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Serving as an FAA Designated Airworthiness Representative Since 1983

***** NEWSLETTER *****

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WHEN I SAT DOWN TO WRITE THIS ISSUE I had two simple topics — our relocation and Bilateral Airworthiness Agreements (and the role they may have played in the new Boeing 787 Program). The *moving* part was simple — it follows. The Bilaterals was another matter.

WE HAVE RETURNED HOME¹ In the late summer of 1989 we went to San Antonio, Texas, for a three month project — to inspect and oversee the Structural Inspection of a Boeing 707-321B (former PAN AM) that was to be converted to a Business Jet for a 727-100 Business Jet operator (he needed more range). The three months stretched into two years+ when we were selected to oversee the conversion. Real estate prices were at an all time low so we moved into a large home on 2.5 acres about 15 miles north of the airport. Living and traveling was easy but the voices of family² members in California kept getting louder.

We are located in San Mateo near Bay Meadows Race Track the final approach to runway 28 at SFO is about two miles north of us — close enough to spot the tail markings on the 1:30pm British Airways 747 arrival but far enough away not to hear them. Our address and phone number are noted below. We will continue our consulting³ practices from here.

BILATERAL AIRWORTHINESS AGREEMENTS between the United States and 24 foreign nations have been used since 1938 to facilitate the transfer and subsequent certification of both U.S. and foreign designed and produced⁴ aeronautical products. They were relatively simple documents negotiated by the U.S. Department of State and their Foreign counterparts; they are published in FAA Advisory Circular 21-18. Generally speaking, BAAs allowed for the reciprocal acceptance of a product produced in one country (the Exporter) being placed into service in another (the Importer)⁵. Many BAAs contained *third party provisions*⁶ Only one *Bilateral* contained provisions for a foreign country to *Export* a U.S. produced Product *back to the United States* — Australia's.

In the early 1980s the Joint Aviation Authorities (JAA) were formed and the harmonization of design, certification and operations standards in Europe were underway. The FAA was invited to “the party” and the international harmonization, using the JARs (Joint Aviation Requirements) effort shifted into high gear. But, — like all good things that didn't last — the non-aviation industry EUROS, also known as the *greens* or *loonies* (not as in the bird species) decided that they should start over with an *organization*

¹ I was born and raised in The City of San Francisco and was based at SFO with PAN AM in the mid 1950s.

² . . . and the *wonderful* five months+ of 90F+ days and mid-80s night time temperature . . .

³ We will be expanding our valuation services.

⁴ ICAO like the Euros prefer to use the term “state of design” I prefer “produced by” because it is related to 14 CFR Part 21 where-as “state of design” is not.

⁵ See 14 CFR § 21.29.

⁶ “and to products produced in another State with which both Contracting States have agreements similar in scope for reciprocal acceptance of airworthiness certifications.”

named the EUROPEAN AVIATION SAFETY⁷ AGENCY. I went to the first FAA/JAA/EASA conference, held in Scottsdale in 2004, expecting to be introduced to the new EASA Standards only to find they had decided to adopt the work of the JAA. Good move . . . why throw away 10+ years of *harmonization*?

There are two types of aviation *bilaterals* — *Bilateral Aviation Agreements* and *Bilateral Aviation Safety Agreements*. **They aren't the same . . . though implied by some FAA documents that BASA's replace BAAs — according to the BASA's Executive Agreements it isn't true. The current Executive Agreements state that earlier Agreements "shall remain in force until terminated"**⁸.

In the early 1990s some foreign countries⁹ and the U.S began negotiating Bilateral Aviation Safety Agreements — BASAs (It appears the BASAs may have been a result of the success of the harmonized Joint Aviation Requirements — JARS). They are a two¹⁰ part document — first, the Executive Agreement (in the case of **Sweden it is 5 pages**) agreed to by Secretary of State level diplomats. Reading thru the *Executive Agreements* is interesting — for example, President Clinton and the German leader, Helmut Kohl, signed the German BASA¹¹ in Milwaukee in 1996.

