



**EASA MB 03/2008**

Cologne, 17 September 2008

**Agenda item: Article 51 Evaluation**

The Final Recommendations as issued by the EASA  
Management Board at MB 03/2008 on 17 September 2008



**Summary of the evaluation of the EASA-system on the basis of  
Article 51 of regulation 1592/2002**

**A. Foreword**

In line with Article 51 of Regulation (EC) 1592/2002, as amended by Regulation (EC) 216/2008, the Management Board of the European Aviation Safety Agency (EASA) commissioned an independent external evaluation of the implementation of the Regulation. Following a competitive tender, the study was carried out by a consultant working to terms of reference agreed by the Management Board and under the guidance of a Steering Committee composed of Board Members<sup>1</sup>.

The consultants presented their report to the Board on 13 February 2008. The Board found that the consultants had completed their work in line with the terms of reference. Notwithstanding some weaknesses in the analysis and evaluation of the information and views gathered from interested parties, the Board has found the consultants' work to be a helpful exploration of the current state of affairs, and an acceptable basis on which to prepare the recommendations set out below.

The Management Board welcomes the consultants' findings that the Regulation has had a positive impact in a number of areas, including:

- a. Creating an independent regulatory structure for aviation safety;
- b. Providing a set of legally binding rules;
- c. Facilitating a competitive market in aeronautical products; and
- d. Establishing EASA, which has become accepted as an independent, competent regulator, delivering high quality certification services,

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<sup>1</sup> The committee was chaired by the Belgian member of the Management Board. The committee was composed by members from the delegations of the Czech Republic, France, Italy, the Netherlands, Sweden, the United Kingdom and the European Commission. The Agency acted as the secretary of the committee.



and actively promoting aviation safety both in Europe and beyond.

The Management Board supports the findings of the consultants that the Agency had to start its operations in difficult circumstances, before sufficient numbers of expert staff could be recruited, and that the Agency has had to work under regulations and procedures; many of which are not tailored to its particular operational environment.

The Management Board notes a series of findings in the consultants' report concerning shortcomings in the implementation of Regulation 1592/2002, as amended, and in the effectiveness of the Agency. On the basis of these findings, and with the aim of remedying these shortcomings, the Management Board presents its recommendations below. Although the Regulation requires the Board to submit these recommendations formally to the Commission, the recommendations are addressed in substance to a range of different actors, including the Commission, the Agency, the National Aviation Authorities, the EASA Advisory Board, and the Management Board itself.

This summary of recommendations may be read in conjunction with the Working Document discussed (and agreed) by the Management Board as contained in Annex I.

The Management Board intends to monitor progress on the recommendations at its future meetings

## **B. Content**

### **1. Interface with stakeholders**

A number of findings relate to concerns of stakeholders about the complexity of the regulatory system, and about the practical difficulties in ensuring easy access to the Agency, in particular for smaller industry.

To promote better working relationships, easier access and mutual understanding the following is recommended:



In addition to existing communications, the Commission and the Agency should provide “simplified” explanations of the various European and national responsibilities with regard to civil aviation safety in particular through the Agency’s website.

- Timetable: Within 3 months following adoption of the recommendation.

The EAB should provide the Agency with an analysis of the difficulties facing small industry in communicating with EASA.

- Timetable: Within 6 to 9 months following initial discussion of this recommendation in the EAB.

Each NAA should nominate a point of entry that would act as an interface with the Agency for industry in that State, in particular smaller industry, to ensure better access and facilitate communication.

- Timetable: Within 6 months following adoption of the recommendation

The Agency should provide clear explanations of its procedures and requirements in areas such as Airworthiness Directives, Permits to Fly etc, through workshops, road shows and dedicated communication on its website.

- Timetable: Within 3 months following adoption of the recommendation.

## **2. The Link Between The Agency’s Mandate and Resources**

A number of findings relate to the balance between the scope of the Agency’s mandate and the current and future availability of resources, plus the cumbersome administrative procedures under which the Agency must operate.



To prevent an imbalance between resources, responsibilities and expectations the following is recommended:

The Agency should establish a multi-annual plan to ensure that the quality and quantity of experts, especially in the area of certification, is adequately maintained. The plan should take into account the impact of recruitment, training and retirement in the coming 10 years.

