

European Aviation Safety Agency

ADVISORY GROUP OF NATIONAL AUTHORITIES

MINUTES OF 3RD MEETING 2009

25-26 NOVEMBER 2009

Day 1: Wed 25 November 2009

Strategic Discussion on theme "Third Country Operators", and subpoints:

- **New Agency tasks**
- **Requirements for TCO**
- **Regulation (EC) no 2111/2005 ("Blacklist")**
- **Bilateral agreements**
- **Fees and charges**

AGNA received a well elaborated presentation on the topics and agreed that no formal minutes will be prepared from the strategic discussion, but the six actions for the Agency will be included in the minutes of this meeting.

1. Review the working terms "Flight Authorisation" and "Operational Authorisation";
2. Review the impact of 83bis agreements on Part-TCO;
3. Evaluate the way Third Country Operators (TCO) related information could be disseminated to Member States;
4. Assess the oversight instruments for TCO Over Flights and link it with the NAAs and EUROCONTROL;
5. Review requirements for Member States and guidance for the issuing and oversight of pilot authorizations;
6. Take Cooperative Oversight for TCO into account.

Day 2: Thu 26 November 2009

Introduction and adoption of the agenda

The meeting Chair Mr Kneepkens welcomed all participants to the meeting and stated that there are many new representatives and proposed to do a tour de table. In addition representatives of Turkey and Bosnia Herzegovina attended for the first time.

The draft agenda was adopted with the following addition under AOB:

- Agency's policy of seconded national experts (SNEs) (proposed by the Agency)

The Chair gave a briefing on questions from Member States on priority setting; many of these states are involved in the EASA committee. A note was published by the Agency and the Commission on the priorities for the first and second extension, this note was also explained to MB and to EASA Committee. Since then the Agency has worked hard on the priority setting, to deliver what was agreed with the MB on 15 September.

Currently the Agency is reviewing comments received, a lot of progress has been made already. To relieve some of the pressure put on the Agency, it will make use of NAA and external in handling the comments. The Chair highlighted that it is important to deliver on time and not to overload with new activities.

A new debate has been started with the Single European Sky Committee. Next week the SES Committee will discuss what principles will be used in the elaboration of ATM tasks. In the

Agency's note to the SES committee it is explained that ATM is much wider than originally thought and also has impact on product safety and other areas, thus part of work will end up in the EASA committee and part in SES committee. Close coordination is needed within NAAs to avoid confusion between the Member States and the stakeholders. Importance of working closely with SESAR Joint Undertaking was also highlighted.

The French member added that he would like to discuss the new implementing rule structure, as it has been decided by MB but not reflected in the 4-year Rulemaking Programme. He added that so far the structure has been communicated unofficially through the EASA newsletter, but no formal communication has been made. The Chair agreed to discuss this later.

Adoption of minutes of the previous meeting and review of actions table

Working Paper 00: Minutes of meeting 2-2009

The minutes of the previous meeting, held on 24-25 June, were agreed with the incorporation of changes from three members (SE, UK, NL). Notes from F. Grazer on the strategic discussion were adopted as a separate note.

The action table was displayed, and a verbal debrief was provided on each item. The table has been updated accordingly.

- | | |
|---------------|---|
| Action 3-3-08 | Task closed. Mr Thirion is discussing with R4, the Agency plans to finish task M.025 in 2011. |
| Action 3-6-08 | Task closed. The Agency intent to publish ad-hoc implementing rule in relation to retrofitting particular system TCAS. Task to start in 2010 and finish the same year. Supported by Association of European Airlines. |
| Action 3-7-08 | Task closed. NPA 2009-09 comment period closes 2 December. |
| Action 1-1-09 | Open. Update to be provided as part of NETS. |
| Action 1-3-09 | Closed. Pending on ECAC study; the states had until beginning of Nov to respond to the questionnaire. Meeting on 9 Dec was supposed to discuss the issue, but due to low level of responses, the discussion has been postponed until March. At the end the study is supposed to be anonymous. Members to raise the issue again at a future meeting if necessary. |
| Action 1-4-09 | Closed. Currently the translation glossary contains 300 terms, including some for airworthiness. When ready, the glossary will be sent to AGNA or translation focal points for translation. Reference material from seven countries has been given to CdT, input from other members is still needed. If necessary open a new action item in a future meeting. |
| Action 2-1-09 | Closed. Presentation has been published on Circa. |
| Action 2-2-09 | Closed. Progress made – feedback received from 19 AGNA members. Explanatory note and information to be published under the AGNA page soon. |
| Action 2-3-09 | Closed. The Rulemaking task was meant to address sub-tier DOA, but task has been put on hold following an internal debate. Reply from Certification to industry (July 2009) will be provided to AGNA, since then Airbus has replied to the questions included in the later from C and their reply supports the continuation of sub-tier DOA. Agency's is developing a strategy for improvement of Part-21, a management decision is expected in Q1/2010, followed by a workshop mid-2010. |
| Action 2-4-09 | Closed. EASA has accepted that JAA material is "in good shape". Task is currently in inventory, propose to close action item but Agency will work on this in the future. |

