



TCAA – EASA Rulemaking Cooperation	Doc #	WI.RPRO.00050-001
	Approval Date	16/11/2010

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DOCUMENT CONTROL SHEET

Process Area	Rules development
Main Process	Process a rulemaking task, Annual rulemaking programme
Scenario	All
Process	All
Main Process Owner	Eric SIVEL

Reference documents
a) Procedures
PR.RPRO.00001 - Process a rulemaking task PR.RMP.00001 Annual rulemaking programme
b) Internal documents
MB Decision 08/2007 of 13.06.2007 amending and replacing Decision 07/2003 concerning the Procedure to be applied by the Agency for the issuing of Opinions, Certification Specifications and Guidance Material (“Rulemaking Procedure”).

Date of validation Owner level 1
<p>AGNA: Advisory Group of National Authorities A-NPA: Advance-Notice of Proposed Amendment CdT: Centre de Traduction CRD: Comment Response Document DG-TREN: Directorate General Transport & Energy FRA: Foreign Regulatory Authority (i.e. FAA) GC: Group Composition JAALO: Joint Aviation Authorities Liaison Office MB: Management Board (Decision) MoM: Minutes of meeting MS: Member State of the EU NAA: National Aviation Authority NPA: Notice of Proposed Amendment NRT: Non Rulemaking Task R: Rulemaking Director R.6: Process Support RG: Review Group RIA: Regulatory Impact Assessment RP: Rulemaking Programme RUO: Rulemaking Officer SSCC: Safety Standards Consultative Committee ToR: Terms of Reference WI: Work Instruction</p>



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Log of issues		
Issue	Issue date	Change description
001	16/11/2010	First issue



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I. Background

The aviation authorities for Canada and Europe have established an active and constructive dialogue in several domains of their activities, including rulemaking. In the past, Transport Canada Civil Aviation (TCCA), the Federal Aviation Administration (FAA), and the Joint Aviation Authorities (JAA) have worked together in harmonising many of their rules.

TCCA and the European Aviation Safety Agency (EASA) agree that they should actively promote mutual rulemaking co-operation to maintain and further improve the achieved level of harmonisation of their rules. They also agree that harmonisation can best be achieved through constant communication during the definition and implementation of their respective rulemaking programmes.

They also believe that the best use must be made of scarce available resources to produce rules, and that co-operation in this field can be furthered without affecting their independence when deciding on the final rules they best see fit to fulfil their statutory obligations.

This document establishes the process through which such objectives can be met. As TCCA and EASA agree to promote rulemaking co-operation, this arrangement is initially implemented on a voluntary basis. It will be used as a basis for the procedure to be developed for implementing the provisions on regulatory co-operation in the *Agreement on Civil Aviation Safety between Canada and the European Community*.

II. Objectives

The objectives of this rulemaking co-operation arrangement are to:

- Exchange rulemaking intentions and priorities thereof to align as much as possible the rulemaking programmes of TCCA and EASA;
- Identify rules of common interest that TCCA and EASA can develop jointly to (i) avoid unnecessary divergence and duplication of work, (ii) maximize available resources, and (iii) further harmonisation; and
- Establish processes for developing those rules of common interest.

This rulemaking co-operation arrangement does not affect the independence of either TCCA or EASA in any way when deciding on the necessary rules for the protection of the travelling public. Neither TCCA nor EASA is bound by the decisions of the other.

III. Scope

The scope of this rulemaking co-operation arrangement includes initiatives related to the Canadian Aviation Regulations and equivalent EASA rules; related acceptable means of compliance, advisory circulars, related guidance material; and technical standard orders.

Activities related to the issuance of airworthiness directives, equivalent safety findings and special conditions for individual certification projects will be handled outside the scope of this rulemaking co-operation arrangement.



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IV. Programming

The offices of TCCA and EASA in charge of rulemaking will communicate on a regular basis to coordinate their respective rulemaking programmes. Each rulemaking office shall designate a coordinator, through which the regular communications of this arrangement will be facilitated.