- Timetable: As soon as possible upon adoption of the recommendation.

The Management Board is aware of the risk of excessive overtime which could result in lower quality of work or detriment to staff. Therefore the Agency should keep under review the consistency of the present and future work programme, especially the rulemaking programme, with the available resources, and report back periodically to the Management Board.

- Timetable: Ongoing

The Parliament and the Council when agreeing to an extension of the Agency's remit should ensure they also agree on the allocation of sufficient additional resources to the Agency for new tasks

- Timetable: Each time as there is a proposal to extend the remit.

The Management Board should undertake a review of its policy on the outsourcing of Agency tasks to qualified entities based on a proposal from the Agency.

- Timetable: First discussion in the meeting of the Management Board in December 2008.

To ensure the necessary resources and efficiency of the Agency, the Agency should discuss within the network of the Agencies and with the Commission, or during the ongoing META evaluation of Agencies, the possibilities for tailor making to the Agency the relevant Community regulations on human resources, accounting and procurement procedures.



- Timetable: Within 9 months following adoption of the recommendation.

To enable NAAs to discharge their responsibilities for Annex II aircraft, any shortage of national specialists can be mitigated through the Agency's pool of experts and cooperation and peer review between NAAs. In addition, the Agency should launch a long term study on the impact of a shift of responsibility for some or all of these aircraft to the Agency.

Timetable: Cooperation and use of the pool of experts should start immediately.

### **3. Improve safety performance**

Some findings relate to the importance of developing a comprehensive safety strategy, and to a more proactive promotion of European safety standards throughout the world.

In view of these findings the following is recommended:

The Management Board shall regularly make use of its power to advise on the strategic development of civil aviation safety.

- Timetable: At least annually  
All Member States should contribute to maintaining a full incident reporting system through ECCAIRS.
- Timetable: Ongoing

On the basis of a well coordinated and prioritised programme, the Commission and the Agency should step up their efforts in harmonising high level safety standards worldwide, through:

- Maintaining the relationship with the FAA.
- Conclusion of bilateral agreements and working arrangements with other third countries.
- Technical cooperation activities.



- Timetable: Ongoing

#### **4. Governance**

Some findings relate to the relationship between the Agency and the Commission, and the role of the Management Board.

In view of these findings the following is recommended:

A High Level coordination structure should be set up between the Commission and the Agency to agree a strategic vision for the Agency, and allow the Agency to take timely actions regarding its regular planning and management processes. This structure should include an early warning system for unexpected developments affecting the Agency's activities.

- Timetable: Immediately

The Management Board should review possibilities for improving its effectiveness. It should limit the time spent on its formal functions in order to allow a stronger focus on the Agency's strategic decision-making and the effectiveness of its work, linking its agenda to the outcome of the High Level coordination structure.

- Timetable: Within 6 months following the adoption of the recommendation and regularly thereafter according to the meeting schedule of the Management Board.

#### **5. Rulemaking**

A number of findings relate to the involvement of stakeholders in the rulemaking process, the clarity of Agency rules, and the guidance for implementation.

To mitigate these findings the following is recommended:



The Agency should review its practices regarding the transparency of its decisions to involve stakeholders in rulemaking groups, and its consideration of comments of stakeholders on rulemaking proposals.

- Timetable: Within 6 months following adoption of the recommendation.

The Agency should draw up a prioritised 3-year rulemaking programme consistent with available resources, in coordination with the Commission, the AGNA and the SSCC.

- Timetable: annually

The Agency together with the NAAs, should provide, where necessary, for the translation of NPAs and Opinions.

- Timetable: Agency to provide the Management Board with an indication of the costs and modalities including cooperation with the NAAs, within 6 months following adoption of the recommendation.

To promote harmonised implementation of common rules, the Agency should, in addition to its guidance material, where necessary, explore ways of assisting NAAs through advice on the implementation.

- Timetable: Within 6 months following adoption of the recommendation, thereafter when appropriate.







