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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Agreement on civil aviation safety between the European Union and Japan

AGREEMENT
ON CIVIL AVIATION SAFETY
BETWEEN THE EUROPEAN UNION
AND JAPAN

The EUROPEAN UNION and JAPAN (hereinafter referred to as "the Parties"),

RECOGNISING the continuous trend toward multinational design, production and distribution of civil aeronautical products;

DESIRING to promote civil aviation safety and environmental compatibility and to facilitate the free flow of civil aeronautical products;

DESIRING to enhance cooperation and increase efficiency in matters related to civil aviation safety;

CONSIDERING that their cooperation can positively contribute to encouraging greater international harmonisation of standards and processes related to civil aviation safety and environmental compatibility;

CONSIDERING the possible reduction of the economic burden imposed on the aviation industry by removing duplication in technical inspections, evaluations, and testing;

RECOGNISING that any reciprocal acceptance of findings of compliance and certificates must be based on the mutual confidence of the Parties that their regulatory systems for civil aviation safety ensure a sufficiently equivalent level of safety;

RECOGNISING that any such reciprocal acceptance also requires continued confidence by each Party in the reliability of the other Party's processes for findings of compliance in all areas covered by this Agreement;

RECOGNISING the desire of the Parties for cooperation in civil aviation safety and environmental compatibility based on continuous communication and mutual confidence;

RECOGNISING the respective commitments of the Parties under bilateral, regional and multilateral agreements dealing with civil aviation safety and environmental compatibility,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Objectives

The objectives of this Agreement are to:

- (a) enable the reciprocal acceptance, as provided in the Annexes to this Agreement, of findings of compliance made and certificates issued by either Party's competent authorities or approved organisations;
- (b) promote cooperation toward a high level of civil aviation safety and environmental compatibility;
- (c) facilitate the multinational dimension of the civil aviation industry; and
- (d) facilitate and promote the free flow of civil aeronautical products and services.

ARTICLE 2

Definitions

For the purposes of this Agreement:

- (a) "approved organisation" means any legal person certified by the competent authority of either Party to exercise privileges related to the scope of this Agreement;
- (b) "certificate" means any approval, licence or other document issued as a form of recognition of compliance that a civil aeronautical product, an organisation or a legal or natural person complies with the applicable requirements set out in laws and regulations of a Party;
- (c) "civil aeronautical product" means any civil aircraft, aircraft engine, or aircraft propeller; or sub-assembly, appliance, part or component, installed or to be installed thereon;
- (d) "competent authority" means a government agency or a government entity responsible for civil aviation safety that is designated by a Party for the purposes of this Agreement to perform the following functions:
 - (i) to assess the compliance of civil aeronautical products, organisations, facilities, operations and services subject to its oversight with applicable requirements set out in laws, regulations and administrative provisions of that Party;

- (ii) to conduct monitoring of their continued compliance with those requirements; and
- (iii) to take enforcement actions to ensure their compliance with those requirements;
- (e) "findings of compliance" means a determination of compliance with the applicable requirements set out in laws and regulations of a Party as the result of actions such as testing, inspections, qualifications, approvals and monitoring;
- (f) "monitoring" means the regular surveillance by a competent authority of a Party to determine continuing compliance with the applicable requirements set out in laws and regulations of that Party; and
- (g) "technical agent" means, for the European Union, the European Union Aviation Safety Agency (hereinafter referred to as "EASA"), or its successor, and for Japan, the Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism (hereinafter referred to as "JCAB"), or its successor. Notwithstanding that EASA and JCAB are competent authorities within the meaning of subparagraph (d) of this Article, they are referred to in this Agreement and its Annexes as "technical agent", where applicable.

ARTICLE 3

Scope and implementation

1. The scope of cooperation under this Agreement may include the following areas:
 - (a) the airworthiness certificates and monitoring of civil aeronautical products;
 - (b) environmental certificates and testing of civil aeronautical products;
 - (c) the design and production certificates and monitoring of design and production organisations;
 - (d) the maintenance organisation certificates and monitoring of maintenance organisations;
 - (e) personnel licensing and training;
 - (f) flight simulator qualification evaluation;
 - (g) operation of aircraft; and
 - (h) other areas related to aviation safety subject to Annexes to the Convention on International Civil Aviation, signed in Chicago on 7 December 1944.

2. For the implementation of each area of cooperation set out in paragraph 1 of this Article, the Parties shall develop an individual Annex describing the terms, conditions and methods for reciprocal acceptance of findings of compliance and certificates, and, if necessary, transitional arrangements, when they agree that their respective civil aviation standards, rules, practices, procedures and systems ensure a sufficiently equivalent level of safety to permit acceptance of findings of compliance made and certificates issued by their competent authorities or approved organisations. Implementation procedures for an individual Annex shall be developed by the technical agents. Technical differences between the Parties' civil aviation standards, rules, practices, procedures and systems shall be addressed in the Annexes and implementation procedures.

ARTICLE 4

General obligations

1. Each Party shall accept findings of compliance made and certificates issued by the other Party's competent authorities or approved organisations, in accordance with the terms and conditions set out in the Annexes to this Agreement.

2. The Parties may also accept approvals, licences or other documents issued by a third country as a form of recognition of compliance that a civil aeronautical product, an organisation, or a legal or natural person complies with the applicable requirements set out in laws and regulations of that third country. The terms and conditions for such acceptance shall be specified in the appropriate Annexes.

3. Nothing in this Agreement shall entail reciprocal acceptance of the standards or technical regulations of the Parties.

4. Each Party shall ensure that its respective competent authorities remain capable and fulfil their responsibilities under this Agreement.

