European Aviation Safety Agency
SUMMARY of CONCLUSIONS

Subject	Rulemaking Advisory Group meeting 1-2014
Date	6 May 2014
Location	Centre Albert Borschette, Rue Froissart 36, Brussels

Organised by   Rulemaking

1. Welcome
Presented by: Jules Kneepkens, EASA Rulemaking Director and Chair of the group

The Chair welcomed the attendees to the first RAG meeting in Brussels, and announced that back to back meetings with the EASA/SSC committee would be taking place regularly in the future (at least twice a year).

2. Adoption of the agenda
Presented by: Jules Kneepkens

The Chair highlighted that the agenda was split in two: strategic items and standard items, and reminded that feedback on implementation of EASA rules was always welcome and that members are invited to send those timely in advance of the meeting. This will allow the Agency to seek, if needed, more clarification and provide also a reply before the meeting. Therefore Members are requested to send such feedback at least 20 working days before the meeting.

Conclusion: The Agenda was adopted by the Group.

3. Adoption of the minutes of previous meeting
Review of action table
Presented by: Jules Kneepkens (Chair) and Kirsti Reinartz-Krott

The Chair requested agreement of the minutes of last meeting including the changes suggested by the members.

The action table was presented. All action items from previous meetings were closed as reported in the final minutes.

Conclusion: The Group adopted the minutes of the RAG meeting 2-2013 with the proposed changes.

4. Commission policy initiative on aviation safety and a possible revision of the EASA Basic Regulation
- Remotely Piloted Aircraft Systems
  Presented by: Eric Sivel

A presentation was delivered. It focussed on the possible extension of the Basic Regulation to include RPAS. The Agency explained that three parallel activities were currently on-going in the RPAs domain:
- Development of industry standards by standardisation bodies worldwide: totally uncoordinated
- Regulation at the level of several EASA Member States, EASA and JARUS (Joint Authorities for Rulemaking on Unmanned Systems, a group of experts from the National Aviation Authorities (NAAs) and regional aviation safety organizations): some coordination
- Regulation at ICAO level (SARPS)

While all RAG members expressed the need for regulating RPAS in general, the following discussion ensued and feedback/comments were made given:
- If need be, either amend existing Articles of the BR by incorporating provisions on RPAS, or create new specific articles dedicated to RPAS: Agency, Industry and most RAG members are in favour of second option. A few RAG members expressed concerns on a premature amendment to the BR, which could be counterproductive. The amendment should take into account work already done in the RPAS domain at national level, which was also supported by the Commission.
- Limiting EASA remit to above 150 kg or extending Agency competence to below 150kg (>25 kg): Agency and RAG members supported extending competence but limiting regulation where necessary.

- Criteria of '**mass**' was challenged, and instead the associated kinetic '**energy**' was proposed, as well as 'density of human population in the area of operations' (**risk based approach**). Agency and Commission is in favour of risk based approach. Discussion is on-going.
- Difference between operations in 'non-segregated airspace' and 'segregated airspace': All agreed that there should be a difference of regulation for RPAS sharing airspace with manned flights and those flying at very low altitudes.
- Safety of citizens on the ground: Some RAG members pointed out the risk of RPAS mid-air collisions with manned aircraft in segregated airspace.
- The licenses for pilots: RAG members indicated that there should be a difference between manned/unmanned aircraft, since they subject to dramatically different factors.
- Proportionality and subsidiarity: All supported that the existing and future European market should not be jeopardised by 'too much regulation' or similar regulation as for manned flights. The Agency stated that RPAS was something else/ new altogether. Some RAG members pointed out that some categories of RPAS ('toys') should be regulated directly be the national authorities, subject to agreeing on a common approach in all MS. Agency and commission warned that it was time to act since more and more rules were being drafted by Member States and harmonisation would become more difficult. Especially, the concerned parties should not wait for the revision of the Basic Regulation.
- VLOS: all agreed that this could remain out of ICAO scope due to low likelihood of cross border operations.
- Commercial use vs non-commercial of RPAS: Agency position is to keep under same rules.
- Insurance, environment, and data protection/privacy issues: RAG members expressed the need to keep a strong link between the safety aspects and the aforementioned issues already being treated by the Commission. Commission replied that it was planning to have some results by the end of the year and that public acceptance was priority.
- Focus on industry standards to provide flexibility was supported by some RAG members, considering that 90% of currently manufactured RPAS are below 15kg. Agency indicated that for recreational/small RPAS, industry standards should be used to max. extent and that a bottom –up approach should be used.