## **ANNEX**

### **Evaluation of the Basic Regulation**

#### **General remarks:**

On the basis of Article 51 of the Regulation (EC) 1592/2002<sup>2</sup> as repealed by Regulation (EC) 216/2008, the Management Board has commissioned an independent external evaluation on the implementation of the Regulation (EC) 1592/2002. After having received the evaluation findings, the Management Board shall issue its recommendations to the Commission.

A Steering Committee has been established to monitor and supervise the work and the progresses of the evaluation.

The result of this evaluation was presented to the Management Board on 13 February 2008. The Board asked the Steering Committee to submit draft recommendations to its meeting on 11 June 2008. The present paper contains these draft recommendations.

Based on its general view on the findings and recommendations of the evaluation report, the Steering Committee considers this paper as a first draft to be discussed in the Management Board. After that the Steering Committee will present its final report to the Management Board on 17 September 2008 or earlier in case the Board would ask the Steering Committee to prepare a paper for adoption of the Board by written procedure.

The general view of the Steering Committee on the evaluation is based upon the following considerations:

- The findings are in line with the terms of reference.

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<sup>2</sup> Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency.



- However, it has to be stated, that a number of the findings were limited to the information gathered from the stakeholders,
- NAAs<sup>3</sup> and third parties. The Steering Committee regrets, that a number of these findings lack subsequent overall evaluation and judgement relating to the task, the effectiveness of the Agency system, the level of safety and other objectives of the Regulation.
- Therefore several findings and the subsequent recommendations of the evaluation are not entirely suitable for recommendations to be issued in the light of Article 51 of said Regulation, to the Commission by the Management Board.

Notwithstanding these comments, the Steering Committee has accepted the evaluation as it has followed the terms of reference and presents valuable information on the state of affairs and views of interested parties.

The evaluation contains a number of findings confirming the positive achievements as well as difficulties related to the impact of the Regulation.

The Steering Committee welcomes the findings stating that the Regulation had a positive impact on a number of areas, such as:

- The implementation of the said Regulation has seen a major step towards uniform standards for working procedures, independent of the responsible Authority. For example, applicants for type certificates have to be treated equally, regardless of nationality and domicile. For organisational approvals the NAA audit processes for POAs<sup>4</sup> and MOAs<sup>5</sup> offer further examples.
- In contrast to the former system, the regulations are now legally binding in all Member States. Thus there is no co-existence of national regulations and supranational rules/ requirements. This

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<sup>3</sup> National Aviation Authorities

<sup>4</sup> Production Organisation Approvals

<sup>5</sup> Maintenance Organisation Approvals



helps to reduce the variation in interpretation of rules across Europe.

- Consistent certification standards facilitate the free movement of goods within the Member States.
- In the new system the rulemaking process is clearly defined and thus transparent for all affected parties. In the former system many European-level meetings were needed to achieve a non-binding compromise acceptable to all the stakeholders involved. The harmonised rulemaking process established by the Basic Regulation facilitates clarity of rules, saves time and reduces cost spent on rulemaking.

The Steering Committee supports the findings confirming that the Agency had to start under difficult circumstances, since it was entrusted with large responsibilities while it was short of staff and had to work under regulations and procedures that were not tailored to its obligations.

Compared to these findings other findings confirm a number of shortcomings resulting from the present implementation of instruments.

The Steering Committee considers these findings important for improving the impact of the regulation, the effectiveness of the Agency and safeguarding a coherent aviation safety system.

With a view on remedying these shortcomings, the Committee presents its draft recommendations based on the following findings categorised in relation to the findings of the evaluation. The pages from which are quoted from the evaluation study (report of the consultant) are indicated after the respective findings.

A number of recommendations are addressed to the European legislator. The Management Board shall receive the findings of the evaluation and issue recommendations. It is to be recommended to the Commission to forward these recommendations together with its own opinion as well as appropriate proposals to the European Parliament and to the Council. An action plan with a timetable shall be included for recommendations which require a follow-up action.



## ***1. Division of responsibilities between the Agency and NAAs***

### Finding:

The separation of tasks in the European aviation safety system between the Agency and the NAA's creates organisational complexity and a certain lack of transparency for the industry (p 95 of the report of the consultant). The benefits in terms of efficiency, costs and duplication of interfaces that are usually derived from centralisation of tasks cannot be entirely achieved due to different competences of NAAs and the Agency. Examples of such differences are the division of responsibilities for aircraft (Annex II versus other aircraft) and for continuing airworthiness (p 45).