ARTICLE 5

Preservation of regulatory authority and safeguard measures

1. Nothing in this Agreement shall be construed to limit the authority of a Party to:
 - (a) determine, through its legislative, regulatory and administrative measures, the level of protection it considers appropriate for safety and the environment;
 - (b) take all appropriate and immediate measures whenever there is a reasonable risk that a civil aeronautical product, a service or any activity within the scope of this Agreement, may:
 - (i) compromise safety or the environment;
 - (ii) not comply with the applicable legislative, regulatory, or administrative measures of that Party; or

(iii) otherwise fail to satisfy a requirement set out in the applicable Annex to this Agreement.

2. Where either Party takes measures pursuant to subparagraph 1(b) of this Article, it shall inform the other Party in writing within 15 working days of taking such measures, providing reasons for it.

3. Measures taken under this Article shall not constitute an infringement of this Agreement.

ARTICLE 6

Communication

1. The Parties shall designate and notify each other of a contact point for the communication related to the implementation of this Agreement. All such communications shall be in the English language.

2. Upon entry into force of this Agreement, the Parties shall notify each other a list of the competent authorities, and thereafter, an updated list each time this becomes necessary.

ARTICLE 7

Transparency, regulatory cooperation and mutual assistance

1. Each Party shall ensure that the other Party is kept informed of its laws and regulations related to this Agreement and their significant changes.
2. The Parties shall to the extent possible inform each other of their proposed significant revisions of their relevant laws, regulations, standards, and requirements, and of their systems for issuing certificates insofar as these revisions may have an impact on this Agreement. To the extent possible, they shall offer each other an opportunity to comment on such revisions and give due consideration to such comments.
3. For the purpose of investigating and resolving safety issues, each Party's competent authorities may allow the other Party's competent authorities to participate as observers in each other's oversight activities as specified in the appropriate Annex.
4. For the purpose of monitoring and inspections, each Party's competent authorities shall assist, if necessary, the other Party's competent authorities with the objective of providing unimpeded access to regulated entities subject to its oversight.

5. To ensure the continued confidence by each Party in the reliability of the other Party's processes for findings of compliance, each technical agent may participate as an observer in the other's oversight activities, in accordance with procedures defined in the Annexes to this Agreement.

ARTICLE 8

Exchange of safety information

The Parties shall, without prejudice to the provisions of Article 10 and subject to their applicable legislation:

- (a) provide each other, on request and in a timely manner, information available to their technical agents related to accidents, serious incidents or occurrences in relation to civil aeronautical products, services or activities covered by the Annexes to this Agreement; and
- (b) exchange other safety information as the technical agents may decide.

ARTICLE 9

Cooperation in enforcement activities

The Parties shall, through their technical agents or competent authorities, provide when requested, subject to applicable laws and regulations, as well as the availability of required resources, mutual cooperation and assistance in investigations or enforcement activities regarding any alleged or suspected violation of any laws or regulations falling within the scope of this Agreement. In addition, each Party shall notify the other Party promptly of any investigation when mutual interests are involved.

ARTICLE 10

Confidentiality and protection of data and information

1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of data and information received from the other Party under this Agreement. Such data and information may only be used by the Party receiving the data and information for the purposes of this Agreement.

2. In particular, subject to their respective laws and regulations, the Parties shall neither disclose to a third party, including the public, nor permit their competent authorities to disclose to a third party, including the public, any data and information received from the other Party under this Agreement that constitute trade secrets, intellectual property, confidential commercial or financial information, proprietary data, or information that relates to an ongoing investigation. To this end, such data and information shall be considered as confidential.
3. A Party or a competent authority of a Party may, when providing data or information to the other Party or a competent authority of the other Party, designate data or information that it considers to be confidential and not to be subject to disclosure. In that case, the Party or its competent authority shall clearly mark such data or information as confidential.
4. If a Party disagrees with the designation made by the other Party or a competent authority of that Party in accordance with paragraph 3 of this Article, the former Party may request consultations with the other Party pursuant to the provisions of Article 16 to address the issue.
5. Each Party shall take all reasonable precautions necessary to protect data and information, received under this Agreement, from unauthorised disclosure.
6. The Party receiving data and information from the other Party under this Agreement shall not acquire any proprietary rights in such data and information by reason of its receipt from the other Party.

ARTICLE 11

Joint Committee of the Parties

1. A Joint Committee shall be established, composed of representatives from each Party, as a body responsible for the effective implementation of this Agreement. It shall take decisions and make recommendations by consensus. It shall meet at regular intervals on the request of either Party under the co-chairmanship of the Parties.

2. The Joint Committee may consider any matter related to the implementation of this Agreement. In particular it shall be responsible for:
 - (a) resolving any issue between the Parties related to the implementation of this Agreement;

 - (b) considering ways to enhance the implementation of this Agreement and making as appropriate recommendations to the Parties for the amendment of this Agreement pursuant to Article 20;

 - (c) adopting new Annexes, or amending or deleting existing Annexes, subject to paragraph 7 of Article 20; and

 - (d) taking decisions, as appropriate, on working procedures on cooperation for all areas of cooperation referred to in Article 3.

3. The Joint Committee shall endeavour to develop and adopt its rules of procedure within one year after the entry into force of this Agreement.

ARTICLE 12

Cost recovery

Each Party shall endeavour to ensure that any fees or charges imposed by a Party or its technical agent on a legal or natural person whose activities are covered by this Agreement shall be just, reasonable and commensurate with the services provided and shall not create a barrier to trade.