Some RAG members offered support in development of RPAS regulation and recommended to make inventories of rules/standards already in place at national level and use feedback loops. This was accepted and supported by the Agency and the Commission.
- The Agency stated it was an opportunity to have worldwide standards set up and that Europe had a chance to influence ICAO work. The Commission added that it was paramount to identify the issues and assess and manage the urgency, and that EASA should start the safety related work at JARUS as a possible Chair.
- The Chair indicated that the comments would be used as inputs for the RPAS ToR. It might be possible to organise an Industry presentation on RPAS development for the RAG.

The Agency proposed to draft a paper for RAG on the current status of the different initiatives related to RPAS at national, EU, ICAO level. Included would be the envisaged next steps in RPAS regulation. As a first step, the Agency suggested to put everything on hold for two months in order to put a structure in the task ahead and based on a proposal to make the choice how to move forward.

Conclusion: The RAG in general agreed on the necessity to pursue a common, if possible worldwide, regulation of RPAS. Discussion on criteria, mandate of EASA, scope and subject of the safety regulatory work on-going. Commission non-safety related work will be linked. The Agency will submit a paper to RAG on current situation and short term future activities.

Action 1-1-2014: EASA to draft a paper on current RPAS situation and next steps.

4. Commission policy initiative on aviation safety and a possible revision of the EASA Basic Regulation - cont.'d
- Commission Roadmap
- Agency A-NPA
  Presented by Chair and Nicola xxx (Commission)

In relation to the above points, a joint Commission, EASA presentation was held, which covered background, objectives, challenges, EASA role and way forward for Commission Roadmap and A-NPA. Both the agency and Commission insisted on an increase and stability of safety to face the dramatically increasing air traffic. The RAG members were invited to comment:

Some RAG members expressed confusion with the parallel Commission and EASA initiative, asked how the Member States were supposed to participate and get a common understanding of the strategic objectives: The Commission replied that both consultations were taking place in parallel, while the Chair reminded that consultations starting around 15 May, would take 3 months, during which the Agency envisages to visit about a dozen countries, and another 2 months for dedicated meetings on hot topics identified in the CRD. Also, the MB subgroup would give input to the A-NPA and Art. 62 process, with its finalised paper in September, including strategic objectives.

Furthermore, some RAG members asked if the RPAS issue and the long awaited definition of 'commercial', as well as some other items that were listed in a table would be included in the revision. To this, the Commission replied: the revised BR being a framework regulation, would not go into such detail. Again, it would not be wise in RPAS matters to wait for the revision. The Chair added that the table was still valid but the items in the A-NPA were more general and that specific issues would reappear in the follow-up.

Conclusion: RAG members were invited to participate in the parallel Commission and EASA consultations, which would start mid-May.

5. Collaborative/cooperative oversight
Presented by: ES RAG member, Chair

The Spanish RAG member outlined his proposal, pointing out the purpose of the paper, the legal tools available. The Agency added that it was based on the Minutes of the special AGNA meeting of Feb. 2011. In principle, the idea in the paper was supported by the RAG members all agreeing to the need of such collaboration. They added the following comments:

- Most RAG members pointed out that such a MoU or contractual relation would lead to legal, budget, liability, auditing, data protection issues etc. and also questioned the short length of the document as fit for such bilateral or multilateral obligations.
- Some stated they had already started a cooperative exercise with other MS (BE and NL, UK with an aviation group project, having a Common OPs manual in view) and would like first to have a 'dry run' with pilot projects before entering into such a MoU.
- For several RAG members the paper was good guidance/checklist for setting up such cooperation, without being binding. Similar reference material could be found in SES regulation (Functional Airspace Blocks).
- Work on cost recovery basis: need to cover the costs of the surveillance.
- Do the MoU involve transfer of responsibility, which would require communication to ICAO? This was negated by Spain.

The Agency indicated that this proposal had been made to share thoughts and to come up with ideas how cooperative oversight could look like. Any further input could be sent to the ES RAG member. The Commission supported any form of cooperative oversight because of the

increasing complexity of operations and lack of authority resources, and saw mainly financial issues as a stumbling block. Legal issues could be more easily managed.

Conclusion: Further RAG member comments/input on coop. oversight set-up can be sent to the ES RAG member which could then be shared in future.