### Recommendation – to the Commission, the Agency and NAAs:

The legal texts provide for a distinct allocation of tasks, but what this means in practice needs to be better communicated to the affected parties. It should be explained that the implementation is except product certification, approval of design organisations and approval of organisations located in third countries, the responsibility of the NAAs, while rulemaking is primarily the responsibility of the European legislator; the latter including the advisory role of the Agency. It is recommended that the Commission should provide this information to the European Parliament and to the Council, following the evaluation results. Furthermore this information on the division of responsibilities between the Agencies and NAAs should be included in other relevant communication means, in particular through the Agency's website by an overview table.

## ***2. Annex II aircraft***

### Finding:

Duplication of costs for NAAs to maintain staff and expertise necessary to Annex II aircraft and rulemaking.

### Recommendation – to the Agency:



No change of responsibility for Annex II a/c as the European legislators decided against any change on this matter for the time being.

Nevertheless, the matter of fact of fragmentation and shortage of EU wide specialists could be mitigated by pooling these national specialists through the Agency's pool of experts as defined by the ENACT group to increase efficiency and support a common approach. The Agency is asked to launch a study looking at the needs and possible actions in this area from now through the long term".

### ***3. Interface between the industry, NAAs and the Agency***

#### Finding 1:

The large industry players, especially those with multinational networks, have clearly benefited from having a single interface for all certification issues.

For the smaller industry players, the complexity of regulation and the operational distance of the Agency are (besides fees and charges) significant additional burdens (p 100).

The additional workload could result in competitive disadvantages for certain industrial parties, which are easier to solve for large organisations than for small (p 62).

#### Recommendation 1 – to the Agency and the NAA's:

In order to try to facilitate the contacts of smaller industry with the Agency, it is recommended that each NAA should nominate a "point of entry". These should act as first contact points vis à vis the EASA Certification Directorate as well as, where appropriate, towards other Directorates. These points of entry should be sufficiently trained contribute to promote the best possible interface of industry players, especially to further assist in particular the small industry. They should ensure a more appropriate access and facilitated communication.

#### Finding 2:

In the opinion of the Agency's clients, the current situation leads to unclear responsibilities. Problems relating to the interface between responsibilities can be observed in a number of the Agency's



operational tasks as indicated above. Recent examples include questions about the accessibility to databases, the publication of Airworthiness Directives (AD), and the implementation of processes on permits to fly (p 53).

Recommendation 2 – to the Agency:

In addition to the communication as suggested in the recommendation with regard to finding 1, the Agency should improve its external communication, in particular its website with regard to communicate the explanation of ADs<sup>6</sup>, Safety Bulletins and the process for obtaining Permits to fly.

Finding 3:

The complexity of regulation and the operational distance of the Agency are (besides fees and charges) significant additional burdens. In many cases small companies have little chance to adapt their organisation and still rely on the assistance of their respective NAA. In addition to that, small enterprises in particular complained about long waiting times (p 100).

Recommendation 3 – to the Agency and EAB<sup>7</sup>:

The difficulties for the small industry should first be defined in the EAB. On the basis of that information the Agency shall continue to organize regular workshops in Cologne and, to the extent possible, those it runs locally with NAA support, for smaller industry players ("road shows") to assist them in their contribution to the implementation of the regulations. It is recommended that the Agency considers a possible performance indicator.

***4. Cost efficiency and working practice – qualified entities:***

Finding:

So far there has been no outsourcing to qualified entities as provided for in the Basic Regulation, only to NAAs. Not taking advantage of the full scope of outsourcing possibilities provided for

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<sup>6</sup> Airworthiness Directives

<sup>7</sup> EASA Advisory Board



in the Basic Regulation reduces the opportunities for competition between NAAs and qualified entities (p 77).

