

EUROPEAN ECONOMIC AREA
STANDING COMMITTEE
OF THE EEA EFTA STATES

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SUBCOMMITTEE II ON
FREE MOVEMENT OF CAPITAL AND SERVICES

EEA EFTA POSITION PAPER ON THE ESTABLISHMENT OF A EUROPEAN
AVIATION SAFETY AUTHORITY (EASA)

EXECUTIVE SUMMARY

The EEA EFTA States make reference to their Statement of 13 December 2000 on this subject, in which they suggested that a dialogue on their participation in the Community EASA be initiated at an early date. The EEA Agreement is the preferred framework for the EEA EFTA States participation in the Community EASA. The task at hand is to find suitable arrangements for their participation, as well as acceptable institutional solutions. The EEA EFTA States should be provided full participation in the Administrative Board on equal terms with the EU Member States. Furthermore, participation by the EEA EFTA States should be ensured at all levels of the norm-producing process in the Community EASA, including in the Committees assisting the Commission. Provision should be made for recruiting EASA staff from among qualified nationals from the EEA EFTA States. Regarding decisions by the Agency concerning the issuing of type certificates, as well as the competence for the Agency to conduct inspections and investigations in the territory of participating countries, solutions which are compatible with the EEA Agreement and the constitutional framework of the EEA EFTA States will have to be agreed. The budget contributions of the EEA EFTA States should be determined on the basis of Article 82 EEA.

I INTRODUCTION

1. This paper refers to the Commission's proposal of 27 September 2000 for a regulation establishing common rules in the field of civil aviation and creating a European Aviation Safety Agency (COM (2000) 595 final). According to Article 54 of the regulation, participation in the Agency shall be open to European third countries which are parties to the Chicago Convention and which have entered into agreements with the European Community whereby they have adopted and are applying Community law in the field covered by the regulation.

2. The EEA EFTA States are pleased to note that the Commission emphasises the importance of ensuring participation by third countries in the Community EASA. The EEA EFTA States support the initiative to establish an EASA provided that it is based on a pan-European dimension ensuring equal third country participation. Reference is made to the EEA EFTA Statement of 13 December 2000 on the Establishment of a European Aviation Safety Authority (EASA).

3. Norway and Iceland were two of the founding states of the Joint Aviation Authorities (JAA) and participate on equal terms with EU Member States in the JAA. It is imperative that a complete transition from JAA to EASA is ensured for all members and candidate members of JAA.

4. Less than half of the current JAA member states (including candidate members) will be affiliated with the EASA as EU Member States. It should be borne in mind that the most significant benefit in terms of improved aviation safety is dependent on increased aviation safety among the JAA member states (and future JAA member states) that are not members of the EU. Therefore, in order to fulfil the objective of the EASA to ensure a high uniform level of aviation safety, provision will have to be made for a genuine pan-European association ensuring participation on equal terms irrespective of EU-membership.

5. The purpose of this paper is to present the EEA EFTA States' views on how such participation could be ensured with regard to these countries.

6. This paper addresses:

- The EEA Agreement as the preferred framework for the EEA EFTA States' participation in the EASA
- Participation in the Administrative Board
- Comitology/Participation
- EASA staff recruitment
- EASA type certification decisions
- EASA inspections and investigations
- Funding

II THE EEA AGREEMENT AS THE PREFERRED FRAMEWORK FOR THE EEA EFTA STATES' PARTICIPATION IN THE EASA

7. The Agreement of the European Economic Area, the EEA Agreement, entered into force on 1 January 1994. The Agreement extends the EU's single market to three of the four EFTA countries, Norway, Iceland and Liechtenstein. The common rules of the EEA Agreement are continuously updated by adding new EC legislation, the *acquis communautaire*. The Agreement also provides for the incorporation of information and

consultation procedures into the Community's decision-making process. The Commission consults EFTA experts as part of its process of drafting legislation.

8. The institutional structure under the EEA Agreement is based on two pillars, with joint bodies for decision-shaping, decision-making and dispute settlement. The EEA Joint Committee is responsible for administration of the Agreement. The EEA Joint Committee, which generally meets once a month, is made up of representatives of the EEA EFTA States, representatives of the European Commission and representatives of the EU member states. The EEA Council, which is composed of the foreign ministers of the EU and EEA EFTA States, meets twice a year and provides the political direction for the further development of the Agreement. Furthermore, the EEA EFTA States have established the EFTA Surveillance Authority and the EFTA Court which mirror the main functions of the Commission and the European Court of Justice on the Community side.