6. Harmonised European approach to a Performance Based Regulatory environment
Presented by: Chair, Andrea Bandieri

The Chair thanked or input on paper from UK, NL, CH, Sweden. It will also be presented to Industry in June and should be finalised (frozen, meaning it can be developed further in future) in the summer. The Chair explained that two further document on PB Regulation and PB Oversight, were in the making. These documents would go in more detail and provide more background on how to implement)
The RAG members welcomed the paper and fully supported the direction taken general. Further comments were made:

Some RAG members expressed concerns on maturity (competence and skills) of NAA and Industry resource-wise to implement this system, others pointed out the need to find the right balance between rules that needed to remain prescriptive and those with the risk based approach, and lastly, some declared prescriptive rules should be limited to AMCs.
According to some RAG members, it was also difficult to define SKPIs and measure them, it would be useful to launch some pilot projects to practise on a smaller scale.
Lastly, RAG members inquired whether this would require change of Basic Regulation.

Commission explained it has launched a study in order to assess the consistency, the costs, the impacts of setting and monitoring certain SKPIs. Safety Performance Indicators and Safety Performance Targets are addressed in the study as well. Expected results by October 2014, would keep RAG posted. For the possible change of BR, according to the Agency, this would depend on the impact of the PBE on existing regulations. Commission explained there was a certain urgency in the process, some sectors were already using PBR. The Agency added furthermore that the implementation of such a system required a look at the culture, choice of tools and a change of mind set of the aviation parties too.

The Agency provided information also on a project concerning PB Oversight which had started in June 2013 with a workshop and the proposal on how to get a shared view on PBO was officially approved last week by the directors of the Agency. The idea is to set up a WG at EASA involving interviews of about 10 MS , share the best practises and send out for consultation end of 2014, followed by a workshop and making available to everyone.

For further comments on the provided PBE text: two weeks deadline.

Action 2-1-2014: COM to provide RAG with result of study on costs and impacts for monitoring certain SKPIs.

7. Cross Domain Safety Management Assessment Tool
Presented by: UKCAA

The UK CAA paper continues the discussion started at RAG 2-2013.
The RAG members, who supported the paper, gave further input:
- BE proposed to take the lead of the RMG for this task as well as the one for the SKPIs (which was originally created and then split in two). BE also recommended to reduce the timing of the RMG to December 2017 (instead of February 2018). This was supported by all. The RMP was extensive but the timing is right. UKCAA agreed to new target date although some constraints with resources. Also, UKCAA and Agency agreed BE could take the lead if they wished, with EASA and COM support.
  Others remarked the this accompanies the consolidation of SMS requirements and a

harmonised approach with one standard (close coordination with MS and EASA so as not to do double work) should be the aim. Support for AMC/Guidance Material as deliverable instead of hard law. This was agreed to and the work already done should be included in the ToR. Agency added that fast track could be tried time-wise to do some activities in parallel and use COM study on PBR (see Pt.6).
- request EASA to supply concept paper before creation of group. Agency sees no need for concept paper at this point.
- Furthermore, query whether this task went beyond ATM activities and what the real objective was. UKCAA replied that focus should not only be on ATM
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  FR, SE, UK, NL, AU proposed to provide experts for group, FI proposed to support if NAA interested, will check.

Conclusion: Creation of rulemaking group with BE in the lead and BE will organise the first meeting.

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8. Horizontal issues
▪ Use of advanced IT technologies for approvals and licenses to prevent fraud
Presented by: SE

The paper presented by Sweden was discussed. The SE RAG member explained that a plastic card with data chip (code readable with a smartphone) could be used and the information accessible to the concerned authorities in a register. This is already the case of the Norwegian maritime authorities. SE aware of the legal/data protection issues related with sharing of the MS registers.
RAG members in general share concern of fraud of licenses and gave the following feedback:
- Concerns of data-protection and choice of technology
- Not only pilot, but also medical certificate, flight examiner certificate to be checked. Agency supports check of medical certificate
- Keep the checking of validity as simple as possible.
- Support common database with minimum data, but with high level of security so no Europe-wide hacking possible. This should be set up by EASA. (A common EASA database was actually not suggested in the paper, and is in our opinion not needed for the "anti fraud" part of the proposal. It may however be a logical development in the long run/SE Magnus M.)
- In some MS already a (closed) system in place and costs maybe high to open them and keep integrity of data. Is there really the critical mass to justify such a huge effort?.
Agency could not support at this moment in time that EASA should take over the initiative and built such a data base. EASA proposed that the MS first initiate a feasibility study to identify all the stumbling blocks. MS should subsequently declare they will work on overcoming such stumbling blocks. Proposal: MS to make feasibility studies and to cooperate also with COM who indicated that there might be (DG MOVE) money available at SRC. SE RAG member accepts to take ball back and act as Agency recommends.

