

This page intentionally left blank.

The European Aviation Safety Agency (EASA) has developed from an idea into an entity, and while great progress has been made in taking over duties performed by the Joint Aviation Authorities (JAA), much needs to be accomplished before EASA can become a true pan-European aviation safety regulator. If Europe can come to grips with remaining obstacles, the scope of EASA's regulatory mandate ultimately will outstrip its predecessor's.

EASA was created to ensure that all aircraft operating in European airspace comply with common and harmonized standards of safety,

GROWING PAINS

creating a level playing field for all European operators to ensure that none are saddled with more stringent safety regulation than others.

Standards of safety regulation across the numerous states that make up the European Union (EU) traditionally have varied greatly. Initial efforts toward some level of harmonization resulted in the formation of the Joint Airworthiness Authorities (JAA), which later swapped "Airworthiness" for "Aviation" in its name as its mandate swelled, but differing interpretations of harmonized standards adversely affected the efficiency of regulation and increased compliance costs for the sector.

The decision therefore was taken to create a single specialized safety agency to establish common requirements for the regulation of safety and environmental sustainability in civil aviation. The agency would be independent on technical matters; have legal, administrative and financial autonomy; and act as an enabler to the legislative and executive process.

Although a creation of the EU, EASA's geographic scope, like JAA's, extends beyond the EU states. The 33 full EASA members consist of all 25 EU member states, some neighboring



The process of creating a Europe-wide aviation regulatory authority has not been smooth; given the need, anything but success seems unthinkable.

BY ANNE PAYLOR | FROM LONDON

states plus Norway and Iceland. Switzerland may have joined EASA by the time this story is read. Another 12 states are expected to join EASA, including Romania and Bulgaria which will become members automatically when they join the EU, expected in January. Croatia's EU membership is anticipated in early 2008.

There are essentially three routes to EASA membership:

- EU membership,
- Multilateral agreement, or
- Unilateral agreement with the EU, e.g. Switzerland.

EASA was formally established in July 2002, and began operating in September, 2003, assuming



Photo: Fraport AG

responsibility for airworthiness and environmental certification of aircraft, engines and parts; drafting safety legislation and providing technical advice to the European Commission (EC) and EU member states; granting approval and oversight of aircraft design organizations worldwide and of production and maintenance organizations outside the EU; and providing and approving inspections, training and standardization programs, data collection, analysis and research to improve aviation safety.

This included all post-certification activities, such as approval of changes to, and repairs of, aeronautical products and their components, as well as the issuing of airworthiness directives to correct potentially unsafe situations. Therefore, all type-certificates now are issued by EASA and are valid throughout the EU.

Where it does not have resources itself, the agency contracts national aviation authorities (NAAs), which historically have filled this role, to provide necessary services. Ultimately, the goal is for EASA to do as much as possible. By 2008, the

agency expects to have recruited enough expertise to be able to undertake more than 90 percent of its work in-house. But EASA acknowledges it will never be as large as its U.S. counterpart, the Federal Aviation Administration (FAA), and says it will always rely on cooperation with NAAs and accredited organizations.

Although there is consensus in the industry that a “one-stop-shop” for aviation certification and oversight is a cherished goal for Europe, EASA’s baptism has been one of fire. Industry has been quick to point out a number of pitfalls that developed, in part, due to the rather clumsy way EASA has been pressured into existence. A raft of issues remain to be addressed.

Mike Ambrose, director general of the European Regions Airline Association (ERA) highlighted a few of the concerns for *Aviation Safety World*. “One of the potential problems that needs addressing very quickly is whether EASA will have the right level of resources. An energetic recruitment program is under way, but expansion of EASA’s role is being accelerated in advance of the availability of resources.”

Nearly 300 people from 19 states have been recruited to date, and the agency envisages a maximum complement of 600, even taking into account long-term plans for EASA to take under its wing the safety and interoperability of air navigation services, air traffic management and airports beginning in 2010.

The ERA is also particularly concerned that EASA has “no authority to insist on harmonized and consistent interpretation of its regulations, or to apply sanctions or some form of punishment on delinquent states,” Ambrose said. “It is up to individual NAAs to implement the regulations. But if their interpretation differs or if they ignore the EASA regulations altogether, then it creates unequal operating conditions for the airlines. EASA’s powers versus those of the NAAs is one area that has yet to be resolved.” To some, this recalls a similar complaint against the historic variability of FAA regulations as enforced by its various regions.

EASA can report any offending state to the EC, and it is up to the commission to take

“EASA’s powers versus those of the NAAs is one area that has yet to be resolved.”

EASA Logo



action. Ambrose said this process is “time consuming and cumbersome,” and he believes EASA needs to “have some teeth.”

“Associated with that, how do you ensure consistency in interpretation and implementation? Do we need an EASA representative in the local office of each NAA? If so, what resources will NAAs actually need, and will they be prepared to downscale to avoid duplication of effort with EASA? If not, the airlines could end up paying for a double layer of regulation. We need to ensure safety regulation is streamlined and eliminate any duplication of effort and resources between EASA and NAAs,” Ambrose said.

The International Air Transport Association (IATA) agrees and stresses that the benefits of having a single authority would only be achieved “if the national authorities scale back their activities, and provided that everybody is clear on who is doing what,” said IATA spokesman Anthony Concil. “In that respect there is still some work to be done.”

Ambrose said it is “up to industry to keep applying pressure on the commission to give

EASA the powers that it needs and that the EC is currently keeping for itself.”

