

**MINUTES OF THE MEETING OF THE EASA MANAGEMENT BOARD**  
**HELD ON 13 JUNE 2007 AND SUMMARY OF DECISIONS TAKEN**  
**(MB No. 03/2007)**

**SUMMARY OF DECISIONS**

At its meeting held on 13 June 2007, the Management Board:

- adopted the agenda (document MB 03-2007 WP01);
- adopted the minutes of the meeting 02-2007 held on 28 March 2007 (document MB 03-2007 WP02);
- agreed to review before 30 June the proposed workprogramme of the Agency for 2008 (document MB 03-2007 WP04);
- adopted the activity report of the Agency for 2006 (document MB 03-2007 WP05), as modified during the session;
- adopted the 1<sup>st</sup> amending budget for the Agency (document MB 03-2007 WP 06);
- agreed to adopt through written procedure its opinion on the 2006 annual accounts (document MB 03-2007 WP 07), and after having received of the observations of the Court of Auditors;
- adopted a decision on temporary school allowance (document MB 03-2007 WP08);
- adopted the terms of reference of its Budget Committee (document MB 03-2007 WP09);
- agreed to adopt through written procedure the revision of the certification procedure, after reception of the comments from the EAB and after these comments have been evaluated by the Agency (document MB 03-2007 WP10);
- adopted a revision of the rulemaking procedure (document MB 03-2007 WP 13);
- agreed to invite at its next meeting observers from the EAB, providing that some of the discussions may have to be held only within the MB.

## **1. ADOPTION OF AGENDA**

The Management Board adopted the proposed agenda:

1. Adoption of the Agenda
2. Adoption of the minutes of meeting 02-2007
3. Presentation from Ms Jacqueline Tammenoms Bakker: Progress of the deliberations of the High Level Group on the future of European Aviation Regulation
4. Report of the Executive Director
5. 2008 work programme
6. 2006 Activity report
7. Implications of the revised Fees and Charges Regulation for US industry
8. First Amending Budget 2007
9. 2006 Annual Accounts
10. Decision on schooling issue
11. Terms of reference of the Budget Committee
12. MB Decision on Products certification
13. Presentation on Safety Analysis activities
14. ENACT report
15. Decision on Rulemaking procedure
16. Role of the Agency in accident investigations
17. Relationship with EAB
18. Update on article 51 Evaluation
19. AOB

## **2. ADOPTION OF MINUTES OF PREVIOUS MEETING**

The minutes of the last meeting were adopted subject to the following change:

- Mentioning the participation of M. Schwach for France

## **3. PRESENTATION FROM MS JACQUELINE TAMMENOMS BAKKER - PROGRESS OF THE DELIBERATIONS OF THE HIGH LEVEL GROUP ON THE FUTURE OF EUROPEAN AVIATION REGULATION**

Ms Tammenoms Bakker chairs the High level group on the future of European Aviation Regulation. This group is about to deliver its conclusions to Vice-President Barrot, and Ms Tammenoms Bakker has presented some of its highlights to the Management Board.

### *The design of the aviation regulation system*

The group is very keen on applying a total system approach in order to reinforce safety. This implies having a single source of regulation, promoting a Community approach, involving industry proactively in the design of regulation and also ensuring coordination with pan European actors.

### *The performance of the regulation system*

A number of challenges needs to be addressed in order to ensure the performance of the system: through implementing the Single European Sky, addressing the capacity issue of airports and through addressing the safety and environmental agendas. To these ends, it is necessary to:

- improve incident reporting and promote a “just culture”<sup>1</sup> approach;
- address the range of maturity level for safety management within national administrations;
- address the fact that safety responsibility is scattered amongst multiple actors;
- develop the anticipation capacity of the overall system.

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<sup>1</sup> Just Culture is a culture in which front line operators or others are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated.

### Debate

The recommendations to be made by the group are targeting the development of the airspace and airport-landing capacity, the recognition of EASA as the Single European Aviation Safety Regulatory Agency, (including for ATM and airports) by 2010, and the strengthening of the enforcement capabilities of the system.