ARTICLE 13

Other agreements and prior arrangements

1. Upon entry into force, this Agreement shall supersede any bilateral aviation safety agreements or arrangements between the Member States of the European Union and Japan with respect to any matter covered by this Agreement that has been implemented in accordance with the provisions of Article 3.

2. During the period of provisional application pursuant to paragraph 2 of Article 20, any bilateral aviation safety agreements or arrangements between the Member States of the European Union and Japan shall be suspended with respect to any matter covered by this Agreement that has been implemented in accordance with the provisions of Article 3.
3. The technical agents shall take necessary measures to revise or terminate, as appropriate, prior arrangements between them.
4. Subject to paragraphs 1 and 2 of this Article, nothing in this Agreement shall affect the rights and obligations of the Parties under any other international agreements.

ARTICLE 14

Application

Except where otherwise specified in the Annexes to this Agreement, this Agreement shall apply, on the one hand, to the civil aviation regulatory system of the European Union and, on the other hand, to the civil aviation regulatory system of Japan.

ARTICLE 15

Participation of third countries

The Parties share the goal of maximising the benefits of this Agreement by possible participation of third countries in the cooperation under this Agreement. To this end the Joint Committee, established pursuant to Article 11, may consider, as appropriate, the conditions and procedures for such participation, which may include any necessary amendments to this Agreement.

ARTICLE 16

Consultations and settlement of disagreements

1. The Parties shall make every effort to resolve any disagreement between them regarding the interpretation or application of this Agreement by consultation between them, including through the meetings of the Joint Committee established pursuant to Article 11.
2. The technical agents shall make every effort to resolve any disagreement between them regarding the interpretation or application of the implementation procedures referred to in paragraph 2 of Article 3 by consultation between them. In the event that any such disagreement is not resolved by consultation between the technical agents either technical agent may refer the disagreement to the Parties, which shall consult on the matter, including through the meetings of the Joint Committee.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, either Party may request consultations with the other Party on any matter related to this Agreement. The Parties shall enter into consultations at a time agreed by them within 45 days of the request. These consultations may take place at the meetings of the Joint Committee.

ARTICLE 17

Suspension of reciprocal acceptance obligations

1. A Party shall have the right to suspend, in whole or in part, its acceptance obligations under paragraph 1 of Article 4, when the other Party materially violates its obligations under this Agreement.
2. Before exercising its right to suspend its acceptance obligations, a Party shall request consultations under Article 16 for the purpose of seeking corrective measures of the other Party. During the consultations, the Parties shall, where appropriate, consider the effects of the suspension.
3. Rights under this Article shall be exercised only if the other Party fails to take corrective measures within an appropriate period of time following the consultations. If a Party exercises the right, it shall notify the other Party of its intention to suspend the acceptance obligations in writing and detail the reasons for suspension.

4. Such suspension shall take effect 30 days after the date of the notification, unless, prior to the end of this period, the Party, which initiated the suspension, notifies the other Party in writing that it withdraws its notification.

5. Such suspension shall not affect the validity of findings of compliance made and certificates issued by the competent authorities or approved organisations of the other Party prior to the date the suspension took effect. Any such suspension that has become effective may be rescinded immediately upon an exchange of diplomatic notes to that effect by the Parties.

ARTICLE 18

Headings

The headings of the Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

ARTICLE 19

Annexes

Annexes to this Agreement shall form an integral part of this Agreement, and all references to the "Agreement" shall include references to the Annexes except where otherwise provided.

ARTICLE 20

Entry into force, provisional application, termination and amendment

1. This Agreement shall enter into force on the date on which the Parties have exchanged diplomatic notes confirming the completion of their respective internal procedures necessary for entry into force of this Agreement.
2. Pending its entry into force, this Agreement shall be applied provisionally from its signature, in accordance with the laws and regulations of the Parties.
3. A Party may terminate this Agreement at any time upon six months written notification to the other Party, unless the said notification has been withdrawn by mutual consent of the Parties before the expiry of this period.
4. Following the notification of termination of this Agreement, the Parties shall continue to perform their obligations under this Agreement, until the effective date of termination.
5. Termination of this Agreement shall not affect the validity of any certificates issued by the competent authorities or the approved organisations under the terms of this Agreement.

6. The Parties may by written agreement amend this Agreement. Such amendment shall enter into force on the first day of the second month following the date on which the Parties have exchanged diplomatic notes confirming the completion of their respective internal procedures necessary for the entry into force of the amendment.

7. Notwithstanding paragraph 6, adoptions of new Annexes, or amendments or deletions of existing Annexes shall enter into force on the date of receipt by the European Union of the written notification from the Government of Japan of the completion of its necessary internal procedures.

ARTICLE 21

Authentic texts

1. This Agreement is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Japanese languages, all texts being equally authentic.

2. In case of any divergence of interpretation, the English text shall prevail.

IN WITNESS WHEREOF, the undersigned, duly authorised to this effect, have signed this Agreement

DONE, at [] on the [] day of [] in the year two thousand and []

For the European Union

For Japan

AIRWORTHINESS AND ENVIRONMENTAL CERTIFICATION

SECTION A

GENERAL PROVISIONS

ARTICLE 1

Purpose and scope

1. This Annex is developed for the implementation of cooperation in the following areas, in accordance with paragraph 2 of Article 3 of this Agreement, describing the terms, conditions and methods for reciprocal acceptance of findings of compliance and certificates:
 - (a) the airworthiness certificates and monitoring of civil aeronautical products referred to in subparagraph 1(a) of Article 3 of this Agreement;
 - (b) environmental certificates and testing of civil aeronautical products referred to in subparagraph 1(b) of Article 3 of this Agreement; and

- (c) the design and production certificates and monitoring of design and production organisations referred to in subparagraph 1(c) of Article 3 of this Agreement.
2. Notwithstanding paragraph 1, used civil aeronautical products, other than used aircraft, are excluded from the scope of this Annex.

