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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 5.5.2009
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COMMISSION OPINION

**on the final recommendations issued by the Management Board of the European
Aviation Safety Agency following the external evaluation on the implementation of
Regulation 216/2008**

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC¹, and in particular Article 62 (3) thereof,

HAS ADOPTED THIS OPINION:

The Commission welcomes the final recommendations and the action plan issued by the European Aviation Safety Agency's Management Board following the external evaluation on the implementation of Regulation 216/2008.

The Commission would like to express its satisfaction with regards to the finding that Regulation 216/2008 has had a positive impact on a number of areas, including creating a Community regulatory structure for aviation safety, providing a set of legally binding safety rules, facilitating a competitive market in aeronautical products and establishing the Agency, which has become a competent technical body, delivering high quality certification services, as well as contributing to the active promotion of aviation safety, both in the European Union and beyond.

Certain shortcomings have been identified in the implementation of Regulation 216/2008 and in the effectiveness of the Agency. The Commission in general supports the corresponding remedial actions proposed by the Management Board. In particular, the Commission places special emphasis on the following issues:

- The safety tasks originally entrusted to the Agency are being extended. A first extension to air operations, flight crew licensing and safety of third countries operators is in force now, while a second extension to safety of airports operations, Air Traffic Management and Air Navigation Systems is being discussed by the Council and the European Parliament. In this context, the Agency has to continue to strive to strengthen its role as a reliable, efficient and well performing partner in the European Union's global aviation safety system. A particular effort has to be made in the coming months when the Agency will start to carry out the abovementioned new tasks entrusted to it.
- Having this in mind, the Commission is concerned by the potential consequences of the provisions of the "Notice of proposed amendments" on air operations (OPS) recently published by the Agency. The Commission believes that it is of a paramount importance to guarantee that the implementing rules to be adopted in this field reproduce the existing relevant legislation (EU-OPS Regulation 3922/91²). This will ensure continuity and coherence with such legislation and therefore more certainty

¹ OJ L 79, 19.3.2008, p. 1.

² OJ L 373, 31.12.1991, p. 4.

for the industry. It will also allow the Agency to immediately start carrying out the related standardisation inspections. All efforts should be deployed to avoid any delay in the adoption of the implementing rules.

- As far as efficiency is specifically concerned, the Commission already stressed on several occasions that an effort has to be made by the Agency to rationalise and streamline its activities, to focus on priorities and to pursue cost savings. In this respect, the awaited implementation of the "Enterprise Resource Planning" should play an important role. Similarly, better refined methods and tools – including performance indicators – to plan, report and evaluate the Agency's activities, as recommended by the Courts of Auditors in its Special Report on the European Union's Agencies³, should be pursued. Furthermore, the Commission fully shares the finding that the efficiency and the effectiveness of the aviation system and the Agency could suffer through not using all the outsourcing possibilities provided for in Regulation 216/2008, including the use of qualified entities. Consequently, the Commission invites the Management Board to rapidly analyse this issue and ensure that the Agency is allowed to make use of all existing outsourcing possibilities, including qualified entities.
- The Commission is concerned about the findings related to a non complete satisfaction of stakeholders as regards easy access to the Agency, in particular for smaller industry, and involvement in the rulemaking process. Indeed, it is of major importance to ensure an easy access to the Agency for all stakeholders, in particular for smaller industry; similarly, it is fundamental that stakeholders are properly involved and their comments duly taken into account in the rulemaking process. Therefore, the Agency should promote better working relationships as well as mutual understanding with various stakeholders. The Commission calls on the Agency to ensure that these principles be fully implemented. The recent efforts put in place by the Agency to rationalise and prioritise its rulemaking activities are a positive step in the right direction.
- The Commission is fully committed to support the Agency. A High Level coordination structure involving the Commission and the Agency to agree on a strategic vision for the Agency is one of most important recommendations addressed to the Commission by the Management Board. The Commission is pleased to announce that such a structure is in place and fully operational. It would like to recommend that similar High Level discussions involve also members of the Management Board, as it was already the case on a number of occasions so far.
- Finally, some recommendations of the Management Board are addressed directly to the Member States and their national aviation authorities, as key players in the overall European Union's aviation safety system. The Commission fully shares the recommendation inviting Member States to contribute to maintaining a full accidents and incidents reporting system through the ECCAIRS database, and recalls that this is a legal obligation under Directive 2003/42⁴ and its implementing Commission Regulation 1321/2007⁵.

³ Special Report N° 5/2008 of 7 July 2008 (pursuant to Article 248(4), second subparagraph, EC). The European Union's agencies: getting results.

⁴ OJ L 167, 4.7.2003, p. 23.

⁵ OJ L 294, 13.11.2007, p. 3.

The Management Board has expressed the intention to supervise progress on the implementation of the recommendations at its future meetings. The Commission fully shares this approach and will monitor it closely.