Recommendation – to the Management Board:

Further to Article 13 of the new Basic Regulation 216/2008, the Management Board undertakes in 2008 a review of its policy on the attribution of tasks to qualified entities on an assessment of the legal, financial and resources aspects, based on a study the Agency carries out under the supervision of ENACT<sup>8</sup>. In this respect, due attention should be paid, that tight supervision of the QE by the Agency, to be foreseen in contractual arrangements.

***5. Extension of scope:***

Finding:

- The availability of necessary resources will be a critical issue for the system.
- There are concerns that the extension of the Agency's remit creates an additional burden before the organisation has had time to consolidate and stabilise its activities with the existing remit.
- It is unlikely that the required resources will be available in time to meet the needs of the additional tasks (p 96).

Recommendation – to the Commission and the Budgetary authority (the European Parliament and the Council):

The budgetary authority should only agree to an extension of the remit once sufficient additional resources have been envisaged to be allocated to the Agency.

Alternative suggestion from the French member:

The budgetary authority should only agree to an extension of the remit once "additional" resources have been envisaged to be allocated to the Agency, while ensuring adequate priority to the tasks needed under the current duties entrusted to the Agency, so as to enhance safety

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<sup>8</sup> EASA/NAAs Certification Transition Working Group





## **6. Outsourcing policy and strategy:**

### Finding:

Active strategic planning with regard to outsourcing is limited. A more strategic evaluation of the outsourcing policy should be considered (p 80).

The efficiency and effectiveness of the aviation safety system and the Agency could suffer through not using all the outsourcing possibilities provided for in the Basic Regulation.

### Recommendation – to the Agency and the Management Board:

The Management Board notes that an outsourcing policy for Certification has already been agreed in the Business Plan. As regards the possible use of qualified entities the Management Board should undertake a review of its policy on the outsourcing of Agency tasks to qualified entities based on a proposal from the Agency.

With regard to Rulemaking no outsourcing is possible for legal reasons.

## **7. Agency's coordination and partnership with external parties (NAAs and industry)**

### Finding 1:

Although the exchange of experience and expertise is considered to be good, weaknesses in the exchange of information with external parties have been identified. The necessary data exchange between the NAAs and the Agency has not been fully achieved, in particular with regards to data on incidents and accidents. (p 83)

### Finding 2:

Up to now coordination and partnership activities are extensive and time consuming for all parties (p 83).

### Recommendation 1 – to the NAA's and the Management Board:



The Management Board strongly urges the NAAs to insert their data in ECCAIRS<sup>9</sup>

Recommendation 2 – to the Commission:

The Management Board invites the Commission to review the process of data sharing and to solve related issues, in particular looking into the role of the Agency and its responsibilities as well as to respective resources.

**8. *The evolution of the overall level of safety***

***a) working procedures:***

Finding 1:

The implementation of the Basic Regulation has seen a major step towards uniform standards for working procedures, independent of the responsible Authority.

However, applicants from small enterprises in all countries feel that the processes, specifically in the area of approvals and certification, have become too formal (p 49).

Finding 2:

Closely related to this issue is the subject of differences in implementation philosophies between the Member States. Member States have started discussions amongst themselves on the implementation procedures and the assistance their respective industries need in understanding the processes (p 50).

Recommendation 1 – to the Agency:

Investigate the concerns of applicants and experience related to application processes. Discuss with EAB and, where appropriate SSCC and report back to the Management Board.

Recommendation 2 – to the Agency and the NAAs:

The Agency should explore further avenues for support through advice on the implementation of common standards, rather than relying on a self-generated process amongst the Member States. This can be organised by thematic subgroups of NAA-Partnership meetings to

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<sup>9</sup> European Coordination Centre for Accident and Incident Reporting System



discuss defined domains. This process should contribute to harmonise the national implementation procedures.

***b)Resources /Work backlog/Overtime***

Finding 1:

The work backlog exists in all operational departments. However, it is to be seen most critically in rulemaking, with the burden of additional tasks associated with the extension of the Agency's remit making this an on-going rather than a temporary situation (p 48).

Finding 2:

The backlog could also result in minor competitive disadvantages for certain elements of industry, especially small firms, as large enterprises can more easily find ways to address their concerns (p 48).