- Action 2-5-09 Closed. The Agency explained that task OPS.065 has not been started yet, it's currently in the inventory, to be started in 2011 or 2012. Transposition of JAR-OPS 1 and 3 require many tasks, the Agency will also explore whether exemptions are necessary.
- Action 2-6-09 Closed. Tasks in RMP have been grouped as requested. The Agency explained that it has received a letter from SSCC chairs asking to make the structure and format of the RMP more user-friendly. The Agency has collected ideas on how RMP presentation can be improved and will now try to find a way it could serve more purposes (eg. reporting). More feedback from AGNA was welcomed.
- Action 2-7-09 Closed. A detailed explanation was provided by F. Banal, Director of the Approvals & Standardisation Directorate:
- The FCC (Finding Classification Committee) members are EASA staff members as stipulated in the Agency Procedure and Working Instructions; The Agency developed the Procedure and Working Instructions based on the Commission Regulation (EC) No. 736/2006 "on the working methods of the European Aviation Safety Agency for conducting standardisation inspections"; the FCC is referred to the Article 10: During the reporting phase the Agency shall establish a final report containing details of the conduct of the inspection and addressing in particular findings identified... - "classification of findings";
 - The processing of findings is as follows:
 - The Inspection Team has to establish a Preliminary Report which addresses findings and the NAA's comments;
 - The Agency shall classify the findings as requested by the Reg. (EC 736/06) and provide the Final Report in 12 weeks time frame; the Final Report represents classified findings and any further comment on the findings or their classification raised by the inspected NAA (NAAs can comment draft Final Report).
 - The Regulation 736/2006 does not stipulate how the classification of findings shall be processed; so the methodology was introduced by the Agency to comply with the above-cited Article 10 of the Regulation
 - The FCC composition: all Team Leaders of the Section (e.g. Continuing Airworthiness), chaired by the Section Manager; the FCC meeting is attended by the permanent representatives appointed by the Rulemaking Directorate and Organisation Approvals Department;
 - The main objective of FCC activities is to achieve consistent finding classification – equal way of treatment (taking into account all historical cases) as it is a group of individuals with full visibility of countries and history; to enforce horizontal consistency of finding classification among sections of the Standardisation Department a new function of the Deputy Head of Standardisation was established;
 - The FCC should perform its work very effectively – the meeting should be held short time after the visit (as soon as possible – target in 2 weeks with ensured maximum attendance).

- Objective of the finding classification process by the Agency is to ensure its full transparency through the possibility that NAAs can comment the classification of findings:
 - For enabling this an additional Tool was introduced: the Draft Preliminary Report provided;
 - The NAA possibility to comment and
 - Discuss findings and their classification in bilateral meetings with the NAA;
 - As a consequence of this step in the process a finding can be reclassified.
- In the case if the FCC was supported by NAAs representatives it would not contribute to the consistence of finding classification but introduce rigidity in the FCC activities
 - The best way of NAAs contribution to the standardisation inspection process (content issues) was found out the attendance of NAAs' experts to the Standardisation Meetings;
 - As the classification of findings triggers only different reaction time to each finding category without impact to its content, the NAAs contribution will hardly add the clarity to the finding content;
 - The classification of findings has no impact to the "overall picture" of the State aviation safety level; from this aspect the agreed time for the corrective action is the most important and commensurate to the finding – it is a kind of a bilateral agreement proportional to the level of severity.