Conclusion: Sweden will take the lead for the feasibility study and contact other MS and Commission for next steps. Circulate results 3 weeks prior to the October RAG meeting. EASA willing to take lead following the clarification of concerns and if supported by the MS.

Action 3-1-2014: Sweden take the lead in the feasibility study on IT tool use to prevent fraud . If successful submit 3 weeks before next RAG meeting the results.

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8. Horizontal issues - cont.'d
▪ Issues from the TAG meetings brought to the attention of the RAG for a consensus
Presented by: Jussi Myllärniemi

The Presentation had been circulated prior to the meeting. As regards ATM/ANS TAG meeting the Agency specifically reinforced that the UK CAA proposal to establish a Rulemaking group (or Taskforce) to develop the safety KPIs for the Reference period 3 (ATM Performance scheme) was strongly supported by the State representatives. Concerning the aerodromes domain the TAG members wished to bring to the attention of RAG that the aerodrome Regulation 139/2014 has entered into force and that its implementation will require significant effort by the CAAs, which should be actively supported by EASA.

Action 4-1-2014: Agency to launch Rulemaking group (or Taskforce) to develop the safety KPIs for the Reference period 3 (ATM Performance scheme)

9. Feedback on implementation of EASA rules

Swedish RAG member presented issues, which will be provided in writing after the meeting. Agency was asked to provide presentation, IP and WP templates for RAG members. Presentations/Papers should be submitted to Agency 3 weeks before the concerned meeting.

Conclusion: Sweden to provide feedback in writing following EASA circulation of templates

Action 5-1-2014: Sweden to provide RAG with feedback issues in writing.

Feedback in writing:
1. There is guidance on "wet lease in" from third country operators but not between EU operators (ORO.AOC.110 – Wet Lease In – Short Notice). Prior approval is required in the latter case, but this creates complicated administration when unforeseen and urgent problems arise e.g. in AOG situations.

2. The requirements concerning carriage of weapons in aircraft is different between helicopters and aeroplanes. IN EU-OPS 1.070 this was possible:

> *OPS 1.070*
> **Carriage of sporting weapons and ammunition**
> (a) An operator shall take all reasonable measures to ensure that any sporting weapons intended to be carried by air are
> reported to him.
> (b) An operator accepting the carriage of sporting weapons shall ensure that they are:
> 1. stowed in the aeroplane in a place which is inaccessible to passengers during flight unless the Authority has determined
> that compliance is impracticable and has accepted that other procedures might apply; and

This is now only possible for helicopters (CAT.GEN.MPA.161), and we would appreciate if an EU-wide solution could be agreed when e.g. business jets are flying passengers between EU states.

Action 6-1-2014: Agency to provide presentation, IP and WP templates for RAG members

10. Key rulemaking accomplishments

The Agency provided an overview of on-going tasks and deliverables per domain.

Conclusion:N/A

11. AOB
▪ AMC 'deletion'

The Chair explained that those AMCs produced in parallel with the Agency opinions do not appear in the Planning although they will be drafted at the same manner as before (with involvement of States and Industry), but if they are independent, they can be seen in the Rulemaking Programme. Nothing has been deleted and the transparency is still the same.

Conclusion: N/A

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11. AOB - cont'd
▪ Legislative planning

The Commission briefly explained this 'living document', drafted for the EASA committee meetings, but which will be presented at each RAG meeting as well.
Conclusion: N/A

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12. AOB - cont'd
▪ Update on Alt MoC

A presentation, which focussed on handling of negative feedback was given. The following questions were asked:
- if a MS does not receive any answer, this could be checked during the standardisation visit? The Agency replied that there was also the possibility of an off-site inspection, without going onsite.
- In case Alt Moc considered as non-significant, should the MS tolerate non-compliance and risk a finding at next visit? The Agency replied that it trusted that submitted AMC would be compliant, this being the spirit of the EU regulatory framework.
- So if Agency gives positive feedback, there cannot be a finding thereafter? The Agency conformed this.