The Board warmly thanked Ms Tammenoms Bakker for her report and welcomed the conclusions of the High Level Group. The Board endorsed the conclusion that the Agency should be the centre piece of the proposed system, as a regulatory agency, but the Board also underlined that regulatory powers shall remain within the Commission. The Board observed that given the resources currently available, and given the length of the legislative process, 2010 was an unlikely target date. Setting the objective to 2012 would be more realistic. The Board also appreciated the will to promote "just culture" and to develop incident reporting. In that perspective, it reminded that some tools are in place (ECCAIRS) and that there is, indeed, a variable level of reporting and implementation amongst Member States. The Board advised the High Level group to further underline in its report the need to use and streamline existing mechanisms. It was also suggested to address clearly the authority responsible for safety oversight in case of a service provision established in several countries.

### **4. REPORT OF THE EXECUTIVE DIRECTOR**

The Executive Director presented the activities of the Agency since beginning of March 2007. The main highlights of the period were the entry into force of the revised Fees and Charges Regulation, the fact that permits to fly and approvals of flight conditions were transferred under the responsibility of the Agency, and lastly the Europe-US conference held in Prague beginning of June.

The Executive Director also delivered a summary of the outcome of the liability study undertaken during one year by an external consultant. According to this study, the Agency is facing 33 risks, resulting in liabilities up to 6 B€ (billions), which cannot be insured on the market now<sup>2</sup>. Therefore the Agency has started discussions with the European Commission. Even though there was no active comparison made in the

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<sup>2</sup> Liabilities can be insured on the market up to 1 B€ (billion), with premium at 2.7 M€.

study on how the NAAs are currently covering their own liability, some Board members noted that NAAs are usually covered by the State's responsibility and that, when it is not the case, the premiums have decreased as a result of the Agency taking over some of the NAA's responsibilities.

Over the reporting period, the Agency has been continuously working with NAAs and industry in order to propose a solution for making available centrally Airworthiness Directives, including the ones which are not delivered by the Agency.

The Executive Director underlined once again to the Members of the Board the necessity that NAAs send their invoices to the Agency on a more regular basis. The Agency has to commit its resources for the work to be undertaken before placing an order. When no invoice is received, the resources cannot be re-affected. There are still more than 8 M€ from the 2006 budget which have not been claimed. Moreover, the backlog in invoices received from the NAAs increases the delays for the Agency to send the invoices to industry.

## **5. 2008 WORK PROGRAMME**

The Management Board requested two additional weeks in order to provide editorial changes to the work programme.

It was agreed to refer to expert pooling, as proposed by the ENACT group. Some wordings (funding of continuing airworthiness, composition of standardisation teams, and cooperation with Africa) will be clarified in order to avoid misunderstandings.

It was also debated whether the work programme should include the rulemaking work programme and the standardisation work programme. The Agency explained that its general work programme should define the available means and general orientations of its activities while in the case of rulemaking and standardisation the detailed activities should be defined through the mechanisms foreseen in the specific texts. It was agreed that both rulemaking work programme and standardisation programme will be appended to the general work programme for its formal adoption in September.

The work programme will therefore be reviewed by the Board through written procedure, before the end of June 2007, and then passed to the

Commission for their Inter Service Consultation. The formal adoption of the work programme will be made once the Commission has delivered its formal opinion.

## **6. ACTIVITY REPORT 2006**

The Management Board reviewed the proposed activity report for 2006 and suggested a number of changes to be made to the foreword. These changes were meant to emphasise some of the difficulties encountered during the year: the fact that the Agency heavily depended on NAA experts, delays in rulemaking, shortage of resources.

The 2006 Activity report was adopted.

## **7. IMPLICATIONS OF THE REVISED FEES AND CHARGES REGULATION FOR US INDUSTRY**

This agenda item was presented by the Commission. The US industry objected to the proposed revised Fees and Charges scheme, under the assumption that it would represent a disproportionate increase of the fees to be paid. They notably consider that charging for validation and for certification work would be identical, thus unfair. The formal signature of the BASA by the USA could be delayed until some assurances have been brought that there will be no discrimination between US and European industry.

