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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE
EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Extending the tasks of the European Aviation Safety Agency
An agenda for 2010**

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(Text with EEA relevance)

Introduction

Air traffic is growing rapidly in Europe: it has more than doubled over the last 15 years. The establishment of the internal market in air transport has contributed to a large extent to speeding up this trend. European airlines have been able to adapt to their new competitive environment by improving what they offer and trying to establish themselves on new markets, either directly via subsidiaries or indirectly through alliances. At the same time, European low-cost airlines, starting from nothing ten or so years ago, have rapidly developed and now account for 12% of intra-Community traffic. Flying has now become a normal means of transport for Europeans, and in the medium term nothing seems likely to slow down the growth in traffic.

And flying remains one of the safest means of transport thanks to the constant efforts of the aviation industry which has always put safety at the heart of its agenda. This is particularly true in the Community where air safety standards remain among the highest in the world.

The Commission has always endeavoured to ensure that the establishment of the internal market in air transport is flanked by the development of common safety rules to ensure high, uniform standards in all Member States. Considerable progress has been made in recent years, in particular concerning the prevention of air accidents and incidents¹. The establishment of the European Aviation Safety Agency (EASA) and the creation of the single European sky will make a decisive contribution to strengthening and harmonising the regulatory and institutional framework for European air transport.

However, these standards can still be improved, as has been shown by the series of air accidents in the summer of 2005 in the Community and elsewhere. To ensure that this tragic period does not herald a change in the regular trend towards improvements in air transport safety, it is essential to keep up and even intensify the ongoing efforts to improve safety. In the Community it is high time to put an end to an anomaly: while aircraft now enjoy complete freedom within a unified market, safety standards continue to vary between Member States.

¹ Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents (OJ L 319, 12.12.1994, p. 14). European Parliament and Council Directive 2003/42/EC of 13 June 2003 on occurrence reporting in civil aviation (OJ L 167, 4.7.2003, p. 23). European Parliament and Council Directive 2004/36/EC of 21 April 2004 on the safety of third-country aircraft using Community airports (OJ L 143, 30.4.2004, p. 76).

European civil aviation safety rules are, for the most part, still drawn up by various bodies, for example the European Civil Aviation Conference (ECAC) and its technical body, the Joint Aviation Authorities (JAAs). These specialist bodies, which cover different geographical areas, draw up rules which supplement those established worldwide by the International Civil Aviation Organisation (ICAO). However, since they are produced simply on the basis of intergovernmental cooperation, these rules are only applied if the States concerned wish to do so. As a result, there are considerable differences from one country to another and it has to be admitted that sometimes the highest standards are not applied.

Six different successive versions of the operational rules applicable to air transport by aeroplane established by the JAAs (JAR-OPS 1) are at present being implemented by the 25 Member States, and eight of them have amended the version that they have chosen to apply through national rules. The differences are even more striking as regards the rules on the licensing of pilots carrying out commercial transport operations by aeroplane. And in some Member States the criteria relating to licences for private leisure pilots do not even meet the minimum requirements set by the ICAO. Lastly, the rules for commercial cockpit crews remain embryonic, even though they play an essential role in guaranteeing passenger safety, as the happy ending to the accident in Toronto on 2 August 2005 showed.

Air operations and pilot licensing

The European Aviation Safety Agency was set up by Regulation (EC) No 1592/2002² which entered into force in September 2002.

At the time of the adoption of this text, which gives the Community exclusive responsibility for the airworthiness and environmental compatibility of aeronautical products, it was clearly understood that optimum and uniform safety standards and the establishment of fair competition for air operators could only be achieved by extending the scope of the text to include air operations and flight crew licensing. The European Parliament and the Council in fact explicitly gave the Commission the task of submitting a proposal to this end which would also cover third-country aircraft and be submitted as soon as possible. The second recital of the Regulation specifies that “appropriate essential requirements should be developed within one year after the entry into force of this Regulation to cover operations of aircraft and flight crew licensing and application of the Regulation to third-country aircraft and, thereafter, other areas in the field of civil aviation safety”. Article 7 concerning air operations and flight crew licensing reinforces this obligation to act³. The long series of accidents in the summer of 2005 unfortunately demonstrated that it really is necessary to continue the efforts to improve the general level of air safety.

The Commission is therefore proposing to the European Parliament and the Council, as requested, that the common rules and hence the tasks of the Agency should be extended to include air operations, pilots’ licences and, within the limits set by the Chicago Convention,

² European Parliament and Council Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing the European Aviation Safety Agency (OJ L 240, 7.9.2002, p. 1).

³ For the record, Directive 91/670/EEC cited below already gave the Commission the task of submitting measures for harmonised requirements in respect of licences and training programmes. One year later, Regulation (EC) 2407/92 on licensing of air carriers announced a Council Regulation on the air operator’s certificate.

the safety of third-country aircraft. As a result, from 2007 virtually all the rules drawn up at present by the JAA should be incorporated into Community law and implemented uniformly throughout the Community. At the same time, effective control mechanisms will be put in place to ensure compliance with the common rules.