ARTICLE 2

Definitions

For the purposes of this Annex:

- (a) "authorised release certificate" means a certificate issued by a competent authority or an approved organisation of the exporting Party as a form of recognition that a new civil aeronautical product, other than an aircraft, conforms to a design approved by the exporting Party and is in a condition for safe operation;
- (b) "certificating authority" means the technical agent of the exporting Party that issues a design certificate for a civil aeronautical product in its capacity as an authority carrying out the State of Design responsibilities set out in Annex 8 to the Convention on International Civil Aviation;

- (c) "design certificate" means a certificate issued by the technical agent or an approved organisation of a Party as a form of recognition that the design or change to a design of a civil aeronautical product complies with airworthiness requirements, and as applicable, environmental protection requirements, in particular concerning noise, fuel venting or exhaust emissions set out in laws, regulations and administrative provisions of that Party;
- (d) "design-related operational requirements" means the operational, including environmental protection requirements affecting the design features, design data of a civil aeronautical product relating to the operation, or maintenance of the civil aeronautical product, which makes it eligible for a particular kind of operation;
- (e) "export" means the process by which a civil aeronautical product is released from the regulatory system for civil aviation safety of a Party to that of the other Party;
- (f) "export certificate of airworthiness" means a certificate issued by the competent authority of the exporting Party or, for used aircraft, by the competent authority of the State of Registry from which the product is exported as a form of recognition that an aircraft conforms to the applicable airworthiness and environmental protection requirements notified by the importing Party;
- (g) "exporting Party" means the Party from whose regulatory system for civil aviation safety a civil aeronautical product is exported;

- (h) "import" means the process by which an exported civil aeronautical product from the regulatory system for civil aviation safety of a Party is introduced into that of the other Party;
- (i) "importing Party" means the Party into whose regulatory system for civil aviation safety a civil aeronautical product is imported;
- (j) "major change" means all changes in type design other than "minor change";
- (k) "minor change" means a change in type design that has no appreciable effect on the mass, balance, structural strength, reliability, operational characteristics, noise, fuel venting, exhaust emission, or other characteristics affecting the airworthiness of the civil aeronautical product;
- (l) "operational suitability data" means the required set of data to support and allow the type-specific operational aspects of certain types of aircraft that are regulated under the regulatory system for civil aviation safety of the European Union. It must be designed by the type certificate applicant or holder for the aircraft and be part of the type certificate. Under the regulatory system for civil aviation safety of the European Union, an initial application for a type certificate or restricted type certificate shall include, or be subsequently supplemented by, the application for approval of operational suitability data, as applicable to the aircraft type;

- (m) "production approval" means a certificate issued by the competent authority of a Party to a manufacturer which produces civil aeronautical products, as a form of recognition that the manufacturer complies with applicable requirements set out in laws, regulations and administrative provisions of that Party for the production of the particular civil aeronautical products;
- (n) "stand-alone production approval" means a production approval issued to a manufacturer of a civil aeronautical product which is not an extension of the production approval to any affiliated entity of the manufacturer;
- (o) "technical implementation procedures" means the implementation procedures for this Annex developed by the technical agents in accordance with paragraph 2 of Article 3 of this Agreement; and
- (p) "validating authority" means the technical agent of the importing Party that automatically accepts or validates, as specified in this Annex, a design certificate issued by the certifying authority or an approved organisation.

SECTION B

CERTIFICATION OVERSIGHT BOARD

ARTICLE 3

Establishment and composition

1. The Certification Oversight Board, accountable to the Joint Committee established under Article 11 of this Agreement, is hereby established under the co-chairmanship of the technical agents, as a technical coordination body responsible for the effective implementation of this Annex. It shall be composed of representatives from the technical agent of each Party and may invite additional participants to facilitate the fulfilment of its mandate.
2. The Certification Oversight Board shall meet at regular intervals upon the request of either technical agent, and take decisions and make recommendations by consensus. It shall develop and adopt its rules of procedure.

ARTICLE 4

Mandate

The mandate of the Certification Oversight Board shall include in particular:

- (a) developing, adopting, and revising the technical implementation procedures referred to in Article 6 of this Annex;
- (b) sharing information on major safety concerns and, where appropriate, developing action plans to address them;
- (c) resolving technical issues falling within the responsibilities of the competent authorities and affecting the implementation of this Annex;
- (d) where appropriate, developing effective means for cooperation, technical support and exchange of information regarding safety and environmental protection requirements, certification systems, and quality management and standardisation systems;
- (e) proposing amendments to this Annex to the Joint Committee;

- (f) in accordance with the provisions of Article 29 of this Annex, defining procedures to ensure the continued confidence of each Party in the reliability of the other Party's processes for findings of compliance;
- (g) analysing and taking action regarding the implementation of the procedures referred to in subparagraph (f); and
- (h) reporting unresolved issues to the Joint Committee and ensuring the implementation of decisions taken by the Joint Committee regarding this Annex.

SECTION C

IMPLEMENTATION

ARTICLE 5

Competent authorities for design certification, production certification and export certificates

1. Competent authorities for design certification are:
 - (a) for the European Union: the European Union Aviation Safety Agency; and

(b) for Japan: the Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism of Japan.