Questions/Comments/Answers:

The Danish member raised the question about the Classification & Principles. Mr Banal provided the clarification that findings are raised against Section B of the Implementing Rules. Additional explanation was given that current c and d categories will be modified (new differentiation is needed) so that c will be either c+ (safety related) or c- (administrative related).

The Dutch member proposed that the Standardisation Procedure should be made available on the website as Accreditation Procedure.

In response to a question from the French member, it was explained that a change to the Implementing Rule (Regulation 736/2006) is planned in the 2010 Rulemaking Programme

The Finnish member highlighted that it is Important to have a clear procedure for carrying out Standardisation Inspection activities; the Agency confirmed that very detailed procedure with working instructions is in place.

1. General Introduction

- Inclusion of observers from JAA non-EASA Member States in AGNA

Presentation of new members was done in the beginning of the meeting, in addition the Agency gave a presentation on the subject matter. The new AGNA observer countries are Armenia, Azerbaijan, Georgia, Moldova, Monaco, San Marino and Turkey.

2. **Draft 4-year Rulemaking Programme 2010-2013**

WP 01: Draft 4-year Rulemaking Programme 2010-2013

IP 01: Progress report on the 4-year Rulemaking Programme 2009-1012

The Chair explained that the Agency is working according to the priorities confirmed by the MB, and comments given by AGNA have been taken into account. Currently the Agency needs to play with scarce resources to ensure delivery of what was promised.

The Agency further explained the content of the paper of the MB and EASA committee. There were 8 priorities, there were further detailed in a presentation. Seconded National Experts (SNE) and industry experts are used to help the Agency in responding to comments, the exact number and scope of CRDs/Opinions has not been decided yet. OPS comments will not be responded to individually, CRDs will not be published on the CRT as comments will be presented in tables. Planning for certain milestones has been established, but it needs to be reviewing in spring 2010 when we see how work is progressing.

Regarding **Operational Suitability** the Agency explained that it has moved away from "operational suitability certificate" concept towards "operational suitability data" concept, this would allow modifications made by operators following agreement from authorities. The Agency has received a number of comments concerning the legal basis of SD and is currently exploring 3 possibilities: 1) keep SD 2) use AMCs 3) mix the two. Agency will write a document describing the pros and cons; these will be discussed by management in December.

Agency clarified that the TCO NPA publication has been postponed until Dec 2010. Agency also showed where to find the Flight Standards mini website (see: <http://easa.europa.eu/flightstandards/>)

The French member voiced his concern on the lack of communication from the Agency on developments since the last AGNA meeting, eg. the conversations between NAAs, EASA and Commission, and EASA Committee in July. He also asked how the Agency plans to inform AGNA of the new rule structure?

The Agency replied that it is sometimes difficult to give details on the timetable and number of CRDs as the comments are still being reviewed. The Commission has better view of what's going on at parliament and needs to give input on how the work packages are formed. The Agency has regular meetings with the Commission and can promise that every two months after as of Sep/Oct. 2010 there will be an opinion, but the sequence still needs to be decided.

The Dutch member pointed out that environmental issues (BR.004) are not correctly reflected in the work programme.

The Agency clarified that some issues still need to be solved, eg. tilt rotor aircraft. Environmental Protection Department (R1) is facing staffing issues, and therefore it will probably not be possible to finish task as planned.

The Dutch member also voiced his concern about the commitment work; eg. ATM is working 100% overtime. He also pointed out that same tasks have different dates in different parts of work programme, details will be given later.

The Dutch member asked to expedite task MDM.057 on "Miscellaneous of Parts M" - one item of this task is a solution to an ICAO finding to the Netherlands

The Austrian members said that he had provided comments in written to the work programme.

The Agency agreed to review and adjust the rulemaking programme where appropriate before publication.

State of implementation of the 4-year Rulemaking Programme 2009-1012

The Agency explained that the revised programme takes into account the priorities set together with the MB and the Commission. 13 tasks were therefore transferred to 2010-2013 programme, three urgent tasks were added. So far 14 tasks have been completed, another 10 tasks are expected to be published before the end of the year. 2 further decisions are completed but put on hold until adoption of the related implementing rule (opinion). Implementation rate of the revised programme is expected to be over 90%. Tremendous effort has been required from staff to reach this level, and this should be recognized. Work has also been done on other areas than planned, including a task that was finished in 55 days.

