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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	8 March 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2019) 121 final - ANNEX 2
Subject:	ANNEX to the COUNCIL DECISION on the position to be taken by the European Union within the Bilateral Oversight Board under the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety, concerning adding Annex 3 to the Agreement

Delegations will find attached document COM(2019) 121 final - ANNEX 2.

Encl.: COM(2019) 121 final - ANNEX 2



Brussels, 7.3.2019
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ANNEX 2

ANNEX

to the

COUNCIL DECISION

**on the position to be taken by the European Union within the Bilateral Oversight Board
under the Agreement between the United States of America and the European
Community on cooperation in the regulation of civil aviation safety, concerning adding
Annex 3 to the Agreement**

PILOT LICENSING

1. PURPOSE & SCOPE

- 1.1. The Parties have assessed each other's standards, rules, practices, and procedures related to private pilot licensing, including night and instrument ratings for the single-engine piston (SEP) land airplane and multi-engine piston (MEP) land airplane categories, but excluding the type ratings, and concluded that they are sufficiently compatible to permit acceptance of each other's approvals and findings. This Annex covers the reciprocal acceptance of findings of compliance and documentation, and the provision of technical assistance regarding private pilot licensing and compliance monitoring. Nothing in this Annex shall be construed to limit the authority of a Party to act in accordance with Article 15 of the Agreement.
- 1.2. The scope of this Annex covers private pilot EU Part-FCL licenses and FAA private pilot certificates, and private pilot privileges included in other EU Part-FCL licenses and FAA pilot certificates, as well as night and instrument ratings, as specified in Appendix 1 to this Annex, in SEP land airplane and MEP land airplane categories in single-pilot operations, excluding any type ratings. EU Part-FCL commercial pilot licenses for airplanes (CPL (A)) and airline transport pilot licenses for airplanes (ATPL (A)) contain private pilot privileges. The multi crew pilot license (MPL) only contains private pilot privileges if specifically endorsed in the license. Similarly, FAA commercial pilot and air transport pilot certificates contain private pilot privileges. These licenses and pilot certificates are eligible for conversion under the terms of this Annex if the privileges are applicable.
- 1.3. The scope of this Annex may be extended to other EU Part-FCL licenses and FAA pilot certificates, ratings and aircraft categories through an amendment to this Annex pursuant to a decision of the Bilateral Oversight Board (BOB) taken in accordance with Article 19.B of the Agreement.

Initials: ____ (EC)/____ (FAA)

- 1.4. The extension of the scope of this Annex shall take place following the necessary confidence building process conducted by the Technical Agents.
- 1.5. This Annex does not apply to any pilot license or pilot certificate issued by another Contracting State to the Convention on International Civil Aviation of 1944 (Chicago Convention) that has been rendered valid by the FAA or by an Aviation Authority, as detailed in the Technical Implementation Procedures - Licensing (TIP-L).
- 1.6. This Annex does not limit the right of a holder of an FAA pilot certificate or an EU Part-FCL license issued by an Aviation Authority, to have the pilot certificate or license rendered valid by the other Party in accordance with applicable laws and regulations.

2. DEFINITIONS

- 2.1. In addition to those definitions found in the Agreement, for the purposes of this Annex, the following definitions apply:

(a) “**Class rating**” means:

(i) with respect to an EU Part-FCL license, a valid rating attached to a pilot license. The privileges of the holder of a SEP and MEP class rating are to act as pilot on the class of aircraft specified in the rating as outlined in the ‘List of Aeroplanes – Class and Type Ratings and Endorsement List’ published on the European Aviation Safety Agency (EASA) website.

(ii) with respect to an FAA pilot certificate, a classification of aircraft within a category having similar operating characteristics as outlined in Title 14, Code of Federal Regulations (14 CFR) § 61.5 (e.g., single engine land and multi-engine land).

(b) “**Conversion**” means the issuance of an EU Part-FCL license on the basis of an FAA pilot certificate or the issuance of an FAA pilot certificate on the basis of an EU Part-FCL license, in accordance with the provisions of this Annex.