The Commission reminded that one-stop-shop validation by the Agency was extremely beneficial to the US industry. It also underlined that the calculation of validation costs by the US industry was based on the 2006 costs, likely to be underestimated as the NAAs had not yet sent all their invoices to the Agency (see agenda item 4 – last paragraph).

Some discussions were already held between the Commission, representatives of the American industry and the FAA. In many cases, US industry used the “worst case scenario” to calculate what they would have to pay. Some initial discussions with a large manufacturer proved that their estimate was 40% over the actual due amount. A significant explanatory work should be carried out. Latest meetings indicated a better understanding of the real figures.

The Board expressed strong concern that these discussions could jeopardise the forecasted income of the Agency and hence the budget. It

was explained that the Regulation entered into force on 1<sup>st</sup> June and that the work on US products has not been disrupted.

It was nevertheless agreed that strong prudence was advisable and the review of the 2007 budget under agenda item 8 will be carried out accordingly.

## **8. FIRST AMENDING BUDGET 2007**

The Management Board had adopted the 2007 Budget of the Agency under known constraints: some money had been put in reserve by the European Parliament and the Fees and Charges Regulation had to be revised.

In the meantime, the TRAN Committee of the European Parliament has expressed its satisfaction to the information provided by the Agency, which has led to the release of the reserve, and the revised Fees and Charges Regulation has come into force in June.

An additional 11.4 M€ income could be expected (as compared to the original budget). The Commission expressed its satisfaction to the proposed figures but, in the light of the above discussion (item 7), suggested some additional prudence as regards the income to be levied from industry. The Commission reminded that the Agency could use some margin of manoeuvre, and that some of the appropriations from the previous years could be included in the budget (Romero Facility) so as to compensate a potential shortfall of revenues stemming from Fees and Charges.

| <b>FIRST AMENDING BUDGET 2007</b> |                    |                           |                          |               |
|-----------------------------------|--------------------|---------------------------|--------------------------|---------------|
|                                   | <b>1</b>           | <b>2</b>                  | <b>3</b>                 | <b>3-1</b>    |
| <b>REVENUE M€</b>                 | <b>BUDGET 2007</b> | <b>PROPOSED AMENDMENT</b> | <b>ADOPTED AMENDMENT</b> | <b>CHANGE</b> |
| <b>Fees &amp; charges</b>         | <b>34.5</b>        | <b>44.8</b>               | <b>42.8</b>              | <b>8.3</b>    |
| <b>EU Subsidy 2007</b>            | <b>22.4</b>        | <b>24.5</b>               | <b>24.5</b>              | <b>2.1</b>    |
| <b>"Romero Facility"</b>          | <b>2.0</b>         | <b>0.0</b>                | <b>2.0</b>               | <b>0.0</b>    |
| <b>EEA</b>                        | <b>0.5</b>         | <b>1.4</b>                | <b>1.4</b>               | <b>0.9</b>    |
| <b>HOST COUNTRY</b>               | <b>0.3</b>         | <b>0.3</b>                | <b>0.3</b>               | <b>0.0</b>    |
| <b>OTHER</b>                      | <b>0.4</b>         | <b>0.5</b>                | <b>0.5</b>               | <b>0.1</b>    |
| <b>TOTAL</b>                      | <b>60.1</b>        | <b>71.5</b>               | <b>71.5</b>              | <b>11.4</b>   |

## **9. 2006 ANNUAL ACCOUNTS**

The Agency presented its annual accounts for 2006 together with a draft of the Board's Opinion. The Administrative Director drew the Board's attention to the differences between the accrual "businesses" accounting and a cash-based budgetary accounting: the net result of the year in the financial statements has to be understood to represent, as a generalisation, the difference between revenues and expenses incurred during the year, regardless of the date at which those have been actually collected or paid. On the other hand, the budgetary outturn balance, which is in a central indicator in the EU bodies' financial management, is (globally speaking) the difference between the cashed-in revenue and payments and amounts carried over. The accrual net result of the financial year 2006 was 5.6 M€ and the budgetary outturn balance 5 M€.