2. Competent authorities for production certification and export certificates are:

(a) for the European Union: the European Union Aviation Safety Agency and the competent authorities of the Member States of the European Union. As regards an export certificate for used aircraft, it is the competent authority of the State of Registry for the aircraft from which the aircraft is exported; and

(b) for Japan: the Civil Aviation Bureau of the Ministry of Land, Infrastructure, Transport and Tourism of Japan.

ARTICLE 6

Technical implementation procedures

1. The technical implementation procedures shall be developed by the technical agents through the Certification Oversight Board in order to provide specific procedures to facilitate the implementation of this Annex, by defining the procedures for communication activities between the competent authorities of the Parties.

2. The technical implementation procedures shall also address the differences between the Parties' civil aviation standards, rules, practices, procedures and systems related to the implementation of this Annex, as provided in paragraph 2 of Article 3 of this Agreement.

ARTICLE 7

Exchange and protection of confidential and proprietary data and information

1. Data and information exchanged in the implementation of this Annex shall be subject to the provisions of Article 10 of this Agreement.
2. Data and information exchanged during the validation process shall be limited in nature and content to what is necessary for the purpose of compliance demonstration with applicable technical requirements, as detailed in the technical implementation procedures.
3. Any disagreement with regard to a data and information exchange between the competent authorities of the Parties shall be handled as detailed in the technical implementation procedures. Each Party shall retain the right to refer the disagreement to the Certification Oversight Board for resolution.

SECTION D

DESIGN CERTIFICATION

ARTICLE 8

General principles

1. This Section addresses all design certificates and changes thereof within the scope of this Annex, in particular:
 - (a) type certificates;
 - (b) type approvals and specification approvals;
 - (c) supplemental type certificates;
 - (d) repair design approvals;
 - (e) technical standard order approvals; and
 - (f) restricted type certificates. Restricted type certificates are issued by the technical agents and will be addressed on a case-by-case basis by the technical agents as detailed in the technical implementation procedures.

2. The validating authority shall either validate, having regard to the level of involvement referred to in Article 12 of this Annex, or automatically accept a design certificate or a change that has been, or is in the process of being, issued or approved by the certifying authority, in accordance with the terms and conditions set out in this Annex and as detailed in the technical implementation procedures, including its modalities of automatic acceptance and validation of certificates.
3. For the implementation of this Annex, each Party shall ensure that in its regulatory system for civil aviation safety, the demonstration of capability of any design organisation to assume its responsibilities is sufficiently controlled through a system of certification for design organisations.

ARTICLE 9

Validation process

1. An application for the validation of a design certificate of a civil aeronautical product shall be made to the validating authority through the certifying authority as detailed in the technical implementation procedures.
2. The certifying authority shall ensure that the validating authority receives all the relevant data and information necessary for the validation of the design certificate, as detailed in the technical implementation procedures.

3. Upon receiving the application for the validation of the design certificate, the validating authority shall determine the certification basis for the validation in accordance with Article 11 of this Annex, as well as the level of involvement of the validating authority in the validation process in accordance with Article 12 of this Annex.
4. The validating authority shall, as detailed in the technical implementation procedures, base its validation to the maximum extent practicable on the technical evaluations, tests, inspections, and findings of compliance made by the certifying authority.
5. The validating authority shall, after examining relevant data and information provided by the certifying authority, issue its design certificate for the validated civil aeronautical product (hereinafter referred to as "validated design certificate") when:
 - (a) it is confirmed that the certifying authority has issued its own design certificate for the civil aeronautical product;
 - (b) it has been declared by the certifying authority that the civil aeronautical product complies with the certification basis referred to in Article 11 of this Annex;
 - (c) all issues raised during the validation process conducted by the validating authority have been resolved; and
 - (d) additional administrative requirements, as detailed in the technical implementation procedures, have been met by the applicant.

6. Each Party shall ensure that in order to obtain and maintain a validated design certificate, the applicant holds and retains at the disposal of the certifying authority all relevant design information, drawings and test reports, including inspection records for the certified civil aeronautical product, in order to provide the information necessary to ensure the continued airworthiness and compliance with applicable environmental protection requirements of the civil aeronautical product.

ARTICLE 10

Modalities of the validation of design certificates

1. Type certificates issued by the European Union as certifying authority shall be validated by Japan as validating authority. Some data, as detailed in the technical implementation procedures, shall be automatically accepted. Those data include the following documents, as applicable:
 - (a) engine installation manual (for engine type certificate);
 - (b) structural repair manual;
 - (c) instruction for continued airworthiness of electrical wiring interconnection systems; and
 - (d) weight balance manual.

2. Significant supplemental type certificates and approvals for significant major changes issued by the European Union as certifying authority shall be validated by Japan as validating authority. A streamlined validation process limited to the technical familiarisation without involvement of the validating authority in the showing of compliance activities by the applicant shall be used as a matter of principle, unless otherwise decided by the technical agents on a case-by-case basis.
3. Type certificates and type approvals for an aircraft engine and an aircraft propeller issued by Japan as certifying authority shall be validated by the European Union as validating authority.
4. Type approvals for a civil aeronautical product other than an aircraft engine or an aircraft propeller, supplemental type certificate, and approvals for major changes, major repairs and specification issued by Japan as certifying authority shall be validated by the European Union as validating authority. A streamlined validation process limited to the technical familiarisation without involvement of the validating authority in the showing of compliance activities by the applicant may be used when decided by the technical agents on a case-by-case basis.