Initials: ____ (EC)/____ (FAA)

- (c) “**Currency**” means the acceptance of the privileges of a class or type rating on an FAA pilot certificate, based on the recent experience of the certificate holder. (14 CFR Part 61 and Regulation No 1178/2011 Annex III par. C).
- (d) “**EU Part-FCL license**” means a valid flight crew license that complies with the requirements of Part-FCL.
- (e) “**FAA pilot certificate**” means a valid Federal Aviation Administration pilot certificate that complies with the appropriate requirements prescribed in 14 CFR Part 61.
- (f) “**Flight review**” means an assessment of flying skills taken with a certified flight instructor holding appropriate FAA examining authority.
- (g) “**Instrument rating**” means:
- (i) with respect to an EU Part-FCL instrument rating, a valid rating on an EU Part-FCL licence allowing for operation under Instrument Flight Rules (IFR) or in weather conditions less than the minimums prescribed for Visual Flight Rules (VFR) that is restricted to single-engine or multi-engine operation, or in the case of a multi crew pilot license (MPL) additionally restricted to multi-crew operation.
 - (ii) with respect to an FAA instrument rating, means a valid rating on an FAA pilot certificate subject to currency and class of aircraft requirements, allowing for operation under IFR or in weather conditions less than the minimums prescribed for VFR.
- (h) “**Night rating**” means a rating attached to an EU Part-FCL license with which the privileges of the private pilot license for airplanes are to be exercised in VFR conditions at night. The night rating is issued without an expiration date.
- (i) “**Skill test**” means a demonstration of skill for a license or rating issue, including such oral examination as may be required in accordance with Annex I to Commission Regulation (EU) No 1178/2011, (Part-FCL).

Initials: ____ (EC)/____ (FAA)

(j) “**Special Conditions**” means those requirements that have been found, based on a comparison of the respective regulatory licensing systems, not to be common to both systems and that are significant enough to be addressed in this Annex. The list of Special Conditions is contained in Appendix 1 to this Annex.

(k) “**Type rating**” means:

(i) with respect to an EU Part-FCL license, a rating attached to a pilot license. The privileges of the holder of a type rating are to act as pilot on the type of aircraft specified in the rating as outlined in the EASA type rating and license endorsement list flight crew-all aircraft excluding helicopters.

(ii) with respect to an FAA pilot certificate, the rating on an FAA pilot certificate for any large aircraft (except lighter than air), turbojet powered airplane, or other aircraft specified by the FAA Administrator through type certification procedures for which a pilot must meet specific aeronautical knowledge and experience and testing requirements in order to act as pilot in command of the aircraft.

(l) “Valid” means:

(i) With respect to an FAA pilot certificate or EU Part-FCL license, that such certificate or license is not surrendered, suspended, revoked, or expired.

(ii) With respect to an EU Part-FCL rating, the rating’s validity period has not expired. The validity date of a rating is stated on the pilot license.

3. JOINT AIRCREW COORDINATION BOARD

3.1. Composition

3.1.1. A Joint Aircrew Coordination Board (JACB), accountable to the BOB, is hereby established under the joint leadership of the EASA and the FAA Executive Directors responsible for Flight Standards. The JACB shall include, from each Technical Agent, representatives

Initials: ____ (EC)/____ (FAA)

responsible for pilot licensing and quality management systems/management systems, as appropriate.

3.1.2. The joint leadership may invite additional participants to the JACB to facilitate the fulfilment of the objectives of this Annex.

3.2. Mandate

3.2.1. The JACB shall meet at least once a year to ensure the effective functioning and implementation of this Annex. Its functions shall include:

- (a) Developing, approving, and revising the TIP-L, including cooperation, assistance, exchange of information, and continued confidence activities to be used for processes covered by this Annex;
- (b) Sharing information on relevant safety issues and developing action plans to address them;
- (c) Ensuring the consistent application of this Annex;
- (d) Exchanging information on planned and ongoing rulemaking activities that could affect the basis and scope of this Annex.
- (e) Sharing information on significant changes to the Parties' pilot licensing systems that could affect the basis and scope of the Annex.
- (f) Resolving technical issues falling within the responsibilities of the Technical Agents and Aviation Authorities that cannot be solved at their level; and
- (g) Proposing to the BOB amendments to this Annex.