The Administrative Director also drew the Board's attention to the high cash position of 24.1 M€ at the end of the year. It was mainly composed of the liabilities towards the National Aviation Authorities of 16 M€ (services not paid or even not invoiced) and the debt to the European Commission of 5.3 M€. In addition, it included 9.2 M€ of income that was invoiced in 2006 but has to cover the surveillance activities to be carried out in 2007.

Since the observations from the Court of Auditors had not been received yet the Board decided to carry out the adoption of its Opinion through written procedure. The Board's Opinion will be attached to the final Accounts 2006 which the Executive Director will send latest by 1 July to the Court of Auditors, the Commission, the Council and the European Parliament.

## **10. DECISION ON TEMPORARY SCHOOLING ALLOWANCE**

The children of staff from the European Institutions in Brussels and Luxembourg can follow a curriculum in their own language in the European Schools. These European Schools are paid by the Community budget and therefore free of charge to the students. There is no such a school in Cologne, but there are some private international schools where the tuition fees are up to 15.000 € per child. The Staff Regulation foresees a subsidy of some 5000 Euros per child against a tuition fee. The amount to be paid by the EASA staff members is still considerable and, therefore, the schooling issue has become a great concern to many staff



members. This issue has a direct impact on the chances of the Agency to recruit and retain competent staff from the Member States.

In view of these problems the City of Cologne has paid since the beginning a subsidy of close to 5000 € per child until the end of March 2007. The Executive Director took a specific decision (as explained during MB meeting 02-2007) to maintain that specific school allowance until the end of the school year 2006-2007.

The Commission and the Board of the European Schools have decided that no new European Schools will be established outside the seats of the Institutions. This means that there is no chance of having one in Cologne. In light of this the City in cooperation with the authorities of the State has announced its intention to open a European-type of school in September 2008. The Management Board hence agreed that the special school allowance could be maintained until then, as explained in the draft decision. It was noted that similar measures had already been adopted by some other Agencies facing the same problem.

The Management Board approved the proposed Decision.

#### **11. TERMS OF REFERENCE OF THE BUDGET COMMITTEE**

At its last meeting, and pursuant to a suggestion from the Internal Audit Service, the Management Board had agreed to set up a budget committee. The Board had requested the Agency to propose some Terms of Reference for this budget committee, on the basis of the work of the ENACT group.

The Board reviewed the proposed Terms of Reference and, after some amendments to item 9, adopted them.

#### **12. MB DECISION ON PRODUCTS CERTIFICATION**

The EASA Advisory Board (EAB) has received a copy of the proposed Decision, but has not been able to render its opinion within the proposed time frame. The Management Board hence agreed to review the Decision through written procedure once EAB has delivered its Opinion.

#### **13. PRESENTATION ON SAFETY ANALYSIS ACTIVITIES**

The head of the Safety Analysis and Research Department presented the functioning, responsibilities and work of his department. It comprises of 4

main activities: the analysis of data (notably data stemming from ECCAIRS), the cooperation with Accident Investigation Bodies, the promotion of safety initiatives and research. Thorough explanations were provided on the role of the Internal Safety Committee, which should be the internal safety policy-making organ.

The Board noted with interest the work done, and suggested that the corresponding safety analysis functions within NAAs could be interested in an active cooperation with the Agency. The proposal was welcomed by the Agency.

It was also reminded that the Agency is a primary, if not the primary, recipient of ECCAIRS information. The Agency acknowledged the usefulness of ECCAIRS data, but explained that it was one tool amongst others. For instance, and in order to go beyond desk-based work and to promote and develop voluntary safety improvements within industry, the Agency has put substantial effort in promoting an ESSI (European Safety Strategy Initiative) whereby the actors of the aviation community committed themselves to enhancing safety.