The second part of the BASA is the Implementation Procedures negotiated by the FAA and that country's Foreign Civil Aviation Authority . The reasoning behind this two part approach was — it is easier for Aviation Authorities to sit down and draw up a *technical document* that they could *live with* and easily change as the industry changed; it should be a simpler document. Right? Wrong — the **Swedish IPA is 92 pages!** Having been, for several years, a member of an Aviation Rulemaking Advisory Committee (ARAC). I know *technical folks* can *split hairs* as well as many attorneys¹². Existing BASA Countries are on the attached *Check List*. Bilateral agreements are under negotiation with Mexico, Japan, Korea, and discussions have also started with India.

The draft FAA/EASA Bilateral¹³ was presented (but no copies were provided) at the 2006 "Joint FAA/EASA/JAA Conference" in Portland. The attendees wanted to have the opportunity to discuss — spell that *debate* — in order to suggest changes¹⁴ that could be incorporated before it became a document requiring *amendment*. NO WAY JOSE!

I couldn't find a copy so I contacted EASA — Claude Probst's office responded —

⁷ Never try to argue with an organization with the word *safety* in its title — it isn't the correct thing to do.

⁸ The recently published EASA data re the *status* of the EURO/USA bilateral states the BAAs and BASAs have to be terminated before the *new* bilateral can *Enter Into Force*.

⁹ Those with an Aircraft, or parts of one, industry. The first BASA was with Argentina, in June of 1989. It "looks" more like a BAA than the remiaing BASAs.

¹⁰ The new *draft BASA* with the EASA has three parts — The Executive Agreement, Annex 1 – Airworthiness & Enviromental and Annex 2 — Maintenance.

¹¹ Causing me to wonder *who* was in the German Delegation?

¹² David Fawcett, FRICS, a UK surveyor (appraiser in the U.S), stated after attending an appraiser's conference in the U.S (by the American Society of Appraisers) — *The other thing which strikes you listening to a day-long meeting is just how divided we are by our common language. We use different terms for the same thing and the same words in different context. This is very confusing when you start discussing terms which should be common to both of us, such as valuation bases. We could go round and round in circles on what is "Fair Market Value" under IFRS or FASB and your term Fair Market Value and our Market Value . David, try to justify the condition "new" in the dictionary with the FAA's definition of "new" as in "new aircraft"*.

¹³ . . . in order to transfer the certification of aviation products and services to the *New EU*.

¹⁴ My recollection was either the definition of *overhaul*, or the requirement to have only *overhauled engines* "*imported*" didn't "sit well" with the attendees. The latest "draft" presented at Prague last week references changes made because of "Portland".

Negotiations between the Community and the US side are now finished and the Community is preparing for signature. This should take place by mid-June. Ratification procedures, which have to be finalised before entry into force, may well bring such an entry into force to the end of 2007 or beginning of 2008.

In between we agreed with FAA to provisionally apply some provisions facilitating the approval of repairs (except for critical parts) and STCs¹⁵.

I hope this clarifies the situation and can answer additional questions you would have.

Best regards

The 2007 version ¹⁶ of the European/U.S. BASA can be found at the 2007 EASA/FAA Conference web site. The “theme topic” this year was “**How can open data sharing contribute to Global Aviation Safety?**” We will cover this and other elements of the meeting in the next NEWSLETTER. No date for the BASA to *enter into force* was provided. You can view or download the various speeches and presentations at <http://www.easa.europa.eu/conf2007/>.

As noted above, the FAA and the EUROS have adopted an interim agreement to facilitate the return to the U.S. of EURO registered aircraft which have had major repairs accomplished or STCs embodied while in Europe. I went searching for this document and located it on the *faa.gov* web site — FAA & EASA Reciprocal Acceptance of Repair Data *and Certain STCs: Effective 1 April 2007*. You can view or download the document at the address in the footnote¹⁷.