3.2.2. The JACB shall report unresolved issues to the BOB and ensure the implementation of decisions reached by the BOB regarding this Annex.

Initials: ____ (EC)/____ (FAA)

4. IMPLEMENTATION

- 4.1. The Parties agree that a person holding an EU Part-FCL license for airplanes, including a class rating, with or without night rating, or an instrument rating for airplanes, and who has demonstrated compliance with the applicable FAA Special Conditions set forth in Appendix 1, shall be considered to meet the requirements for obtaining an FAA pilot certificate, class rating(s), or an instrument rating in the airplane category.
- 4.2. The Parties agree that a person holding a FAA pilot certificate for airplanes, or an instrument rating for airplanes, and who has demonstrated compliance with the applicable EU Special Conditions set forth in Appendix 1, and has provided evidence of currency in accordance with applicable provisions of the TIP-L, shall be considered to meet the requirements for obtaining an EU Part-FCL license, a class rating(s), with or without a night rating, or an instrument rating in the airplane category.
- 4.3. EU Part-FCL licenses or FAA pilot certificates that have been surrendered, suspended, or revoked shall not be reinstated through the terms of this Annex.
- 4.4. The scope of the ratings and limitations of an FAA pilot certificate or an EU Part-FCL license issued in accordance with this Annex is further specified in the TIP-L.
- 4.5. Once an EU Part-FCL license or an FAA pilot certificate has been issued in accordance with this Annex, the holder must, to exercise the privileges of this license or pilot certificate, meet the revalidation or renewal requirements, as applicable, of the EU Part-FCL or FAA requirements.
- 4.6. The FAA, upon issuing an FAA pilot certificate based on an EU Part-FCL license in accordance with this Annex, shall not require the surrender of that EU Part-FCL license. An Aviation Authority, upon issuing an EU Part-FCL license based on an FAA pilot certificate in accordance with this Annex, shall not require the surrender of that FAA pilot certificate.

Initials: ____ (EC)/____ (FAA)

- 4.7. The Technical Agents, and where applicable the Aviation Authorities, shall:
- 4.7.1. Upon request from the FAA or Aviation Authority that issues an EU Part-FCL license or an FAA pilot certificate in accordance with this Annex, provide each other with the verification or confirmation of authenticity of the original EU Part-FCL license, FAA pilot certificate, or rating; and
- 4.7.2. Provide in a form, manner, and schedule established by the JACB, statistical data regarding the EU Part-FCL licenses, FAA pilot certificates, and ratings that have been issued in accordance with this Annex.
- 4.8. Each Party's Technical Agent, or where applicable an Aviation Authority, shall provide as necessary upon request and after mutual agreement, technical assistance in pilot licensing activities to the other Party's Technical Agent, or where applicable to an Aviation Authority, to advance the purpose of this Annex. The Technical Agents or an Aviation Authority may decline to provide such technical assistance due to lack of resource availability.
- 4.9. Revisions by either Party to its civil aviation organization, laws, regulations, procedures, policy, or standards, including those of the Technical Agents and Aviation Authorities, may affect the basis upon which this Annex is executed. Therefore, the Parties, through the Technical Agents and Aviation Authorities, as appropriate, shall advise one another of plans for such changes at the earliest possible opportunity, and discuss the extent to which such planned changes affect the basis of this Annex. If consultations pursuant to Article 15.C of the Agreement result in an agreement to amend this Annex, the Parties shall seek to ensure that such an amendment enters into force at the same time as, or as soon as possible thereafter, the entry into force or implementation of the change that prompted such amendment.

5. COMMUNICATION AND COOPERATION

- 5.1. The Technical Agents, through the JACB, shall maintain and exchange a list of contact points for the various technical aspects of this Annex.