9. The EEA EFTA States concerned have actively participated in the progressive liberalisation of the internal market in the aviation sector, most recently, but not exclusively, through the EEA Agreement. The relevant Community acquis has been incorporated consecutively into the EEA Agreement, hereunder Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation. Consequently, the proposed regulation on the establishment of the EASA should be incorporated into the EEA Agreement by a decision of the EEA Joint Committee, provided solutions being found to the problems raised by the EEA EFTA States including constitutional aspects. This decision has to lay out the arrangements for the participation of the EEA EFTA States in EASA. Some of these arrangements will follow directly from the EEA Agreement, such as those relating to the adoption and implementation of new directives and regulations.

10. The task at hand is therefore to find suitable arrangements for the EEA EFTA States' participation in the activities under the proposed regulation and to find acceptable institutional solutions. In this respect close attention should be given, where relevant, to the two-pillar structure of the EEA Agreement.

III PARTICIPATION IN THE ADMINISTRATIVE BOARD

11. According to the draft regulation, EASA's Administrative Board will consist of one representative from each Member State, one from the Commission and one appointed by the European Parliament. The Administrative Board, at the recommendation of the Commission, appoints the Executive Director.

12. Taking into account the transformation of JAA, an intergovernmental body, into an EU community agency, it is important that the EEA EFTA States are assured full participation in the EASA, including the Administrative Board, on equal terms with EU Member States and with full voting rights.

IV COMITOLGY/PARTICIPATION

13. It follows from the proposal that the Council/Parliament will adopt the Essential Requirements for Airworthiness as an Annex to the proposed regulation (Article 5), whereas the Commission is to adopt the Implementing Rules for application of the essential requirements, specifying the conditions under which the products and appliances are certified and maintained. The Executive Director will adopt the Acceptable Means of Compliance.

14. When the Essential Requirements and Implementing Rules are being drafted within the EU, the EEA EFTA States will take part through the procedures laid down in the EEA Agreement. However, it is important that participation is ensured at all levels of the norm-producing process.

15. According to Article 53 of the proposed regulation, the Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the Commission's representative. The comitology procedures enshrined in Decision 1999/468/EC will apply in accordance with Articles 53(2) and 53(3).

16. Today, EEA EFTA experts participate in the committee assisting the Commission on the basis of Council Regulation (EEC) No. 3922/91. EEA EFTA experts should also take part in the committee established by Article 53 of the proposed regulation. This would ensure that the relevant committee could profit from EEA EFTA expertise. It is in the mutual interest of all parties that the decisions of EASA are based on the best possible foundation.

17. The EEA EFTA States emphasise the importance of full participation in all relevant work of EASA and related work of the Commission, including direct access to all committees assisting the Commission in activities falling under the draft regulation.

V EASA STAFF RECRUITMENT

18. EASA staff should also be recruited amongst qualified nationals from the EEA EFTA States. Today, EEA EFTA experts are heavily involved in the work of JAA, and JAA thus benefits from their special expertise. It should for example be borne in mind that Norwegian experts have gained extensive knowledge and experience as chairmen of working groups within the JAA and both Icelandic and Norwegian experts have participated actively in working groups etc. in the JAA, which may be put to good use in the EASA.

19. Based on the success of the present JAA system for initiating and developing civil aviation safety norms, the EEA EFTA States would like to support the proposal that EASA staff should also be organised with committees, fully open to EEA EFTA States as well as other participating JAA States, made up of national representatives.

VI EASA TYPE CERTIFICATION DECISIONS

20. According to the proposed regulation, the Executive Director shall have competence *inter alia* to issue, modify, suspend or revoke type certificates.

21. To the extent that such decisions will apply directly in the EU Member States, solutions, which are compatible with the EEA Agreement and the constitutional framework of the EEA EFTA States, will have to be agreed.

VII EASA INSPECTIONS AND INVESTIGATIONS

22. It also seems as if EASA will be authorized to conduct inspections and investigations on the premises of private companies in the EU Member States. If this is correct, also in this area, solutions, which are compatible with the EEA Agreement and the constitutional framework of the EEA EFTA States, will have to be agreed.

VIII FUNDING

23. According to Article 49, EASA is to be funded partly by Community subsidies and partly by fees collected from the beneficiaries of EASA services.

24. As regards the non-fee-based budget contributions, Article 82 of the EEA Agreement should apply.

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