That is the purpose of the proposal for a Regulation forwarded to the European Parliament and the Council together with this communication. The approach adopted by the Commission with a view to extending the common rules, and in particular the division of responsibilities between the Agency and the competent national authorities, is set out in the explanatory memorandum accompanying the proposal.

The single European sky and airport safety

The rules relating to air navigation stem mainly from a separate intergovernmental organisation, Eurocontrol⁴, which brings together 35 European States and develops, coordinates and plans pan-European air navigation strategies. At present, however, Eurocontrol does not have binding regulatory powers. That is why the European Parliament and the Council have delegated to the Commission, which works with the technical assistance of Eurocontrol, the regulatory powers needed to establish the single sky.

With the establishment of the single European sky, the next step is to extend EASA's operations into the "other areas" referred to in the second recital of Regulation (EC) No 1592/2002. These should be air navigation and airport operations: the single sky and the EASA will converge in order to promote better integration and simplification of the European regulatory and institutional system. As far as possible, Community rules will be established taking into account the need for coordination between the needs of civilian and military users of airspace.

1.1. The shortcomings of the current regulatory framework

1.1.1. The single European sky, a work in progress

Air traffic management and air navigation services are the subject of standards drawn up by the ICAO and Eurocontrol. These rules, which sometimes authorise several alternative solutions, do not always constitute a rigorous and binding *de jure* or *de facto* framework. Their application by the Member States gives rise to certain inconsistencies, differences and sometime contradictions. At all events, they are not applied in a synchronised fashion. For example, ESARR 3 adopted by Eurocontrol in July 2000 should have been implemented before July 2003, but this was only the case in a few Member States, and is still not the case in 14 of them. The Commission proposed the creation of the single sky among other things to resolve these difficulties by means of common rules.

To put in place the single sky, the Commission is working closely with Eurocontrol. The Eurocontrol safety regulatory requirements (ESARRs) are gradually being incorporated into Community law. Full use is therefore being made of Eurocontrol's technical expertise in order to establish the implementing measures. However, the single European sky does not at present

⁴ The European Organisation for the Safety of Air Navigation.

address all the safety issues relating to air traffic management. It is therefore essential to supplement the existing rules and adopt a more consistent and coordinated approach to safety.

1.1.2. Airport safety, an obligation to be met

Since 27 November 2003, Annex 14 to the Chicago Convention requires airport certification. Similarly, as from November 2005, the ICAO will make it mandatory to incorporate safety management systems for airport operations. There are no common rules in that area as yet. There is therefore a great risk that inconsistent rules will be introduced, even though some countries have voluntarily undertaken harmonisation work in the context of an informal Group of Aerodrome Safety Regulators (GASR).

1.1.3. New requirements

With the increase in air traffic, new needs are emerging. It is necessary to manage infrastructure more flexibly and create additional capacity, while containing costs. It is also necessary to reduce delays and the environmental impact of air and airport operations. Increasingly frequent use of technologies capable of comprehensively managing all the in-flight and flight-related operations makes it possible to meet these challenges. It will be the role of the SESAME programme to encourage the synchronised development and interoperability of new generations of air traffic management systems.

These technological developments must be flanked by rigorous requirements concerning equipment interoperability and the definition of technical interfaces. Air traffic management efficiency and safety also depend on good interaction between organisations, staff and equipment, on board aeroplanes, on the ground and in airspace. In an area involving many stakeholders, it is essential to ensure the consistency of these requirements and make sure that they are applied in a uniform and synchronised fashion. To this end, new rules and procedures making it possible to guarantee a satisfactory level of interoperability and safety of aeronautical systems should be put in place.

Alongside this technological approach, to reduce the environmental impact of aviation it will undoubtedly be necessary to make increasingly frequent use of economic instruments and incentives. The Commission has proposed, for example, that aviation be included in the European emissions trading system.

1.1.4. New providers and new professions

With the development of new technologies, service providers operating all over the continent, or even beyond, are emerging. Already, the grouping of EGNOS⁵ providers and the future operator of Galileo⁶ in the field of satellite navigation, the EAD⁷, communication services such as ARINC and SITA⁸ are examples of this. The Community rules should make it possible to ensure that the certification of this new type of body is successfully achieved in a consistent and coordinated fashion.

⁵ EGNOS: European Geostationary Navigation and Overlay Service.

⁶ Galileo is the European satellite navigation system.

⁷ EAD: European Information Database.

⁸ ARINC and SITA: Aeronautical Radio Inc. and Société Internationale de Télécommunications Aéronautiques market communication services for the aviation industry.

Staff training and qualifications also play an essential role in safety. Pilots, air traffic controllers, the staff working on the design, production and maintenance of aeronautical products, parts and equipment are or will soon be the subject of common rules on their qualifications and, where appropriate, licensing. With technological progress, it may be necessary to standardise better the tasks performed by other staff; if necessary, the Commission will make appropriate proposals.

1.2. Extending the common rules

1.2.1. Applying the integrated approach concept

The integrated approach, the importance of which has been recognised by the ICAO⁹, is intended to improve the safety and efficiency of civil aviation by handling in a coordinated fashion the ground, air (and, where appropriate, satellite) aspects of air operations and by relying on the latest technological developments which enable computer systems, whether on-board or on the ground, to interact. Its aim is to ensure the interoperability of the systems and the synchronisation of their implementation.