Next year the Agency expects to have even higher result, estimated 95%.

Action required:

7. The Agency to review feedback and adjust the 4-year 2010-2013 Rulemaking Programme where appropriate.

3. Preparation of the 4-year Rulemaking Programme 2011-2014

WP 02: Presentation on the subject

Several items were identified as a result of the so called Article 51 evaluation. As a follow-up, it was said that general communication with stakeholders needs improvement, same as the establishment of RMP and rule development process. It was also said that the Agency should make better use of the feedback received from implementation of rules.

The Agency explained what has been done so far in NETS context and also the changes that are made to SSCC following the extension of the Agency's remit. NETS will affect both the Rulemaking programming and processing procedures, especially the development of pre-RIAs. The Agency plans to have the pre-RIAs ready by January.

The Austrian member raised some questions on the presentation:

- Slide 12: will the questionnaire with 18 questions also be given to AGNA? Yes, the questionnaire is part of each pre-RIA, AGNA will have the possibility to comment on the answers given by the Agency.
- Slide 15: after ToR establishment when pre-RIA is published, is there possibility to stop the process? If pre-RIA indicated that rulemaking is necessary, the process is started, but if full RIA gives opposite answer, the Agency will still need to follow the procedure, but there will be no change to the rules.
- Slide 18: Will there still be tasks that are Agency's tasks? Yes, this will remain as it is. For some Agency tasks a review group might be established.
- Who are going to be members of steering groups? For steering groups AGNA and SSCC can send nominations.

In response to a request for clarification from the British member, the Agency clarified the differences between the steering groups and the High Level Groups (HLG). Both forums are created in the NETS context; the steering groups are a formal part of the rulemaking process, whereas the HLGs are informal. HLGs give feedback to Agency management in certain domains. The Agency agreed to prepare a paper to clarify the difference between different groups.

First HLG meeting took place in September and October, for ATM and Airports a second meeting has already been scheduled. Airlines HLG is a complicated group, where we need to consider whether group will continue with the same composition. From the Airport HLG valuable feedback was received, ATM HLG was also very good.

The UK added that the Agency needs to be careful about who is selected for the groups; HLG might not have the right expertise according to the British member.

The French member shared the concern about distribution of work between HLG and steering groups and asked whether the Agency plans to create steering group for OPS.055. The Agency replied that although the task is controversial, the ToR has restricted the playing field and considers it not to be necessary to create steering group. The first meeting of the rulemaking group will take place on 4 December. Group has an equal number of representatives from different groups (5 from airlines, 5 from unions and 5 from NAAs). The Agency has proposed Claude Chêne to act as independent chairperson, he will also act as an advisor to the group. The Agency will ensure communication is handled with care.

The German member agreed that the NETS procedure is a good idea, but asked to clarify whether it will also be applied to ICAO amendments. The Agency confirmed that ICAO amendments are already taken into account during rulemaking programming.

The British member made a general comment about the late availability of AGNA papers, the Agency acknowledged this and will aim to improve in the future.

All presentations will be published on Circa, draft process for programming and pre-RIA template will also be sent to AGNA.

4. Feedback on implementation of EASA rules

WP 03: Presentation on feedback on implementation of EASA rules

A paper from the Swedish transport agency was circulated, it concerns the use of used aircraft. There are many difficulties as some Member States don't issue export CofA, or in some cases NAAs don't have a pilot certified for the type of aircraft, thus no CofA can be issued. Guidance from the Agency would be useful.

The Agency replied that there are different options for handling these cases. If e.g. the maintenance documents are missing, an Article 14 exemption (short to medium term solution) can be granted if review is done by TC holder (The so-called Danish exemption).. Secondly (medium-long term solution) the Agency is working on task 21.031 (review of subpart H), which could be used to address this issue. Task 21.031 will take implementation issues into account and try to provide solutions to cases where e.g. the export CofA doesn't show the condition of the aircraft.

5. AOB

- **Planning of future meetings**

IP 02: Future meetings

Next meeting is planned for 17-18 March, 16-17 June 2010 were agreed as June meeting dates.

