

10. The competent authority of each Contracting State shall make such mutual arrangements in respect of procedures as it deems necessary to implement this Agreement, and to ensure that redundant certification, testing and analysis are avoided.

11. Each Contracting State shall keep the other Contracting State advised as to the identity of its competent authority.

12. Either Contracting State may terminate this Agreement at the expiration of not less than 180 days after giving written notice of that intention to the other State.

13. This Agreement shall terminate and replace the Agreement between our two Governments for the reciprocal acceptance of certificates of airworthiness, effected by Exchange of Notes at Washington on November 20, 1959.¹

If the foregoing is acceptable to your Government, I propose that this note together with your confirmatory reply to that effect should constitute an agreement between our two Governments to enter into force on the date of your reply.

Accept, Sir, the renewed assurances of my high consideration.

For the Secretary of State,

RAYMOND J. WALDMANN

The Honorable G. N. Upton
Chargé d'affaires ad interim of Australia

II

EMBASSY OF AUSTRALIA
WASHINGTON, D.C.

Sir,

I have the honour to acknowledge receipt of your note dated 24 December 1974, which reads as follows:

[See note I]

¹ United Nations, *Treaty Series*, vol. 349, p. 293.

I have the honour to inform you that the foregoing is acceptable to the Government of Australia and that your Note together with this reply shall constitute an Agreement between our two Governments which will terminate the Agreement of November 20, 1959, referred to in your Note and which will enter into force on today's date.

Accept, Sir, the renewed assurances of my highest consideration.

11 June 1975.

[Signed]

PATRICK SHAW

Ambassador

The Honourable Secretary of State
Department of State
Washington, D.C.