Finding 3:

The continuing backlog of work leads to a specific risk associated with the expected extensions of the remit of the Agency. It is unlikely that the required resources will be available in time to meet the needs of the additional tasks (p 48).

Finding 4:

Currently, some departments in the Agency can only fulfil their mandate by a high utilisation of resources, i.e. through substantial working of overtime. This seems to be mainly due to the workload demands of the transition phase. Excessive overtime could result in a reduction in staff motivation and, consequently, in lower quality of output and in less time spent on self-education (p 51).

Recommendation 1 – the Agency, the Management Board and the Commission:

Taking into account the fact that the Rulemaking-Planning, related to the resources available is very much depending on the overall legislative and budgetary planning in the Community, especially regarding priority setting by the Commission, it is desirable to have a 3-year planning for Rulemaking.



The Management Board should ask Commission and the Agency to have regular and timely meetings to align their work to increase efficiency concentrating on rationalisation and prioritisation.

Recommendation 2 and 3:

With regard to the consequences for the industry as well as for the Extensions of the remit reference can be made to the recommendations mentioned above under findings 3 (interface between the industry, NAAs and the Agency) and 5 (extension of scope)

Recommendation 4 – to the Agency and the Management Board:

The Management Board is aware of this problem and should examine the consistency between the Work Programme and resources, in order to consider measures to be taken to reduce the risks of excessive overtime. The Agency should discuss this issue with the Commission.).

***c) Expertise***

Finding:

As the Agency took over activities from the National Authorities, many of those experts stayed with the Authorities or left the system for other jobs in industry or retirement. As a result, the availability of sufficient staff members of the Agency and experts of the NAA's having the necessary knowledge, skills and experience has come under constant pressure. The main current risk is the loss of even more know-how and a lack build up adequate new expertise in time.

Recommendation – the budgetary authority, the Commission, the Agency and NAAs:

Maintaining the necessary expertise is a key element of the strategy process related to the implementation of the Basic Regulation and the recruitment policy for the Agency. This requires an extensive discussion of the budgetary authority as well as between the Commission and the Agency. In the meantime, pragmatic solutions such as the Pool of Experts should be implemented.

Another instrument is to follow the policy of ENACT to systematically build-up technical competencies needed for certification engineers in



the process of recruitment and training, in a time-horizon of five to ten years, which is currently not part of the Agency's current training programme.

### ***9. Maintaining the high level of civil aviation safety in Europe***

Finding:

The relative level of safety becomes more difficult to analyse as the maturity of the sector evolves and the impact of airworthiness-related causes (that are directly or indirectly under the influence of activities within the framework of the European aviation safety system) become insignificant compared to other factors (such as human failure) (p 46).

Recommendation – to the Management Board:

The Management Board shall carefully review and discuss the Agency's safety reports.

### ***10. Promotion of European safety standards***

Finding:

The FAA has been much more proactive in promoting its regulations through establishing working arrangements with other authorities, and supporting them by maintaining a physical presence on the ground. As a result the FAA creates for itself the opportunity to set world wide quasi-standards. Consequently, the Agency and the European industry are confronted by an established aviation safety and rulemaking philosophy manifesting itself as "quasi-standards" (p 60).

Recommendation – to the Commission and the Agency:

Despite the Commission and the Agency's success thus far in establishing working arrangements with third countries and international organisations, their efforts in this area shall be maintained along the following lines:

- Reinforcement of the relationship between the FAA and the Agency is defined in the new Bilateral Agreement on Civil Aviation Safety, to be concluded between the European Community and USA. This Agreement defines clearly the respective tasks and responsibilities of both Authorities. The cooperation agreement on rulemaking between FAA and the



Agency has already been adopted in anticipation of the entry into force of the agreement.

- Regarding the relations with third countries, the European Commission, the Management Board and the Agency should on the basis of strategic discussions maintain and step up their efforts regarding the conclusion of working arrangements but even more regarding the promotion of European standards by technical cooperation activities e.g. through the technical assistance programmes.

### ***11. Relations with the Commission***

#### Finding:

Although the working relationship between the Agency and the Commission is considered to have been improved, various representatives of the Agency and the NAAs question whether the Agency has full operational independency in international relations in accordance with Article 18 of Regulation (EC) 1592/2002 and in strategy development in staff matters. Conflicting responsibilities and objectives could interfere with the freedom of action by the Agency according to Article 18 (p 86).