For the meeting on alternative AMCs no date has been set yet. The handling of comments hasn't been finished yet, once the Agency has a clearer view, the date for the workshop will be set and communicated. Expected to take place between March and May, but the Agency will try to combine it with the meeting on 17 March.

- **Type Rating List for Certifying Staff – Part-66 – and legal consequences** (proposed by LBA)

IP 03: LBA paper on the subject

The German member wanted to raise attention to the removal of type rating for Annex II aircraft. Commercial operation of Annex II aircraft should be in line with Regulation 216/2008 – now it's difficult to ensure that maintenance staff has the correct licence. EASA should determine what counts as commercial operation. Now LBA is discussing with Ministry of Transport on what is commercial and what not. The German member also wanted to know how Annex II aircraft will be treated in the future, as a pilot cannot have an Annex II aircraft listed on the licence. He

understands that EU-OPS has created the problem, but it's something that EASA should help solve before 2012.

The French, Greek and Austrian members supported Germany's position.

The Agency confirmed that the new BR provides that certain, specified, Annex II aircraft when used for commercial air transport are subject to the operational and licensing rules and that specific implementing rules, etc. In developing such IR, nothing prevents the Agency from referring to national rules – this is done for balloons etc and could be applied also to Annex II aircraft. However, in the short term the problem comes from EU-OPS and it refers to Part-M.

The discussion that followed showed that there was some confusion about the findings that were notified to several Member States by standardisation: were such findings related to foreign aircraft or for activities other than commercial air transport? **The Agency agreed to investigate and to provide an explanation after having consulted its legal department.**

The discussion turned then into a more general discussion on the definition of commercial air transport and commercial aviation and the French member reminded that the agency had previously agreed with examples clarifying such definitions. **The agency agreed to organise a strategic discussion at the next AGNA meeting in March.** To prepare the discussion, the Agency will consult the Commission and provide a definition.

Action required:

8. The Agency agreed to investigate whether findings to some NAAs were "related to foreign aircraft or for activities other than commercial air transport" and to provide an explanation after having consulted its legal department.
9. The Agency to organise for a strategic discussion on "Commercial air transport" at the next AGNA meeting.

▪ Rules of secondment

The Head of Personnel A. Lorenzet presented the principles of Seconded National Experts scheme, further details can be found in the presentation that will be distributed to AGNA. The Agency also distributed the VN of an SNE for International Cooperation department.

Legal basis for SNEs is an ED Decision from 2003, but an update is in progress to ensure it's in line with the Commission rules. The update should be adopted before the end of the year. SNE needs to work in another organisation, preferably a public one, and will continue to be employed and paid by that organisation. As a general rule the organisation must be in an EASA Member State, but exceptionally other countries can be considered. Selection can be made either through a published selection procedure, or through direct contact. Minimum duration is 6 months, maximum duration is 2 years.

Some flexibility is allowed for distance working, eg. 1 week a month, but full time distance work is not possible. Allowance is only paid for days when the expert is in Cologne.

The Agency also explained the concept of National Experts in Professional Training (NEPT). In this scheme the expert would not work for EASA, but would be at EASA to get to know EASA, thus also no allowance would be paid by EASA.

Closing of the meeting

The French member congratulated the Agency EASA on the TCO seminar and asked when the second one would take place. The Agency replied that this should take place

between August and December, once there's a clearer picture of the connection between the TCO and black list issues.

The Turkish observer found the meeting useful and will report back to their Director General.