#### **14. ENACT REPORT**

M. Smethers, co-chair of the ENACT group reported on the work of the group in the past months. A point to be drawn to the attention of the Agency is the need for pooling of experts.

The administrative arrangement should be simple, and last, the IT tools to be used should be compatible with the ones under development within the Agency.

The Agency noted that it is considering this option but that all aspects must be considered before taking a final decision.

#### **15. DECISION ON RULEMAKING PROCEDURE**

The Management Board reviewed the proposal for revising the rulemaking procedure. This proposal had already been presented to the MB (meeting 02-2007) and in the meantime the EAB had rendered their opinion.

The Swedish, Belgian and Dutch Members of the Board wanted to be recorded in the minutes that they cannot consider Guidance Material as being part of "rules" as defined in Article 2. The Agency recalled that it

was merely a drafting convention, which did not affect the fact that such material, as any rulemaking deliverable of the Agency, is not binding.

The Decision was adopted.

## **16. ROLE OF THE AGENCY IN ACCIDENT INVESTIGATIONS**

The Legal Service of the Commission has delivered its opinion on the role of the Community in accident investigations.

After an analysis of the provisions of Annex 8 and Annex 13 of the Chicago convention, and having regards to regulation of the airworthiness of aircraft as provided for in Regulation 1592/2002, the Legal Service concluded that the designation of “accredited representatives” of the State of Design, State of Registry and State of Manufacture is now an exclusive competence of the Community. National Accident Investigation Bodies (AIBs) cannot represent the Community. An ideal solution would be to create an independent EU Accident Investigation Body, but this is not on the EU agenda at the moment. Therefore, when there is Community competence as State of Design or State of Manufacture or State of Registry, the Community should organise for its representation using available resources from the Agency and the Member States. The Commission envisages therefore calling a meeting to examine how the related co-operation could be organised on a pragmatic basis, taking into account the need to use existing expertise and not to disturb practices developed so far in this field.

A majority of delegations noted that the rationale behind the opinion of the Legal Service was not convincing. They consider that Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents (OJ No L 319 of 12. 12. 1994) is not superseded by Regulation 1592/2002. This directive sets out the legal basis for defining the competence of AIBs in the matter. A new legislative process could or should be initiated by the Commission, should there be a need to further clarify the situation.

The Board noted that the Agency is not currently staffed and equipped to carry out such a task, moreover they consider that there is a substantial risk of conflict of interest between leading an accident investigation and leading regulatory functions.

The Board concluded that it was not their role to further discuss the issue and that the remainder of the discussion should continue in appropriate forum.

## **17. RELATIONSHIP WITH THE EAB**

After the adoption of the opinion on the revised Fees and Charges Regulation by the Management Board, the EAB stressed its disappointment for not having been echoed and had formulated its desire to strengthen relationship with the Board.

In the light of current discussions for the revision of the Basic Regulation, the Board agreed that some representatives of EAB could be invited to attend its next meetings. The Management Board also underlined the necessity to keep some of the debates confidential, and requested the Agency to draft some Terms of Reference for the participation of the EAB as observers to their meetings. The Board insisted on the need for the EAB to send representatives from a range of sectors and countries.

## **18. UPDATE ON ARTICLE 51 EVALUATION**

The Chairman of the Article 51 evaluation Steering Committee presented an update of the work undertaken by the consultant.

A questionnaire was sent to NAAs. The consultant had set up a vast calendar of interviews from stakeholders (institutional + industry representatives). The Steering Committee requested the consultant to modify its interviewee lists, so as to have a more representative panel from NAAs and from South Europe and East Europe industry.

Insofar the findings are related to the incapacity to measure the evolution of safety level over such a brief period of time, harmonisation of rulemaking, start up issues, division of tasks between stakeholders.

The Consultant will present its final findings in September and draft its final report. The report will be presented to the MB at its December meeting.

## **19. AOB**

### **a. Renewal of Management Board Members mandate**

The Commission reminded that the mandate of each MB member is 5 years and that a number of mandates were due to expire soon.