Initials: ____ (EC)/____ (FAA)

- 5.2. All communications between the Technical Agents, including technical documentation provided for review or approval as detailed in this Annex, shall be in the English language.
- 5.3. The format for all dates used in communications shall be DD MMM YYYY, e.g., “05 MAY 2014”.
- 5.4. When urgent or unusual situations develop, the Technical Agents’, and where applicable, the Aviation Authorities’ points of contact, as identified in the TIP-L, shall communicate and ensure that the appropriate immediate actions are taken.

6. QUALIFICATION REQUIREMENTS FOR THE ACCEPTANCE OF FINDINGS OF COMPLIANCE

6.1. Basic Requirements

6.1.1. Each Technical Agent and any Aviation Authority, as applicable, shall demonstrate to the other Technical Agent the effectiveness of their respective systems for the regulatory oversight of pilots. They shall demonstrate, in particular, effective and adequate:

- (a) Legal and regulatory structure;
- (b) Organizational structure;
- (c) Resources, including sufficient qualified staff;
- (d) Training program for their technical staff;
- (e) Internal policies, processes, and procedures including a quality system;
- (f) Documentation and records;

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(g) Oversight program; and

(h) Authority over regulated EU Part-FCL license or FAA pilot certificate holders.

6.2. Initial Confidence

Each Technical Agent has demonstrated to the other Technical Agent the effectiveness of its respective system for the regulatory oversight of activities covered under this Annex through initial confidence building activities. The Technical Agents have also demonstrated to each other the effectiveness of their quality audits and standardization activities, including audits of Aviation Authorities, as referred to in paragraph 6.3.1.

6.3. Continued Confidence

6.3.1. The Technical Agents and Aviation Authorities shall continue to demonstrate to each other effective oversight as detailed in paragraph 6.1.1 of this Annex according to the relevant provisions of the TIP-L developed by the JACB.

(a) In particular, Technical Agents shall:

(i) Have the right to participate, as an observer, in each other's quality audits and standardization inspections;

(ii) Make available to the other Technical Agent the reports from quality audits and standardization inspections applicable to this Annex, as specified in the TIP-L; and

(iii) Assist each other in the resolution of audit and inspection findings impacting the implementation of this Annex, where relevant.

(b) In particular, the FAA and the Aviation Authorities shall:

Initials: ____ (EC)/____ (FAA)

- (i) Allow quality audits and standardization inspections as detailed in paragraph 6.3.1 (a) (i) above;
 - (ii) Share relevant safety information and known limitations that may affect an Aviation Authority's or Technical Agent's capability to fully meet applicable international safety standards or any safety requirements established under the Agreement;
 - (iii) Subject to applicable laws and regulations on personal data protection, make available the relevant pilot licensing records and inspection reports including completed enforcement actions; and
 - (iv) Provide language interpretation assistance at the Aviation Authority's office during the review of records and documentation that are recorded in its national language, where necessary.
- (c) The Technical Agents shall notify each other at the earliest opportunity in the event that a Technical Agent or an Aviation Authority is not able to meet a requirement in paragraph 6.3. If either Technical Agent believes that technical competency is no longer adequate, the Technical Agents shall consult each other and propose an action plan, including any necessary corrective activities, in order to address deficiencies.
- (d) In the event that a Technical Agent or an Aviation Authority does not correct deficiencies within the timeframe specified in the action plan, either Technical Agent may refer the matter to the JACB.
- (e) When a Party intends to suspend acceptance of findings or approvals made by a Technical Agent or an Aviation Authority, the Party shall promptly notify the other Party in accordance with Article 18.A of the Agreement.

7. FEES

Initials: ____ (EC)/____ (FAA)

Fees applied shall comply with Article 14 of the Agreement and with applicable statutory and regulatory requirements.

Initials: ____ (EC)/____ (FAA)

Special Conditions

1. GENERAL CONDITIONS

- 1.1. The applicant shall submit an application for conversion of an EU Part-FCL license or an FAA pilot certificate according to this Annex in a standardized form and manner as specified in the TIP-L.
- 1.2. An applicant who holds an EU Part-FCL license or an FAA pilot certificate that carries a restriction or limitation may be denied application if a similar restriction or limitation is not available in the other system.