The application of this concept at Community level will make it possible to remedy the current shortcomings by resolving the problem of coordination between the ground-based and air-based aspects of air safety. A single, consistent regulatory framework is required for this purpose

1.2.2. A uniform and efficient regulatory framework

The Commission will therefore propose to extend the common rules to the safety of air navigation and airport operations. This proposal is envisaged in the Work Programme for 2006 and will respect the principles for legislation which are described in the Work Programme. The Agency will thus be responsible for drawing up all the safety and interoperability rules for the European aviation system and, once they have been adopted by the Commission, for monitoring application, in particular through inspections in the Member States and investigations in firms.

Beyond this step, this regulatory framework will be all the more coherent if it can gradually incorporate all the issues and areas which have an impact on the safety and interoperability of the European aviation system and coordination between the various parties involved. The Commission has therefore undertaken studies which will make it possible to determine if, and to what extent, rules could be developed concerning the organisation and management of airspace, traffic flow management, airport capacity and the environmental impact of aviation and airport activities, together with certain economic questions. Eurocontrol and all the other stakeholders will be involved in the studies.

This regulatory framework could be extended to include neighbouring third countries through specific agreements to be concluded by the Community with the States concerned. Air transport safety and efficiency would therefore be reinforced in the Community and in neighbouring countries.

⁹ See ICAO, Doc. 9524, 1988.

1.2.3. The EASA's certification tasks

In the context of the single sky, responsibility for the certification of air navigation service providers rests with the national supervisory authorities. The Member States' expertise and their obligations with regard to the ICAO justify this approach.

The harmonisation of safety standards and the need to establish fair competition between service providers make it necessary to ensure, however, that the Member States exercise this responsibility uniformly. To guarantee the safety of air transport as a whole in Europe, the Agency will be given the task of ensuring the consistency of national practices and supervising the certification bodies.

The same arguments concerning existing resources and international responsibility militate in favour of having the certification of airport operations remaining the responsibility of the competent national authorities, with the EASA guaranteeing consistency between the action taken by the Member States and conformity with Community law.

In addition, since the single sky provides for the establishment of multinational functional blocks of airspace, the Agency could certify service providers operating in these blocks. Moreover, on the grounds of efficiency, it should certify pan-European air navigation service providers and third country providers wishing to carry out their activities in the Community, as could be the case with mobile and digital aeronautical communications system operators if their networks can cover the entire globe.

For the validation of traffic management technology systems (operating modes, including automation, computerisation and communication, navigation and surveillance systems) and component conformity assessment, certified service providers and constructors should always be able to produce a standardised European declaration. In this context, the Agency will verify compliance with the obligations laid down in the regulation on the interoperability of the European air traffic management network.

Conclusions

The European Aviation Safety Agency now has responsibility for the airworthiness and environmental compatibility of aeronautical products. Its establishment in 2002 represented tremendous, but insufficient progress, as stressed at the time by the European Parliament and the Council. The long series of accidents in the summer of 2005 has demonstrated that it really is necessary to continue the efforts to increase the general level of air safety in Europe.

To guarantee European citizens a high and uniform level of protection in civil aviation and the environmental compatibility of aeronautical products, facilitate the free movement of persons, services and goods, and improve the efficiency of the rules, the entire European aviation system should ultimately be covered by common rules implemented uniformly. In this context, the EASA, which will prepare, implement and monitor the application of these rules, is set to become by 2010 the European authority with extended powers covering all aspects of civil aviation safety.

When drawing up the proposal for a Regulation accompanying this communication, the Commission carried out preliminary work to ensure that air traffic management, the provision of air navigation services and the safety of airport operations are in turn covered by

Community rules. It has asked the Agency to undertake exploratory work on these subjects, starting in 2005, and has launched an impact study, the conclusions of which will provide the basis for a proposal for a Regulation to be forwarded to the European Parliament and the Council before the end of 2006. All this preparatory work will of course be carried out in conjunction with the EASA and all the stakeholders. Along the lines of the exemplary cooperation established between the JAAs and the EASA¹⁰, this cooperation between the Agency and its partners, chief among which is Eurocontrol, will ensure a harmonious and gradual transition towards the new European civil aviation system.

To maintain and, if possible, reinforce the pan-European consistency of the civil aviation safety rules, the EASA system will be extended to cover all European third countries through specific agreements concluded between the Community and the countries concerned.

Extending the responsibilities of the Agency, achieving the single sky and concluding air service agreements with third countries, which will be conducted jointly, will guarantee that European aviation policy has a coherent framework comparable to what exists in the United States.

¹⁰ The smooth transition between the JAAs and the EASA has been assured, in particular, as a result of setting up a working party, the FUJA (Future of the JAAs), on which the Agency, the Commission and the JAAs are represented. This working party proposes practical solutions aimed in particular at avoiding duplication between the EASA and the JAAs and safeguarding the interests of the ECAC countries which are not members of the EU.