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13. Closing
Presented by: the Chair

The Chair thanked everyone for attending.
The meeting closed at 15:30h

List of actions:				
Item	**Action** (What)	**Person Responsible** (Who)	**Deadline** (When)	**Status** (Optional)
1-1-2014	Draft a paper on current RPAS situation and next steps	**Agency**	1 July 2014	**Open**
2-1-2014	Provide RAG with result of study on costs and impacts for monitoring certain SKPIs (in the framework of PBE)	**Commission**	TBD by Commission	**Open**
3-1-2014	Provide feasibility study (on IT tool use to prevent fraud results	**Sweden**	Beg. September 2014	**Open**
4-1-2014	launch Rulemaking group (or Taskforce) to develop the safety KPIs for the Reference period 3 (ATM Performance scheme)	**Agency**	tbd	**Open**

5-1-2014	Provide RAG with feedback (on implementation of EASA rules) issues in writing	**Sweden**	15 June 2014	**Open**
6-1-2014	Provide presentation, IP and WP templates for RAG members	**Agency**	**After meeting**	**Closed. Uploaded on CIRCABC on 15 05 2014**

Next meeting:
The next meeting is arranged for **7 October 2014** in Cologne, preceding the EASA committee meeting on 8-9 October 2014, also taking place in Cologne.

List of Participants

Attendees	Members:				
	Ms	Karin	**Puleo-Leodolter**	Ministry of Transport	**Austria**
	Mr	Marc	**De Smet**	Civil Aviation Authority	**Belgium**
	Ms	Eleonora	**Dobreva**	DG Civil Aviation Administration	**Bulgaria**
	Mr	Alfonso	**Arroyo**	Directorate General for Mobility and Transport, European Commission	**EC - DG MOVE**
	Ms	Ana	**Kapetanovic**	Civil Aviation Agency	**Croatia**
	Mr	Theo	**Rabenberg**	Transport Authority	**Denmark**
	Ms	Susanna	**Metsälampi**	Transport Safety Agency	**Finland**
	Mr	Georges	**Thirion**	Direction Générale de l'Aviation Civile	**France**
	Mr	Sotirakis	**Stamou**	Civil Aviation Authority	**Greece**
	Dr	Victória	**Ádám**	National Transport Authority - Aviation Authority	**Hungary**
	Mr	Gunnar Örn	**Indriðason**	Civil Aviation Administration	**Iceland**
	Mr	Brian	**Skehan**	Aviation authority	**Ireland**
	Mr	Alessandro	**Cardi**	ENAC	**Italy**
	Ms	Anna	**Cudare**	Civil Aviation Agency	**Latvia**
	Mr	Bob	**Rieder**	DGCA, Ministry of Infrastructure and Environment	**Netherlands**
	Ms	Nina Beate	**Vindvik**	Civil Aviation Authority	**Norway**
	Mr	Marcin	**Szczygiel**	Civil Aviation Office	**Poland**
	Mr	Rodica	**Cazanciuc**	Civil Aeronautical Authority	**Romania**
	Mr	Martin	**Němeček**	Civil Aviation Authority	**Slovak Republic**

	Mr	José María	**Ramírez Ciriza**	Aviation Safety Agency	**Spain**
	Mr	Magnus	**Molitor**	Transport Agency	**Sweden**
	Mr	Igor	**Pirc**	Federal Office of Civil Aviation	**Switzerland**
	Ms	Padraigh	**Kelleher**	Civil Aviation Authority	**United Kingdom**
	Observers:				
	Mr	Özcan	**Başoğlu**	Min. of Transport, Directorate Gen. of Civil Aviation	**Turkey**
	Other participants:				
	Mr	Franz	**Graser**	Austrocontrol	**Austria**
	Mr	Vladimir	**Nekvasil**	Civil Aviation Authority	**Czech Republic**
	Mr	Carl	**Garvie**	EDA	**European Defense Agency**
	Ms	Dace	**Revizore**	Civil Aviation Agency	**Latvia**
	Ms	Liene	**Ozola**	Permanent Representation	**Latvia**
	Mr	Albert	**Ortyl**	Civil Aviation Office	**Poland**
	Mr	Marcel	**Kägi**	Federal Office of Civil Aviation	**Switzerland**
	Mr	Mustafa	**Erdoğan**	Min. of Transport, Directorate Gen. of Civil Aviation	**Turkey**
Apologies	Mr	Dirk	**Sajonz**	Luftfahrtbundesamt	**Germany**
	Mr	Henrik	**Caduff**	Office of Economic Affairs	**Liechtenstein**
	Ms	Mileta	**Nicolic**	Civil Aviation agency	**Montenegro**
	Ms	Aleksandra	**Potparević**	Civil Aviation Directorate	**Serbia**

Conclusions prepared by	Kirsti Reinartz-Krott	9/05/2014	Signature
Conclusions reviewed by	Pierluca Satriano, operational depts., Jules Kneepkens, EC	PSAT OK 11/05	Signature