2. EU SPECIAL CONDITIONS

To be approved in accordance with Part-FCL, pursuant to the terms of this Annex, the applicant shall comply with all of the following EU Special Conditions.

2.1. EU Special Conditions Applicable to the Issuance of an EU Part-FCL License for Airplanes (PPL(A)) and Associated Class and Night Ratings, as Applicable, on the Basis of an FAA Pilot Certificate

- 2.1.1. The applicant shall demonstrate or provide evidence that he/she has acquired language proficiency in accordance with FCL.055 of Part-FCL unless he/she holds an “English Proficient” endorsement on the FAA pilot certificate. The “English Proficient” endorsement shall be deemed to be equal to English language proficiency Level 4, as detailed in the TIP-L.
- 2.1.2. The applicant shall meet the EU medical requirements as stipulated in Commission

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Regulation (EU) No 1178/2011 applicable to the PPL (A).

- 2.1.3. The applicant shall complete a skill test, as detailed in the TIP-L, with an examiner qualified according to Part-FCL.
- 2.1.4. The applicant shall demonstrate to the examiner before the skill test that he/she has acquired an adequate level of the required theoretical knowledge, as detailed in the TIP-L, within the 24-calendar-month period preceding the month of application.
- 2.1.5. The applicant applying for a Part-FCL night rating shall provide evidence that he/she has fulfilled the night flying requirements set out in FCL.810 of Part-FCL. Night flying training experience may be credited, as detailed in the TIP-L.
- 2.1.6. The applicant applying for a single-pilot MEP class rating shall provide evidence that the requirements for the issuance of a MEP land class rating as stated in Part FCL Subpart H are fulfilled. In this case the skill test specified under paragraph 2.1.3 above shall be completed in a MEP land airplane. An applicant who has prior training and flight experience on MEP airplanes may be credited towards the requirements of Part-FCL Subpart H, as detailed in the TIP-L.
- 2.1.7. An Aviation Authority, upon converting an FAA pilot certificate in accordance with this Annex, shall enter the following statement in item VIII (or XIII) of the EU Part-FCL license: “PPL(A) issued on the basis of the EU-US Agreement”.
- 2.2. EU Special Conditions Applicable to the Issuance of an EU PART-FCL Instrument Rating for Airplanes (IR(A)) on the Basis of an FAA Instrument Rating
 - 2.2.1 The applicant shall demonstrate or provide evidence that he/she has acquired language proficiency in accordance with FCL.055 of Part-FCL unless he/she has an “English Proficient” endorsement on the FAA pilot certificate. The “English Proficient” endorsement shall be deemed to be equal to English language proficiency Level 4, as detailed in the

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TIP-L.

- 2.2.2 The applicant shall meet the EU medical requirements as stipulated in Commission Regulation (EU) No 1178/2011 applicable to the IR(A).
- 2.2.3 The applicant shall complete an IR(A) skill test, as detailed in the TIP-L, with an examiner qualified according to Part-FCL.
- 2.2.4 With regard to the demonstration of theoretical knowledge and as detailed in the TIP-L, if the applicant has a minimum experience of at least 50 hours of flight time under Instrument Flight Rules (IFR) as pilot in command on airplanes, he/she shall demonstrate to the examiner before the IR(A) skill test that he/she has acquired an adequate level of the required theoretical knowledge. In other cases, the applicant shall pass a written examination within the 24-calendar-month period preceding the month of application.
- 2.2.5 An applicant applying for an instrument rating for single-pilot MEP land airplanes shall provide evidence that the requirements for the issuance of an instrument rating for MEP land airplanes as stated in Part-FCL Subpart G are fulfilled. In this case the IR(A) skill test specified under paragraph 2.2.3 above shall be completed in a MEP land airplane. An applicant who has prior instrument training and flight experience on multi-engine airplanes may be credited towards the requirements of Part-FCL Subpart G, as detailed in the TIP-L.
- 2.2.6 As detailed in the TIP-L, an applicant applying for an instrument rating shall have completed acclimatization flying in an EU Member State, within a training organization approved in accordance with Commission Regulation (EU) No 1178/2011, before the IR(A) skill test is administered. The applicant is exempt from this requirement if he/she has prior experience of at least 50 hours of flight time under IFR as pilot in command on airplanes or prior experience of at least 10 hours of flight time under IFR as pilot in command on airplanes in any of the EU Member States or any European State that participates in EASA in accordance with Article 129 of Regulation (EU) No 2018/1139 of the European Parliament and of the Council (OJ L212/1, 26.8.2018, p. 1-122).