A Bilaterals Check Sheet is attached to this NEWSLETTER. You will note that “it” also includes the EU CONSTITUTION STATUS related? Perhaps. I wondered if the failure to ratify, by CONSENSUS¹⁸, the proposed EU Constitution was related to the “missing” BASA so I contacted some NEWSLETTER readers in the UK. The response

I think the EU is some years away from a constitution. France and The Netherlands have both rejected the Treaty (establishing a Constitution for Europe), and several other countries (including the UK) have put a hold on the voting process - probably because the terms may change before acceptance by all.

Target date for agreement was last year, which is probably why the FAA are now going to 'Plan B'. At least all the paperwork should be similar for the EASA members, we now use 'EASA Form 1's' etc.

Being curious I looked further and searched the *web* for the STATUS OF THE EU CONSTITUTION. I found many references and selected the document at

¹⁵ This is the *Interim Agreement* noted below.

¹⁶ Simply stated — The ENTRY INTO FORCE — is pending signature and *ratification* by the European Parliament.

¹⁷ http://www.faa.gov/aircraft/air_cert/international/easa/media/RepairDataFAQ.pdf

¹⁸ CONSENSUS — everybody ACCEPTS or APPROVES something.

www.unizar.es/euroconstitucion/Treaties/Treaty_Const_Rat.htm . I have verified his link — go to it for a comprehensive understanding of the *current status* and links to the 50+ years of treaties leading up to the draft treaty presented to and Adopted, by consensus, by the European Convention on 13 June and 10 July 2003. (Note: *Consensus*, based on my experiences with an FAA Rulemaking Advisory Committee, means an *unmakeable deal!*) It appears that perhaps some nations knowing it would not be ratified voted to “adopt” the draft knowing that other countries would use their “consensus vote” to prevent it from becoming law. They were right, only 18 of 25 nations voted to “ADOPT” the Constitution — two, France and the Netherlands voted NO and others have suspended their elections. UK radio BBC has published three excellent articles about the Constitution. You can find them at the footnoted web sites¹⁹

Enough said about the EUROS and the desire of some of them to form a “new nation” — *Euroland*. Some critics of the Constitution compared the effort to create one Europe to the efforts of CHARLEMAGNE²⁰ (742-814 AD) . . . NAPOLEON BONAPARTE²¹ (1808-1873 AD) and ADOLF HITLER (1889-1945 AD). I would include JOSEPH STALIN (1879-1953 AD) who really mucked things up until the Berlin Wall fell in November of 1989²²

My research led me to compare the drafting of the proposed European Constitution to the drafting of United States Constitution in 1787. Both events were several years after the States and the EUROS formed UNIONS. We had less than 4 million citizens in 13 States vs. 450 million in 25 countries. Our Constitution, with it’s Amendments of the Bill of Rights could be ratified by a specified majority²³, while the European Constitution requires a CONSENSUS.

WILL THERE EVER BE A EU CONSTITUTION? If you would *cruise the web*, leisurely as if you were on the Rhine (820 miles), Danube (1,770 miles) or Seine (482 miles), you will find some interesting articles opposing any further effort for a Constitution. I wouldn’t vote for it and anyone opposed to *big government* would probably join me in a resounding NO — in all of the official EU languages. The Europeans we have worked with over the past 30+ years are very smart people. Why change?²⁴ We are great believers in **If it ain’t broke don’t fix it AND you don’t need a Bilateral Aviation Safety Agreement to obtain an FAA Airworthiness Certificate²⁵ for an airplane being returned from anywhere.**

Last issue we asked — DO YOU WANT DAILY UPDATES ON THE GOINGS-ON IN SEATTLE? We had signed-up for the no charge information from the

¹⁹ BBC — What the Constitution sez — <http://news.bbc.co.uk/2/hi/europe/2950276.stm> , 11 June 2007 — http://news.bbc.co.uk/2/hi/uk_news/politics/6741353.stm and http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/politics/4614611.stm

²⁰ CHARLEMAGNE attempted to recreate the Roman Empire.