EASA itself is lobbying the EC to review its funding arrangements. In line with other European agencies, EASA is expected to be self-funding, but spokesman Daniel Höltingen said there might need to be recognition at a political level that not all agencies operate on the same basis.

“Most of the EU agencies are consultative bodies and research organizations,” Höltingen said. “Few have actually taken a competence [authority] away from the national authorities like EASA has. If industry wants to certify an aircraft, it has no option but to come to EASA. We need a different funding regime from other agencies.”

For 2006, EASA has been allocated a budget of €66.5 million (US\$85.6 million), which breaks down into €31.5 million (US\$40.6 million) from the European Commission, €33.5 million (US\$43.1 million) from fees and charges, and €1.5 million (US\$1.9 million) from other contributions.

However, industry believes that in the longer term, and particularly in view of proposed expansion of EASA’s scope of responsibility, projected funding levels could be insufficient and could ultimately impact safety. For example, there is currently a significant anomaly between the EASA charge rate and the charge rates of some NAAs doing the work for EASA. The agency is only able to allocate a flat rate charge of €99 (US\$127.50) an hour to the cost of these services, but many NAAs work on a cost recovery system and their actual charge rate might be considerably higher than EASA’s — in some instances more than 100 percent higher. The funds EASA is allocating for these services may be less than half the actual cost, which will soon leave the agency short of money.

The ERA believes EASA may have to re-evaluate its charge rate, and in any event probably should not be expected to be self-funding from the outset, a notion largely echoed across industry.

Höltingen argued that the EU should accept that “safety is in the public interest, so should not be charged to industry.” He said that continued



airworthiness probably should not be charged to a specific client and pointed out that certification costs in many countries are subsidized by the state. “Actual licensing will remain a national activity, so the commission may have to re-think the idea that all certification costs are covered by industry.”

Alternatively, EASA would have to raise charges across the board, which Hölting said was not politically acceptable. However, EASA has assured industry that it intends to adopt a more competitive selection process when contracting with NAAs to undertake a particular certification task in the future.

The Association of European Airlines (AEA) believes the funding issue “risks undermining EASA’s credibility and could, in the long term, put safety at risk.”

There is also a concern that plans approved late last year to expand EASA’s role to include operations regulation, flight crew licensing and oversight of non-EASA region operators beginning in 2008 will increase the agency’s financial burden.

François Gayet, secretary general of the AeroSpace and Defence Industries Association of Europe (ASD) expressed concern that EASA would not be able to fulfill these new responsibilities “unless adequate funding is provided ... since it is already clear that the level of community funding is not sufficient to even support EASA’s current tasks.”

But progress is being made. EASA feels it is turning a corner and beginning to win industry confidence. It is in the throes of a massive “meet the industry” campaign, involving road shows, workshops, and meetings with organizations and industry bodies.

One potential transition gap flagged by the airlines has been closed. If it had gone unresolved

some regulatory activities involving the Operational Sectorial Team (OST) and the Licensing Sectorial Team (LST) would have ground to a halt with the winding down of the JAA this summer. Following a meeting of the airlines with JAA and EASA last November, EASA agreed to keep running those and other key JAA working groups, and to maintain and update JAA’s oversight of operations (Ops) until EASA’s role is defined and it develops the ability to assume it. As a result, the JAA liaison office within EASA, whose primary role is to represent any JAA members that have not yet joined EASA, will continue to administer the OST and LST.

The JAA office is scheduled to close at the end of this year, but the liaison office within EASA will be maintained either until all JAA members have joined EASA or until 2010, whichever is later.

A number of other issues still must be resolved. For example, while the extension of EASA’s role to cover operations and flight crew licensing has been clearly defined, how it is to maintain oversight of third country operators has yet to be fleshed out. Decisions remain to be made on how to evaluate third country operators, whether actual inspections are undertaken in non-EU member states or, like the FAA, EASA will request information from non-EU carriers on a mutual-recognition basis.

EU Ops 1 is a proposal to empower EASA by making operations oversight and licensing part of EU law. The proposal has been under review by the EC for some time even as EASA was developing its own rules. It seems clear now that EU Ops 1 likely will be in place by year’s end, overriding the internal EASA effort. Once it is published, states

have 18 months to adopt it and put it into force.

Until that period is up and until EASA develops its ability to do the job — a period that may stretch two years — Ops remains the responsibility of the JAA. If, for some reason, the troublesome EU Ops 1 process hits a snag, EASA should have its own implementing rules ready by 2008; some of what EASA develops will be needed in any case to flesh out the broad responsibilities outlined in EU Ops 1.

For industry, three outstanding issues remain: First, the roles and responsibilities of the NAAs and EASA must be clearly defined and enforcement procedures established; second, funding issues must be settled in a way that ensures EASA has the resources necessary to undertake current and future responsibilities; and third, EASA must clearly demonstrate that it has the expertise to fulfill the expanded roles with which it has been tasked before its mandate is further expanded.

ERA’s Mike Ambrose stressed: “There is no going back. We cannot put the toothpaste back in the tube: EASA has to be made to work. We never expected an agency to come into being without teething troubles, and many of its problems have been exacerbated by pressure to get something up and running and by NAAs protecting their own self interests. But we want to see EASA succeed. It can harmonize and equalize the terms and conditions of safe operations throughout Europe. But it can also help maximize the profile of European aviation worldwide. The stronger EASA is, the more it can be a credible alternative to the FAA. That cannot be anything but good for Europe’s aviation industry.” ●

Anne Paylor is a veteran writer on aviation matters who lives near London.