The Commission will send letters in due time to the permanent representations of the Member States and ask them to inform the Commission whether they intend to renew the term of office of their present representative in the Board or to nominate a new delegate.

b. Renewal of the Executive director contract

The Commission reminded the Board that the Executive Director of the Agency has been appointed for a fixed term of 5 years. This term of office shall be renewable (Article 30, point 4 of Reg.1592/2002) The Management Board may choose to renew the contract of the Executive Director or declare the vacancy open. This decision is to be based on the above described evaluation. The Commission noted, however that in line with Article 30 point 1 of the same Regulation it still has to study the matter on the basis of the opinion of its Legal Service. The Board will get more information about the issue during its September meeting. In the margin of the subject it was also mentioned that the Directors of the Agency are also appointed by the Board on the proposal of the Executive Director. Their terms of office is also 5 years and renewable. The evaluation of the Directors is carried out by the Executive Director.

## ATTENDANCE LIST

|                     | MEMBER                | ALTERNATE             | EXPERT                    |
|---------------------|-----------------------|-----------------------|---------------------------|
| AUSTRIA             | KARL PRACHNER         | -                     | WALTER GESSKY             |
| BELGIUM             | JULES A. J. KNEEPKENS | BENOIT VAN NOTEN      | -                         |
| BULGARIA            | ZAHARI ALEXIEV        | ELEONORA DOBREVA      | -                         |
| CYPRUS              | -                     | -                     | -                         |
| CZECH REPUBLIC      | JINDRICH PLOCH        | PETR NAVRATIL         | -                         |
| DENMARK             | -                     | PER VEINBERG          | -                         |
| ESTONIA             | KOIT KASKEL           | -                     | -                         |
| FINLAND             | KIM SALONEN           | -                     | -                         |
| FRANCE              | -                     | PAUL SCHWACH          | MAXIME COFFIN             |
| GERMANY             | THILO SCHMIDT         | JOSEF SCHILLER        | -                         |
| GREECE              | -                     | EVANGELOS VASSILAKOS  | GEORGIOS SOUVRANOS        |
| HUNGARY             |                       | -                     | EVA KALLAI                |
| ICELAND             | PETUR K. MAACK        | -                     | -                         |
| IRELAND             | ETHNA BROGAN          | KEVIN HUMPHREYS       | -                         |
| ITALY               | -                     | DANIELE CARRABBA      | CARMINE CIFALDI           |
| LIECHTENSTEIN       | WILFRIED HAUSER       | -                     | -                         |
| LITHUANIA           | ALVYDAS SUMSKAS       | ROMUALDAS ARMANAVICUS |                           |
| LUXEMBOURG          | -                     | -                     | -                         |
| MALTA               | -                     | -                     | -                         |
| NETHERLANDS         | -                     | JAN DIRK STEENBERGEN  | PIETER MULDER             |
| NORWAY              | HEINE RICHARDSEN      | -                     | KARL KOEFOED              |
| POLAND              |                       | ZBIGNIEW MACZKA       | DARIUSZ GLUSZKIEWICZ      |
| PORTUGAL            | -                     | -                     | -                         |
| ROMANIA             | FLOREA GEICA          | CATALIN COTRUT        | OLGA VEISZ                |
| SLOVAK REPUBLIC     | -                     | -                     | -                         |
| SLOVENIA            | -                     | JOZEF SLANA           | -                         |
| SPAIN               | -                     | -                     | JOSE MARIA RAMÍREZ CIRIZA |
| SWEDEN              | NILS GUNNAR BILLINGER | -                     | MAGNUS MOLITOR            |
| SWITZERLAND         | URS ADAM              | -                     | -                         |
| UNITED KINGDOM      | MICHAEL SMETHERS      | NATASHA COATES        | PAT RICKETTS              |
| EUROPEAN COMMISSION | ZOLTAN KAZATSAY       | ROBERTO SALVARANI     | ALESSANDRA ZAMPIERI       |

Ms Tammenoms Bakker Dutch Director General for Civil Aviation attended the debates up to Agenda item 4 (exclusive).