²¹ NAPOLEON’s successes were from Beijing to Mexico — including founding French Indo China.

²² I was performing an acceptance inspection of a NATO 707-329C AWAC TANKER-TRAINER AIRCRAFT in Oberpfaffenhofen the day this happened — having returned to “Obie” after being “away” for 50 years (1949).

²³ But the U.S. Constitution was ratified — over a four year period — by all of the States.

²⁴ I encourage you to read the Berlin Declaration article at --

<http://www.timesonline.co.uk/tol/news/world/europe/article1559376.ece> and the ALTERNATIVE at http://www.democracymovement.org.uk/main/berlindeclaration_dm.html

²⁵ . If you think you need the FAA’s *Interim Agreement* (IA) how will you deal with aircraft from other than the SIX nations listed in the IA? *The applicant must show and The FAA must find (determine) the aircraft conforms to its type design and is in condition for safe operation. 14 USC §21.29 doesn’t apply to U.S produced airplanes.*

Seattle Post Intelliencer. We receive e-mails of all Boeing articles as they are published. Go to www.seattlepi.com for further information. The articles on the assembly and certification of the new 787 are getting more interesting as the challenges increase and the “work slope” gets steeper and slicker!

THE INFAMOUS B-747, YOU KNOW, THE ONE WITH *EXPLODING CENTER WING FUEL TANK* . . . An update. The 747 and its sister ship “stats”.

	TOTAL HRS	TOTAL LANDINGS	HRS/DAY	TOTAL A/C
747	86,864,546	17,578,633	10.16	1,372
TOTAL	502,684,879	274,855,584		11,990

Pretty good performance and only one of them “blew up”²⁶.

LONG LIVE FUSION STIR WELDING²⁷ *SPEEDNEWS (06/01/2007) re THE A350XWB – “. . . is set on use of a 4-shell concept the uses four composite section of different thicknesses fastened with lap joints”.*

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Jim Helms, President

ADDENDUM

Bilateral Airworthiness Agreement (BAA) means a government-to-government executive agreement between the U.S. and the government of another country (contracting State) to facilitate the airworthiness approval or acceptance of civil aeronautical products exported from one contracting State to the other. BAA’s are not trade agreements; rather, they are technical cooperation agreements, intended to provide a framework for the airworthiness authority of the importing State to give maximum practicable credit to airworthiness certification functions performed by the airworthiness authority of the exporting State using its own domestic certification system.

Bilateral Aviation Safety Agreement (BASA) means a government-to-government agreement, consisting of one Executive Agreement and one or more Implementation Procedures, to facilitate the recognition of procedures for the reciprocal acceptance of:

- Airworthiness approvals of civil aeronautical products;
- Environmental approval and environmental testing;
- Approval and monitoring of maintenance facilities and alteration or modification facilities;
- Approval and monitoring of maintenance personnel;
- Approval and monitoring of crews;
- Approval and monitoring of flight operations;
- Flight simulator qualification evaluations; and
- Approval and monitoring of aviation training establishments. These agreements are replacing²⁸ BAA’s.

Implementation Procedures for Airworthiness (IPA) means the procedural document authorized by the BASA Executive Agreement for design approval, production

²⁶ Bill Clinton’s folks said it was the fuel tank’s fault.

²⁷ FUSION STIR WELDING of fuselage skins was to be used on the A350.

²⁸ See earlier comments re the BAAs continue in force.

activities, export airworthiness approvals, post-design approval activities and technical assistance between authorities. This document defines the civil aeronautical products and parts eligible for import into the U.S. and the counterpart BASA signatory country. It defines the interface requirements and activities between the authorities for the import and continued support of those civil aeronautical products.