Initials: ____ (EC)/____ (FAA)

- 2.2.7 An applicant who has obtained an EU Part-FCL instrument rating on the basis of this Annex shall be required to undergo the entire set of theoretical knowledge examinations according to FCL.025 and FCL.615 IR of Part-FCL prior to exercising his/her instrument rating privileges with an EU Part-FCL CPL, MPL or ATPL.
- 2.2.8 An applicant who has obtained an EU Part-FCL instrument rating on the basis of this Annex shall be required to undergo the entire set of theoretical knowledge examinations according to FCL.025 of Part-FCL before being given the full credit for the IR(A) in the different category of aircraft according FCL.035 of Part-FCL.
- 2.2.9 An Aviation Authority, upon converting an FAA pilot certificate in accordance with this Annex, shall enter the following statement in item VIII (or XIII) of the EU Part-FCL license: “PPL(A) / IR(A) issued on the basis of the EU-US Agreement”.

3. FAA SPECIAL CONDITIONS

To be approved in accordance with 14 CFR Part 61, pursuant to the terms of this Annex, the applicant shall comply with all of the following FAA Special Conditions:

- 3.1. FAA Special Conditions Applicable to the Issuance of an FAA Pilot Certificate, Airplane Category Single-Engine Land Class Rating and Airplane Category Multi-Engine Land Class Rating on the Basis of an EU Part-FCL License.
- 3.1.1. The applicant shall be able to read, speak, write and understand the English language. A Part-FCL English language proficiency endorsement of Level 4 or higher shall be accepted as English proficient.
- 3.1.2. The applicant shall meet the FAA medical certificate requirements to exercise the privileges of an FAA pilot certificate, as prescribed in 14 CFR Part 61.
- 3.1.3. The applicant shall have passed the required knowledge test, as detailed in the TIP-L, within the 24-calendar-months period preceding the month of application.

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- 3.1.4. The applicant shall complete a flight review with an FAA certified flight instructor who holds appropriate FAA examining authority, as detailed in the TIP-L.
- 3.1.5. An applicant applying for a multi-engine land rating shall provide evidence that he/she has fulfilled the requirements for the issuance of a multi-engine land rating as stated in 14 CFR Part 61. Training and experience on MEP land airplanes may be credited, as detailed in the TIP-L.
- 3.2. FAA Special Conditions Applicable to the Issuance of an FAA Instrument-Airplane Rating on the Basis of an EU Part-FCL Instrument Rating
- 3.2.1. The applicant shall be able to read, speak, write and understand the English language. A Part-FCL English language proficiency endorsement of Level 4 or higher shall be accepted as English proficient.
- 3.2.2. The applicant shall meet the FAA medical certificate requirements to exercise the privileges of an FAA pilot certificate, as prescribed in 14 CFR Part 61.
- 3.2.3. As detailed in the TIP-L, an applicant applying for an instrument rating shall have completed acclimatization flying in the United States, including its territories, with an FAA certified flight instructor, before the instrument proficiency check with an examiner is administered. The applicant is exempt from this requirement if he/she has prior experience of at least 50 hours of flight time under IFR as pilot in command on airplanes or prior experience of at least 10 hours of flight time under IFR as pilot in command on airplanes in the United States, including its territories;
- 3.2.4. The applicant shall complete an instrument proficiency check with an examiner, as detailed in the TIP-L.
- 3.2.5. The applicant shall have passed the required knowledge test, as detailed in the TIP-L, within the 24-calendar-month period preceding the month of application.

Initials: ____ (EC)/____ (FAA)