ARTICLE 11

Certification basis for the validation

1. For the purpose of validating a design certificate of a civil aeronautical product, the validating authority shall refer to the following requirements set out in laws, regulations and administrative provisions of its Party in determining the certification basis:
 - (a) the airworthiness requirements for a similar civil aeronautical product that were in effect on the effective application date established by the certifying authority, and complemented when applicable by additional technical conditions as detailed in the technical implementation procedures; and
 - (b) the environmental protection requirements for the civil aeronautical product that were in effect on the date of the application for the validation to the validating authority.
2. The validating authority shall specify, when applicable, any:
 - (a) exemption to the applicable requirements;
 - (b) deviation from the applicable requirements; or
 - (c) compensating factors that provide an equivalent level of safety when applicable requirements are not complied with.

3. In addition to the requirements specified in paragraphs 1 and 2 of this Article, the validating authority shall specify any special condition to be applied if the related airworthiness codes, laws, regulations and administrative provisions do not contain adequate or appropriate safety requirements for the civil aeronautical product, because:
 - (a) the civil aeronautical product has novel or unusual design features relative to the design practices on which the applicable airworthiness codes, laws, regulations and administrative provisions are based;
 - (b) the intended use of the civil aeronautical product is unconventional; or
 - (c) experience obtained from other similar civil aeronautical products in service or civil aeronautical products having similar design features, has shown that unsafe conditions may develop.

4. When specifying exemptions, deviations, compensating factors or special conditions, the validating authority shall give due consideration to those applied by the certifying authority and they shall not be more demanding for the civil aeronautical products to be validated than they would be for its own similar products. The validating authority shall notify the certifying authority of any such exemptions, deviations, compensating factors or special conditions.

ARTICLE 12

Level of involvement of the validating authority

1. The level of involvement of the validating authority of a Party during the validation process referred to in Article 9 of this Annex and as detailed in the technical implementation procedures, shall be mainly determined by:
 - (a) the experience and records of the competent authority of the other Party as certifying authority;
 - (b) the experience already gained by this validating authority during previous validation exercises with the competent authority of the other Party;
 - (c) the nature of the design to be validated;
 - (d) the performance and experience of the applicant with the validating authority; and
 - (e) the outcome of qualification requirements assessments referred to in Articles 28 and 29 of this Annex.

2. The validating authority shall exercise special procedures and scrutiny, in particular regarding the certifying authority's processes and methods, during the first validation of a given product category, as detailed in the technical implementation procedures.
3. The effective implementation of the principles specified in paragraphs 1 and 2 of this Article shall be regularly measured, monitored and reviewed by the Certification Oversight Board, using metrics as detailed in the technical implementation procedures.

ARTICLE 13

Automatic acceptance process

1. For a design certificate subject to automatic acceptance, the validating authority shall accept the design certificate issued by the certifying authority without any validation activities. In this case, the design certificate shall be recognised by the validating authority as equivalent to a certificate issued in accordance with laws, regulations and administrative provisions of its Party and the validating authority shall not issue its corresponding certificate.
2. Non-significant supplemental type certificates, non-significant major changes or non-significant major repairs and technical standard order approvals issued by the technical agent of the European Union as certifying authority shall be automatically accepted by the technical agent of Japan as validating authority.

3. Minor changes and minor repairs approved by the technical agent of the European Union as certifying authority or by an approved organisation under European Union law shall be automatically accepted by the technical agent of Japan as validating authority.
4. Minor changes and minor repairs approved by the technical agent of Japan as certifying authority or by an approved organisation under laws and regulations of Japan shall be automatically accepted by the technical agent of the European Union as validating authority.

ARTICLE 14

Implementation provision for Articles 10 and 13

1. The minor change or major change classifications shall be made by the certifying authority in accordance with the definitions set out in this Annex and interpreted in accordance with the applicable rules and procedures of the certifying authority.
2. For classifying a supplemental type certificate or major change as significant or non-significant, the certifying authority shall consider the change in the context of all previous relevant design changes and all related revisions to the applicable certification specifications incorporated in the type certificate for the civil aeronautical product. Changes that meet either of the following criteria are automatically considered as significant:
 - (a) the general configuration or the principles of construction are not retained; or

- (b) the assumptions used for certification of the civil aeronautical product to be changed do not remain valid.

ARTICLE 15

Transfer of a design certificate

In the event that a design certificate holder transfers its design certificate to another entity, the certifying authority responsible for the design certificate shall promptly notify the validating authority of the transfer and apply the procedure related to the transfer of design certificates as detailed in the technical implementation procedures.

ARTICLE 16

Design-related operational requirements

1. The technical agents shall ensure that, where necessary, data and information related to design-related operational requirements shall be exchanged during the validation process.
2. Subject to decision between the technical agents for some design-related operational requirements, the validating authority may accept the compliance statement of the certifying authority through the validation process.

ARTICLE 17

Operational documents and data related to the type

1. Some type-specific sets of operational documents and data, including operational suitability data in the European Union system and the equivalent data in the Japanese system, provided by the type certificate holder, shall be approved or accepted by the certifying authority and, where necessary, be exchanged during the validation process.
2. Operational documents and data referred to in paragraph 1 of this Article may be either automatically accepted or validated by the validating authority as detailed in the technical implementation procedures.

ARTICLE 18

Concurrent validation

When decided by the applicant and the technical agents, a concurrent validation process may be used, where appropriate and as detailed in the technical implementation procedures.