#### Recommendation – to the Commission and the Agency:

Notwithstanding their relevant responsibilities and powers, the Commission and the Agency should establish a High Level coordination structure that leads to a substantial improvement of the planning of activities that will have an impact on the Agency's operation. This structure should include an early warning system for staff and budget related decisions.

### ***12. The Management Board***

#### Finding:

The size of the Management Board makes governance difficult, compounded by the fact that no single language is used for its meetings.

It was also stated that the level of active involvement of individual Members was observed to be unequal (p 87).



Often formalities dominate the work of the Management Board. This restricts the Board's ability to deal with strategic issues and protracts the decision making process (p 87).

Recommendation – to the Management Board:

The Management Board should on the occasion of the new provisions in the Regulation undertake a review of its possibilities for improving its effectiveness. In particular it should focus on the following points:

- limiting formal work in order to allow a clear focus on the Agency's strategic decision making; in this respect it should make clear to feel itself co-responsible for an appropriate long-term planning of resources in terms of quality and quantity
- preparing instruments and methodologies on a proposal of the Agency to facilitate this process
- by actively backing the Agency's role in the common European aviation safety system
- setting of the agenda of its meetings as per the High Level coordination structure

**13. *The clarity of rules and specifications - translation***

Finding:

NAA's feel a need for improvement concerning the clarity of the implementing rules and certification specifications. In contrast the interviewed stakeholders widely expressed their general satisfaction with the clarity of these rules and specifications, except for some lack of clarity resulting from language problems.

Recommendation – to the Agency and NAAs:

The differences in languages should not hinder the clarity of rules. The difficulties seem to relate in particular to the NPA's and opinions. It is proposed that the Agency, with the help of the NAAs where necessary, provide for the translation of the NPA's and opinions in all community languages.



#### **14. *The rulemaking process***

##### Finding 1:

Industry and NAA's are not entirely satisfied with the rulemaking process. They expressed the fear that expertise and comments were not sufficiently taken into account in rulemaking activities. This was underlined by examples of industry comments not handled appropriately by the Agency in the rulemaking process.

The willingness of stakeholders, especially industry, to participate in the rulemaking process could decrease if they get the feeling that their comments are not adequately considered (p 55).

##### Finding 2:

Member States still try to meet independently of the Agency to discuss rulemaking and implementation issues (p 55).

##### Finding 3:

While there is general satisfaction on the degree of transparency of the overall process, there is criticism on shortfalls in the involvement of stakeholders and clear communication by the Agency. This relates in particular to the decision-making process for the composition of consultative and other rulemaking groups (p 57)

##### Recommendation 1 – to the Agency and the Management Board:

The Agency should review its practices on handling comments from NAA's and stakeholders on rulemaking proposals and taking decisions on the involvement of NAA's and stakeholders in the process; in particular in the rulemaking groups. The Management Board should subsequently review the rulemaking procedure.

##### Recommendation 2 and 3 – to the Agency and the NAA's:

See recommendation 2 mentioned under finding 8 a





## **15. *The administrative processes***

### Finding:

Administrative processes in the Agency, such as those for human resources, accounting and procurement, are adversely and significantly affected by complex Community standards that are imposed on the Agency. Compared to the situation prevailing in private entities and even most governments, this is reducing the efficiency of the Agency (p 79).

The financial and staffing regulations (and the respective implementing rules) may hinder the Agency's ability to fulfil its tasks in a timely way (p 90).

### Recommendation - to the Commission, the Agency and the Management Board:

Examine the options to appropriately discuss the amendment of the financial regulation and other community regulations on human resources, accounting and procurement procedures. This would enable the Agency to respond more timely and appropriately to the upcoming aviation safety questions from the industry that fall within its competence. The Commission should recognise that the Agency has particular characteristics vis à vis the industry, to compete in the market.

The Agency tries to solve issues in its Agency's network with the other Agencies.

The Management Board recognises that the Agency has to follow characteristic responsibilities as a Community institution.