At least once a year, at a mutually-agreed opportune time, TCCA and EASA shall:

- (i) Review the functioning of this rulemaking co-operation arrangement.
- (ii) Discuss their future rulemaking programmes, including priorities thereof and related documentation such as preliminary regulatory impact assessments. To that end, TCCA and EASA will exchange their respective rulemaking programmes at least six weeks before the meeting at which the programmes will be discussed. Upon receipt, TCCA and EASA will review the rulemaking programmes in a detailed manner to identify those rulemakings eligible for possible cooperation and potential focal points.
- (iii) Identify rulemakings of common interest.
- (iv) Examine possible co-operative working methods for joint action when appropriate (based on the below chapter on implementation).
- (v) Discuss possible changes in the rulemaking programmes and working methods imposed by changing priorities.
- (vi) Discuss possible contentious issues.

TCCA and EASA will finalise an agenda at least one week before the meeting.

V. Implementation of tasks of common interest

This chapter describes the various possible working methods that can be used to execute tasks of common interest with the objective to make best use of available resources and expertise in both systems.

Tasks of common interest are classified into two categories:

- Items for joint action: These are issues that are included in the two Authorities' work programmes and their timescales are compatible. Work is shared as much as possible to reduce costs using any of working methods 1 to 3.
- Items for information exchange: The intention is to improve awareness of a subject and to avoid regulatory developments that could create incompatibilities. Working method 4 is used in that case.

The choice of one of these working methods will take into account the sensitivity of the subject as well as the added value for reaching consensus.

In all cases, TCCA and EASA will each assign focal points involved in each individual task. The focal points are mainly responsible for implementing the guidelines under each working method. They will communicate frequently, in particular at each significant step identified below. They will ensure that the other focal point is aware of all issues and will try to resolve any differences of opinion before moving forward with the rulemaking.

Any dispute that the focal points cannot resolve will be reported to senior management as necessary.

1. Working Method # 1 - EASA Takes the Lead

The general process will be the EASA Rulemaking Procedure (EASA MB/08/2007), with specific cross-references that take into account this rulemaking co-operation arrangement.



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The process aims at giving TCCA sufficient involvement to understand the content of the draft rule and to be able to adjust it as necessary to its own needs before proceeding with the TCCA Notice of Proposed Amendment (NPA) or decisions are taken by TCCA.

The EASA focal point will lead the process in constant co-ordination with the TCCA focal point.

The EASA focal point should in particular ensure that communication takes place for the following phases of the EASA process:

- When drafting the terms of reference of the task;
- When deciding the composition of the rulemaking group when such group is established;
- When deciding changes in the Terms of Reference or the rulemaking group composition;
- Prior to the publication of the EASA NPA;
- When deciding the composition of the review group when such group is established;
- When issuing the draft Comment Response Document; and
- Prior to the publication of the final decision.

2. Working Method #2 –TCCA Takes the Lead

The general process will be the Canadian Aviation Regulation Advisory Council (CARAC) Management Charter and Procedures. The focal point will take into account this rulemaking co-operation arrangement when following this process.

The process aims at giving EASA sufficient involvement to understand the content of the TCCA NPA and be able to adjust it as necessary to its own needs before launching the EASA Notice of Proposed Amendment or decisions are made by EASA.

The TCCA focal point will lead the process in constant co-ordination with the EASA focal point.

The TCCA focal point shall in particular ensure that communication takes place for the following phases of the TCCA process:

- When drafting the proposed rulemaking;
- When deciding the proposed composition of the rulemaking team;
- When deciding changes to the scope of the rulemaking or the rulemaking team;
- Before presenting the TCCA NPA to CARAC;
- When reviewing the comments received and drafting responses;
- When deciding on changes to TCCA NPA's proposed regulatory text based on comments received; and
- Before publication of the final rule in Canada Gazette II.

3. Working Method #3 – Authorities cooperation

Under this method, TCCA and EASA want to develop their rulemaking projects separately, but concurrently (to the extent practicable). Each Authority will use its own technical experts or external specialised expert organisations to develop and draft its rulemaking project. However, TCCA and EASA focal points will communicate frequently during the drafting process to harmonise their rules, where possible.



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4. Working Method #4 – Reciprocal information

Under this method, TCCA and EASA have agreed to keep each other informed by sharing drafts of documents before their publication so that either can evaluate and react to possible impact the envisaged rule could have on its own activities or policies. In some cases, where a proposed activity is significant but there is no near-term counterpart activity, TCCA or EASA may agree to have an observer from the other organisation participate to assist with future regulatory considerations.



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RECORDS

Appendix A : Operational Documents

Record	Step / Related to

Appendix B : External Documents

Record	Step / Related to