ARTICLE 19

Continuing airworthiness

1. The technical agents shall take action to address unsafe conditions in civil aeronautical products for which they are the certificating authority.
2. Upon request, a competent authority of a Party shall, in respect of civil aeronautical products designed or manufactured under its regulatory system, assist the competent authority of the other Party in determining any action considered to be necessary for the continued airworthiness of the civil aeronautical products.
3. When in-service difficulties or other potential safety issues affecting a civil aeronautical product within the scope of this Annex lead to an investigation conducted by the technical agent of a Party that is the certificating authority for the civil aeronautical product, the technical agent of the other Party shall, upon request, support that investigation, including by providing relevant information reported by relevant entities on failures, malfunctions, defects or other occurrences affecting that civil aeronautical product.
4. The reporting obligations of the design certificate holders to the certificating authority and the information exchange mechanism established by this Annex shall be considered to fulfil the obligation of each design certificate holder to report failures, malfunctions, defects or other occurrences affecting that civil aeronautical product to the validating authority.

5. Actions to address unsafe conditions and exchange of safety information referred to in paragraphs 1 to 4 of this Article shall be detailed in the technical implementation procedures.
6. The technical agent of a Party shall keep the technical agent of the other Party informed of all its mandatory continuing airworthiness information in relation to civil aeronautical products designed or manufactured under its oversight system, and which are within the scope of this Annex.
7. Any changes to the airworthiness status of a certificate issued by a Party's technical agent shall be communicated timely to the other Party's technical agent.

SECTION E

PRODUCTION CERTIFICATION

ARTICLE 20

Recognition of production certification and production oversight system

1. The importing Party shall recognise the production certification and production oversight system of the exporting Party, since the system is considered sufficiently equivalent to the system of the importing Party within the scope of this Annex, subject to the provisions of paragraph 2 of Article 26 of this Annex.

2. The provisions of paragraph 1 of this Article shall also apply:
- (a) to the production of a civil aeronautical product for which the State of Design responsibilities are exercised by a country other than the exporting Party of the civil aeronautical product, provided that the competent authority of the exporting Party has established and implemented the necessary procedures with the relevant authority of the State of Design to control the interface between the design certificate holder and the production approval holder for that civil aeronautical product;
 - (b) to the production of a civil aeronautical product other than a civil aircraft, an aircraft engine or an aircraft propeller produced by a stand-alone production approval holder of the exporting Party, located outside of the territories of the Parties; and
 - (c) to the production of an aircraft engine and an aircraft propeller produced by a stand-alone production approval holder of the exporting Party located outside of the territories of the Parties, subject to a review by the technical agents on a case-by-case basis.

ARTICLE 21

Extension of production approval and stand-alone production approval

1. A production approval issued by the competent authority of the exporting Party to a manufacturer primarily located in the territory of the exporting Party and recognised under the provisions of paragraph 1 of Article 20 of this Annex may be extended to include manufacturing sites and facilities of the manufacturer located in the territory of the importing Party or in the territory of a third country, irrespective of the legal status of these manufacturing sites and facilities, and irrespective of the type of civil aeronautical product manufactured in these sites and facilities. In this case, the competent authority of the exporting Party shall remain responsible for the oversight of these manufacturing sites and facilities and the competent authority of the importing Party shall not issue its own production approval to those manufacturing sites and facilities for the same civil aeronautical product.
2. The stand-alone production approvals issued by the competent authority of a Party to a manufacturer located in the territory of the other Party, still in force at the time of signature of this Agreement, shall be reviewed on a case-by-case basis by the technical agents. In consultation with the stand-alone production approval holders, some of such stand-alone production approvals may be terminated within a reasonable time frame.

ARTICLE 22

The interface between the production approval holder and the design certificate holder

1. In cases where the production approval holder for a civil aeronautical product is regulated by the competent authority of a Party, and the design certificate holder for the same civil aeronautical product is regulated by the competent authority of the other Party, the competent authorities of the Parties shall establish procedures to define the responsibilities of each Party to control the interface between the production approval holder and the design certificate holder.
2. For the purpose of export of civil aeronautical products within the framework of this Annex, when the design certificate holder and the production approval holder are not the same entity, the competent authorities of the Parties shall ensure that the design certificate holder establishes proper arrangements with the production approval holder to ensure the satisfactory coordination between design and production and the proper support of the continued airworthiness of the civil aeronautical product.

ARTICLE 23

Avoidance of duplication of production approvals

Unless otherwise decided by the technical agents, the competent authority of the importing Party shall not issue a production approval to a production approval holder of the exporting Party if that production approval would cover the civil aeronautical products which are already included in the production approval issued by the competent authority of the exporting Party.

SECTION F

EXPORT CERTIFICATES

ARTICLE 24

Scope

This Annex addresses the following export certificates within the scope of this Annex as detailed in the technical implementation procedures:

- (a) export certificate of airworthiness for new and used aircraft; and
- (b) authorised release certificate for new civil aeronautical products other than aircraft.

ARTICLE 25

Issuance of an export certificate

1. When issuing an export certificate of airworthiness for a new aircraft or an authorised release certificate for a new civil aeronautical product other than an aircraft, the competent authority of the exporting Party shall ensure that such civil aeronautical product:
 - (a) conforms to the design automatically accepted or validated, or certified by the importing Party in accordance with this Annex and as detailed in the technical implementation procedures;
 - (b) is in a condition for safe operation;
 - (c) meets all additional requirements notified by the importing Party; and
 - (d) as regards civil aircraft, aircraft engines and aircraft propellers, complies with the applicable mandatory continuing airworthiness information, including airworthiness directives of the importing Party, as notified by that Party.

2. When issuing an export certificate of airworthiness for a used aircraft registered in the exporting Party, in addition to the requirements referred to in subparagraphs (a) to (d) in paragraph 1 of this Article, the competent authority of the exporting Party shall ensure that such aircraft has been properly maintained using approved procedures and methods of the exporting Party during its service life, as evidenced by logbooks and maintenance records.

