

COMMISSION DECISION (EU) 2023/899**of 15 July 2019****on amendments to Annex B to the Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision 2011/694/EU of 26 September 2011 on the conclusion of an Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety ⁽¹⁾, and in particular Article 4(2) thereof,

Whereas:

- (1) The Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety ('the Agreement') entered into force on 27 August 2013.
- (2) One of the main aims of the Agreement is to improve the long-standing cooperative relationship between the Union and the Federative Republic of Brazil to ensure a high level of civil aviation safety worldwide and to minimize economic burdens on the aviation industry and operators from redundant regulatory oversight.
- (3) According to Article 16(5) of the Agreement, the Parties may agree to amend existing Annexes to the Agreement by means of an exchange of Diplomatic Notes between the Parties.
- (4) At its meeting, on 15 January 2019, the Joint Committee established under Article 9 of the Agreement endorsed amendments to Annex B to the Agreement proposed jointly by the European Union Aviation Safety Agency (EASA) and the National Civil Aviation Agency of Brazil (ANAC).
- (5) The proposed amendments to Annex B aim at updating the Annex to the current regulatory framework and at reducing the requirement and the related costs for maintenance organisation and therefore generate benefits for both the European and the Brazilian aviation industry.
- (6) The Special Committee appointed by the Council in accordance with Article 4(1) of Council Decision 2011/694/EU was consulted on 29 January 2019.
- (7) The proposed amendments should be approved on behalf of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The amendments to Annex B to the Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety, attached to this Decision, are hereby approved on behalf of the Union.

Article 2

The amendments referred to in Article 1 shall enter into force subject to the terms agreed in the exchange of Diplomatic Notes between the Parties.

⁽¹⁾ OJ L 273, 19.10.2011, p. 1.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 15 July 2019.

For the Commission
Violeta BULC
Member of the Commission

ANNEX

Annex B to the Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety is amended as follows:

(1) Section 2 is replaced by the following:

‘2. Applicable Legislation

- 2.1. The Parties agree that, for the purposes of this Procedure, compliance with the applicable legislation relating to maintenance of one Party and with the regulatory requirements specified as Special Conditions in Appendix B1 of this Procedure amounts to compliance with the applicable legislation of the other Party.
- 2.2. The Parties agree that, for the purposes of this Procedure, each Party’s Competent Authorities certification practices and procedures provide for an equivalent proof of compliance with the requirements referred to in the previous paragraph.
- 2.3. The Parties agree that, for the purposes of this Procedure, the respective standards of the Parties pertaining to licensing of maintenance personnel are considered to be equivalent.’

(2) In Section 3 a new Point (f) is added:

- ‘(f) “Special Conditions” means those requirements in either Regulamento Brasileiro de Aviação Civil -RBAC 43 and 145 or in Annex II to Commission Regulation (EU) No 1321/2014 (hereinafter referred to as EASA Part-145) that have been found, based on a comparison of the regulatory maintenance systems, not to be common to both systems and which are significant enough that they must be addressed.’

(3) Section 4 is amended as follows:

(a) the words ‘or quality control systems’ are deleted in subparagraph 4.1.1.(c).

(b) subparagraph 4.2.1. is replaced by the following:

‘4.2.1. The Joint Sectorial Committee on Maintenance shall meet at least once a year to ensure the effective functioning and implementation of this Procedure and shall, inter alia:

- (a) evaluate the regulatory changes in the Parties to ensure that Special Conditions detailed in Appendix B1 of this Procedure remain current;
- (b) Develop, approve, and revise detailed guidance to be used for processes covered by this Annex;
- (c) ensure that the Parties share a common understanding of this Procedure;
- (d) ensure that the Parties apply this Procedure in a consistent manner;
- (e) resolve any difference on technical issues arising out of the interpretation or the implementation of this Procedure, including differences that may arise out of the interpretation or the implementation of this Procedure;
- (f) organise, as appropriate, reciprocal participation by one Party in the other Party’s internal standardisation; and
- (g) elaborate, as appropriate, proposals for the Joint Committee regarding amendments to this Procedure.’

(c) subparagraph 4.2.2. is replaced by the following:

‘4.2.2. Should the Joint Sectorial Committee on Maintenance fail to resolve differences in accordance with subparagraph 4.2.1(e) of this Procedure, it shall report the issue to the Joint Committee and ensure the implementation of the decision reached by that Committee.’