Maintenance Implementation Procedures means the procedural document authorized by the BASA Executive Agreement related to the performance of maintenance, alterations and modifications on civil aeronautical products. This document defines the process for reciprocal acceptance of each authority's recommendations for the certification, renewal, and acceptance of eligible repair stations and maintenance organizations.

SEE YOU IN A FEW WEEKS

DATA FOLLOWS

BILATERALS (listed in FAA Advisory Circular 21-18 [May 1982] and EU CONSTITUTION STATUS (date 5-26-2007)				
COUNTRY	BAA	BASA	EU CONST APPROVAL	re PREVIOUS⁴
ARGENTINA	NOT LIST	Jun-89	N/A	NO PREV.
AUSTRALIA	1974/75	Jun-05	N/A	ARTICLE 9
AUSTRIA*	1959	none	May-05	N/A
BELGIUM*	1973	none	May-05	N/A
BRAZIL	1976 -	2003/04	N/A	ARTICLE VI
BULGARIA	NOT LIST	none	May-07	N/A
CANADA	1938/70/71 -	Jun-00	N/A	ARTICLE VI
CYPRUS	NOT LIST	none	5-Jun	N/A
CZECHOSLOVAKIA ¹	1970	none	POSTPONED	N/A
DENMARK	1982 -	none	POSTPONED	N/A
ESTONIA	NOT LIST	none	May-06	N/A
EU	N/A	PENDING ²	PENDING	N/A
FINLAND	1974	none	Dec-06	N/A
FRANCE	1973 -	May-96	REJECTED	ARTICLE VI
GERMANY	1976/80 -	Jun-02	May-05	ARTICLE VI
GREECE	NOT LIST	none	Apr-05	N/A
HUNGARY	NOT LIST	none	Dec-04	N/A
IRELAND	NOT LIST	none	POSTPONED	N/A
ISRAEL ³	1968/74 -	Dec-03	N/A	ARTICLE VI
ICELAND	NOT LIST	none	OPT OUT	N/A
ITALY	1973 -	Oct-99	Jan-05	ARTICLE VI
JAPAN	1977 -	in work	N/A	in work
LATVIA	NOT LIST	none	Jun-06	N/A
LITHUANIA	NOT LIST	none	Nov-04	N/A
LUXEMBERG	NOT LIST	none	Jul-05	N/A
MALTA	NOT LIST	none	Jul-05	N/A
NETHERLANDS	1974 -	Sep-95	REJECTED	ARTICLE VIII
NEW ZEALAND	1970/79 -	Mar-02	N/A	ARTICLE V
NORWAY	1957/78 -	none	OPT OUT	N/A
POLAND	1976/80 -	none	POSTPONED	N/A
PORTUGAL	NOT LIST	none	POSTPONED	N/A
ROMANIA	1976 -	none	May-05	N/A
SINGAPORE	1981 -	Feb-04	N/A	ARTICLE VI
SLOVAKIA	NOT LIST	none	May-05	N/A
SLOVENIA	NOT LIST	none	May-05	N/A
SOUTH AFRICA	1974/75	none	N/A	N/A
SPAIN	1957/1978 -	none	May-05	N/A
SWEDEN	1973 -	Feb-98	OPEN	ARTICLE VI
SWITZERLAND	1961/77 -	none	OPT OUT	N/A
UNITED KINGDOM	1972 -	Dec-95	SUSPENDED	ARTICLE VI

CAUTION: BAAs do not always provide for all PRODUCTS; read the BAA for clarification.

and the Argentine Agreement **does not** appear to be a BASA!

FOOTNOTES

1. Now listed as Czech Republic.

2. Appears to be PENDING the ratification of the EU Constitution.

3. The Israel Executive Agreement was signed on 22 December 2000 - the Implementation

Agreement was signed in December 2003.

4. Article of BASA that states previous Agreement (a BAA) "**remains in force**".

NOTE: The European Union information was found on [//www.unizar.es/euroconstitution](http://www.unizar.es/euroconstitution)