The meeting was closed at 15.10 on 26 November 2009

Actions table

Action #	What	Who	When	Status	Comments
3-3-08	Develop AMC material to address task M.025 – foreign CAMO issues.	Agency	ASAP	C	The Agency plans to finish the task in 2010.
3-6-08	Determine whether retrofit of new ETSO standard to existing fleet is warranted.	Agency	ASAP	C	The Agency to publish an ad-hoc implementing rule in 2010.
3-7-08	Issue an NPA on de-icing.	Agency	In line with programme timeframes	C	NPA published, consultation end date 2 December.
1-1-09	Consider how best to deal with existing rules and making changes to them, in order to avoid inconsistencies, as part of the improved drafting of rules initiative	Agency	ASAP	O	Part of the NETS project
1-3-09	Exchange views/information on the NAA staff numbers topic in anticipation of a further AGNA discussion on the subject	Members	Next meeting	C	ECAC study is ongoing, once results are ready, item will be added to a future AGNA agenda.
1-4-09	Provide assistance with the translation of the OPS/FCL glossary needs, as already requested	Members	ASAP	C	A. Tziolas gave a brief update on translation matters.
2-1-09	Presentation on “Extension of the EASA system to aerodromes and ATM/ANS” to be published in CIRCA	Agency	ASAP	C	Presentation has been published on Circa.
2-2-09	Create a webpage on NAA focal points for organisation approvals on the Agency website	Agency	By year end	C	Feedback received from AGNA, information to be published on website soon.
2-3-09	Copy the C-Directorate letter to the industry on ISC reviewing the task 21.024(b) “The Future DOA”	Agency		C	
2-4-09	Proposal on draft rule to task 27&29.020 “Vibration Health Monitoring”	UK Member	ASAP	C	Task in inventory, to be initiated later.
2-5-09	Give an update on Task OPS.065 (a)&(b) “Review of equipment requirements”	Agency	Next meeting	C	
2-6-09	The tasks in the new programme format to be grouped for easier navigation	Agency	ASAP	C	Format changed as requested. Further changes to be made at the request of SSCC.
2-7-09	Check with Standardisation Directorate a possibility of NAAs to participate in FCC standardisation meetings	Agency	By next meeting	C	A detailed explanation was provided by F. Banal.
3-1-09	Review the working terms “Flight Authorisation” and “Operational Authorisation”	Agency	ASAP		

Action #	What	Who	When	Status	Comments
3-2-09	Review the impact of 83bis agreements on Part-TCO;	Agency	ASAP		
3-3-09	Evaluate the way Third Country Operators (TCO) related information could be disseminated to Member States;	Agency	ASAP		
3-4-09	Assess the oversight instruments for TCO Over Flights and link it with the NAAs and EUROCONTROL	Agency	ASAP		
3-5-09	Review requirements for Member States and guidance for the issuing and oversight of pilot authorizations;	Agency	ASAP		
3-6-09	Take Cooperative Oversight for TCO into account.	Agency	ASAP		
3-7-09	Review feedback and adjust the 4-year 2010-2013 Rulemaking Programme where appropriate	Agency	December 2009		
3-8-09	Investigate whether findings to some NAAs were "related to foreign aircraft or for activities other than commercial air transport" and to provide an explanation after having consulted its legal department	Agency	ASAP		
3-9-09	Organise a strategic discussion on "Commercial air transport"	Agency	At next AGAN meeting		

Legend & codes:

O: Open

C: Closed (The items indicated as closed will disappear from table in the next minutes)

~: continuous task

WP: Working Paper

IP: Information Paper

X-X-200X: meeting reference – item - year

Participants in AGNA meeting

EASA Member States

Austria

Franz Graser
Elisabeth Spitaler (day one only)

Belgium

Philippe D'Homme

Bulgaria

Eleonora Dobрева

Czech Republic

Viktor Nath

Denmark

Per Veinberg

Estonia

Marve Allik

Finland

Reijo Lamberg
Matti Tupamäki

France

Georges Thirion
Tristan Sers (day one only)

Germany

Dirk Sajonz
Olaf Zernick (day one only)
Susanne Hofmann (day two only)

Greece

Sotirakis Stamou

Hungary

Sandor Herpai

Iceland

Einar Orn Hedinsson

Ireland

Terry O'Neil

Italy

Fabrizio D'Urso
Giuseppe Recchia (day one only)

Latvia

Edgard Gindra

Luxembourg

Jean-Michel Delval
Isabelle Welter (day two only)

Netherlands

Bob Rieder
Pieter Mulder (day one only)

Norway

Tom Egil Herredsvela

Poland

Ireneusz Fibinger (day one only)
Robert Zierinski (day one only)

Portugal

José Silvério Rocha e Cunha

Slovakia

Martin Nemecek
Igor Jandura

Spain

José Ramirez (day two only)

Sweden

Ingrid Cherfils

Switzerland

Laurence Fontana-Jungo

United Kingdom

Graham Weightman
Glenn Cronin (day one only)

Non-EASA Member states

Bosnia and Herzegovina

Asmir Kruhovic

Turkey

Ozcan Basogly

Observers

Secretary

Athanassios Tziolas assisted by Tanja Äijö