(4) Section 5 is replaced by the following:

‘5. Maintenance Organisation Approval

- 5.1. Any maintenance organisation of one Party that has been certified by a Competent Authority of that Party to perform maintenance functions shall be required to have a supplement to its maintenance organisation manual in order to comply with the Special Conditions set out in Appendix B1 of this Procedure. When it is satisfied that the supplement meets the Special Conditions set out in Appendix B1 of this Procedure, the said Competent Authority shall issue an approval attesting compliance with the applicable requirements of the other Party and specifying the scope of tasks that the maintenance organisation can perform on aircraft registered in that other party. Such scope of ratings and limitations shall not exceed that contained in its own certificate.
- 5.2. The approval issued in accordance with Paragraph 5.1 of this Procedure by the Competent Authority of one Party shall be notified to the other Party and shall constitute a valid approval for the other Party without additional action.
- 5.3. Recognition of an approval certificate pursuant to Paragraph 5.2 of this Procedure shall apply to the maintenance organisation at its principal place of business, as well as at its other locations within the territory of the Party that are identified in the relevant manual and are subject to the oversight of a Competent Authority.
- Recognition of an approval certificate pursuant to Paragraph 5.2 of this Procedure shall also apply to line stations located outside the territory of both Parties provided they are identified in the relevant manual and are subject to the oversight of a Competent Authority.
- 5.4. The Parties may seek assistance from the civil aviation authority of a third country in the fulfilment of their regulatory surveillance and oversight functions when an approval by both Parties has been granted or extended by formal agreement or arrangement with that third country.
- 5.5. A Party through its Competent Authority shall promptly notify the other Party of any changes to the scope of the approvals it has issued in accordance with Paragraph 5.1 of this Procedure, including revocation or suspension of the approval.’

(5) Section 8 is replaced by the following:

‘8. Special Conditions

The recognition by one Party of a maintenance organisation under the jurisdiction of the other Party pursuant to Section 5 of this Procedure shall be based upon the maintenance organisation adopting a supplement to its maintenance organization manual which shall, at a minimum, cover the Special Conditions contained in Appendix B1.’

(6) Appendix B1 is replaced by the following:

‘Appendix B1

Special Conditions

1. EASA SPECIAL CONDITIONS APPLICABLE TO BRAZILIAN BASED MAINTENANCE ORGANISATIONS

- 1.1 To be approved in accordance with EASA Part 145, pursuant to the terms of this Annex, the maintenance organisation shall comply with all of the following Special Conditions:
- (a) The maintenance organisation shall submit an application in a form and a manner acceptable to EASA. The application for both initial and continuation of the EASA approval shall include a statement demonstrating that the EASA approval is necessary for maintaining or altering aeronautical products registered in an EU Member State or parts fitted thereon.

- (b) The maintenance organisation shall provide a supplement to its Maintenance Organisation Manual (MOM) that is verified and approved by the ANAC on behalf of EASA. All revisions to the supplement must be approved by the ANAC. The supplement shall include the following:
- (i) A statement by the accountable manager of the maintenance organisation, as defined in the current version of EASA Part 145, which commits the maintenance organisation to compliance with this Annex and the Special Conditions as listed.
 - (ii) Detailed procedures for the operation of an independent quality monitoring system including oversight of all multiple facilities within the territory of the Federative Republic of Brazil and all applicable line stations.
 - (iii) Procedures for the release or approval for return to service that meet the requirements of EASA Part 145 for aircraft and the use of the ANAC Form F-100-01 (also referred as ANAC Form SEGV00 003) for aircraft components, and any other information required by the owner or operator as appropriate.
 - (iv) Procedures to ensure that all parts used to repair EU registered aircraft or components to be fitted thereto were manufactured or maintained by organizations acceptable to EASA.
 - (v) Procedures to ensure that repairs and modifications as defined by EASA requirements are accomplished in accordance with data approved by EASA.
 - (vi) A procedure for the maintenance organisation to ensure that the ANAC approved initial and recurrent training programme and any revision thereto include human factors training.
 - (vii) Procedures for reporting non-airworthy conditions as required by EASA Part 145 on civil aeronautical products to the EASA, aircraft design organisation, and the customer or operator.
 - (viii) Procedures to ensure completeness of, and compliance with, the customer or operator work order or contract including notified EASA airworthiness directives and other notified mandatory instructions.
 - (ix) Procedures in place to ensure that contractors meet the terms of these implementation procedures; that is, using an EASA approved Part 145 organisation or, if using an organisation which does not hold an EASA Part 145 approval, the maintenance organisation returning the product to service is responsible for ensuring its airworthiness.
 - (x) Procedures to permit work away from the fixed location on a recurring basis, when applicable
 - (xi) Procedures to ensure appropriate covered hangars are used when performing base maintenance of EU registered aircraft.
 - (xii) Procedures to confirm that the AMO supervisors and employees responsible for final inspection and return to service are able to read, write, and understand English.