ARTICLE 26

Acceptance of an export certificate for a new civil aeronautical product

1. Subject to the provisions of Section E of this Annex and paragraph 2 of this Article, the competent authority of the importing Party shall accept an export certificate issued by the competent authority or a production approval holder as an approved organisation of the exporting Party for a new civil aeronautical product, in accordance with the terms and conditions set out in this Annex and as detailed in the technical implementation procedures.

2. In case of categories of civil aeronautical products that have not been previously accepted under the regulatory system for civil aviation safety of the importing Party, the competent authority of the importing Party may decide, before accepting the export certificates for those civil aeronautical products under this Article, to conduct an assessment of the production approval holder as detailed in the technical implementation procedures in order to confirm that the requirements provided for in paragraph 1 of Article 25 of this Annex are effectively met. The importing Party shall inform the exporting Party when the importing Party has the intention to conduct such an assessment. The list of production approval holders which have successfully completed such assessment shall be published in the official publication of the technical agent of the importing Party.

ARTICLE 27

Acceptance of an export certificate of airworthiness for a used aircraft

1. The competent authority of the importing Party shall accept an export certificate of airworthiness issued by the competent authority of the exporting Party for a used aircraft in accordance with the terms and conditions set out in this Annex and the technical implementation procedures only if the holder of the type certificate or the restricted type certificate exists for the used aircraft to support continued airworthiness of that type of aircraft.

2. For an export certificate of airworthiness for a used aircraft manufactured under the production oversight of the exporting Party to be accepted in accordance with paragraph 1 of this Article, the competent authority of the exporting Party shall assist, upon request, the competent authority of the importing Party in obtaining data and information regarding:
 - (a) the configuration of the aircraft at the time of dispatch from the manufacturer; and
 - (b) subsequent changes and repairs applied to the aircraft that it has approved.
3. The importing Party may request inspection and maintenance records as detailed in the technical implementation procedures.
4. If, in the process of assessing the airworthiness status of a used aircraft considered for export, the competent authority of the exporting Party is unable to satisfy all of the requirements specified in paragraph 2 of Article 25 of this Annex and paragraphs 1 and 2 of this Article, it shall:
 - (a) notify the competent authority of the importing Party;
 - (b) coordinate with the competent authority of the importing Party, as detailed in the technical implementation procedures, their acceptance or rejection of the exceptions to the applicable requirements; and
 - (c) keep a record of any accepted exceptions when exporting.

SECTION G

QUALIFICATION OF COMPETENT AUTHORITIES

ARTICLE 28

Qualification requirements for the acceptance of findings of compliance and certificates

Each Party shall maintain a structured and effective certification and oversight system for the implementation of this Annex, including:

- (a) a legal and regulatory framework, ensuring in particular regulatory powers over entities regulated under the regulatory system for civil aviation safety of the Party;
- (b) an organisational structure, including a clear description of responsibilities;
- (c) sufficient resources, including qualified staff with sufficient knowledge, experience and training;
- (d) adequate processes documented in policies and procedures;
- (e) documentation and records; and

- (f) an established inspection programme ensuring uniform level of implementation of the legal and regulatory framework among the various components of the oversight system.

ARTICLE 29

Continued qualifications of the competent authorities

1. In order to maintain mutual confidence in each other's regulatory systems concerning the implementation of this Annex so that they ensure a sufficiently equivalent level of safety, the technical agent of each Party shall regularly assess the other Party's competent authorities' compliance with the qualification requirements referred to in Article 28 of this Annex. The modalities of such continued mutual assessments shall be detailed in the technical implementation procedures.
2. The competent authority of a Party shall cooperate with the competent authority of the other Party whenever such assessments are required and ensure that regulated entities subject to its oversight provide access to the technical agents.

3. If the technical agent of either Party believes that the technical competence of a competent authority of the other Party is no longer adequate, or that the acceptance of findings of compliance made or certificates issued by that competent authority should be suspended as the other Party's system concerning the implementation of this Annex no longer ensures a sufficiently equivalent level of safety to permit such acceptance, the technical agents shall consult in order to identify remedial actions.
4. If mutual confidence is not restored through mutually acceptable means, the technical agent of each Party may refer the matter referred to in paragraph 3 of this Article to the Certification Oversight Board.
5. If the matter is not resolved by the Certification Oversight Board, each Party may refer the matter referred to in paragraph 3 of this Article to the Joint Committee established by Article 11 of this Agreement.

SECTION H

COMMUNICATIONS, CONSULTATIONS AND SUPPORT

ARTICLE 30

Communications

Subject to the exceptions decided by the technical agents on a case-by-case basis, all communications between the competent authorities of the Parties, including documentation as detailed in the technical implementation procedures, shall be made in the English language.

ARTICLE 31

Technical consultations

1. The technical agents shall address issues concerning the implementation of this Annex through consultations.
2. If a mutually acceptable solution is not reached through the consultations held in accordance with paragraph 1 of this Article, the technical agent of each Party may refer the issue referred to in paragraph 1 of this Article to the Certification Oversight Board.

3. If the issue is not resolved by the Certification Oversight Board, each Party may refer the issue referred to in paragraph 1 of this Article to the Joint Committee established by Article 11 of this Agreement.

ARTICLE 32

Support for certification and continued airworthiness oversight activities

Upon request, after mutual consent, and as resources permit, the competent authority of a Party may provide technical support, data and information to the competent authority of the other Party in certification and continued airworthiness oversight activities related to design, production and environmental protection. The support to be provided and the process for providing such support shall be detailed in the technical implementation procedures.