1.2 To continue to be approved in accordance with EASA Part 145, pursuant to the terms of this Annex, the maintenance organisation shall comply with the following, subject to ANAC verification:

- (a) Allow EASA, or the ANAC on behalf of EASA, to inspect it for continued compliance with the requirements of the Brazilian Regulation RBAC 145 and these Special Conditions.
- (b) Accept that investigation and enforcement action may be taken by EASA in accordance with any relevant EU regulations and EASA procedures.
- (c) Cooperate with any EASA investigation or enforcement action.
- (d) Continue to comply with Brazilian Regulation RBAC 145 and these Special Conditions.

2. ANAC SPECIAL CONDITIONS APPLICABLE TO EU BASED APPROVED MAINTENANCE ORGANISATIONS (AMOs)

2.1 To be approved in accordance with Brazilian Regulation RBAC 145, pursuant to the terms of this Annex, the AMO shall comply with all of the following Special Conditions:

- (a) The AMO shall submit an application in a form and a manner acceptable to the ANAC. The application for both initial and continuation of ANAC approval shall include a statement demonstrating that the ANAC approval is necessary for maintaining or altering Brazilian registered aeronautical products or foreign registered aeronautical products operated under the provisions of Brazilian Regulations RBAC.
- (b) The AMO must provide a supplement in English to its MOE that is approved by the Aviation Authority and maintained at the AMO. Once approved by the Aviation Authority, the supplement shall be deemed accepted by the ANAC. All revisions to the supplement must be approved by the Aviation Authority. The ANAC supplement to the MOE shall include the following:
 - (i) A signed and dated statement by the accountable manager that obligates the organisation to comply with the Annex.
 - (ii) A summary of its quality system which shall also cover the ANAC special conditions.
 - (iii) Procedures for approval for release or return to service that satisfy the requirements of Brazilian Regulation RBAC 43 for aircraft and use of EASA Form 1 for components. This includes the information required by Brazilian regulations RBAC 43.9 and 43.11 and all information required to be made or kept by the owner or operator in English as appropriate.
 - (iv) Procedures for reporting to the ANAC failures, malfunctions, or defects, and Suspected Unapproved Parts (SUP) discovered, or intended to be installed, on Brazilian aeronautical products.
 - (v) Procedures to qualify and monitor additional fixed locations in the EU Member States and all applicable line stations inside and outside the EU Member States.
 - (vi) Procedures in place to verify that all contracted/sub contracted activities include provisions for a non ANAC certificated source to return the Article to the AMO for final inspection/testing and return to service.
 - (vii) Procedures to ensure that major repairs and major alterations/modifications (as defined in Brazilian Regulations RBAC) are accomplished in accordance with data approved by the ANAC.
 - (viii) Procedures to ensure compliance with air carrier's Continuous Airworthiness Maintenance Programme (CAMP), including the separation of maintenance from inspection on those items identified by the air carrier/customer as Required Inspection Items (RII).
 - (ix) Procedures to ensure compliance with the manufacturer's maintenance manuals or instructions for continued airworthiness (ICA) and handling of deviations.
 - (x) Procedures to ensure that all current and applicable airworthiness directives (AD) published by the ANAC are available to maintenance personnel at the time the work is being performed.
 - (xi) Procedures for the AMO to guarantee its capability to clearly comprehend information presented in the Portuguese language.
 - (xii) Procedures to permit work away from fixed location on a recurring basis, when applicable.
 - (xiii) Procedures to maintain, at least for 5 (five) years, each Work Order with all attached supplementary forms and part certifications.
 - (xiv) In the case when an AMO is authorized to perform Annual Maintenance Inspection (IAM) or Airworthiness Conformity Report (RCA), procedures to certify IAM or RCA in a form and manner established by ANAC.

- 2.2 To continue to be approved in accordance with Brazilian Regulations RBAC 43 and 145, pursuant to the terms of this Annex, the AMO shall comply with the following, subject to verification by the Aviation Authority:
- (a) Allow ANAC, or the Aviation Authority on behalf of the ANAC, to inspect it for continued compliance with the requirements of EASA Part 145 and these Special Conditions;
 - (b) Accept that investigations and enforcement may be taken by ANAC in accordance with ANAC rules and directives;
 - (c) Cooperate with any investigation or enforcement action;
 - (d) Continue to comply with EASA Part 145 and these Special Conditions.'
-