

REPORT ON THE FIRST MEETING OF EASA DRAFTING GROUP MDM 032

Held in Cologne on 16 March 2006

1. Present:

A.Leroy (EASA Certification, Chairman) J.Altman, (EASA, Secretary) H.Akerstedt (EAS/Ballooning), J. Fridrich,(EAS /EMF microlights), G.Newby (EAS/PFA, Amateur building), D.Roberts (EAS /EGU Gliding), R.Stuck (EAS/EGU Gliding), R.Schuegraf (EAS), B.Taddei (EGU/EMF microlights), J.Konrad (AOPA, microlights), J.Pedersen (IAOPA, GA), M.Wilson (ECOGAS, GA) C.A.Daney (ECOGAS), R.C.Baratt (CAA Norway), H.Lecardinal (DGAC France), G.Forbes (CAA UK), Y.Morier (EASA Rulemaking), E.Sivel (EASA Rulemaking)

2. Reason for regulatory evolution

A.Leroy first recalls the reasons why the working group has been set up which are explained in the terms of reference of MDM 032:

In Opinion No 3/2004 the EASA recognised that the current JAR-FCL PPL may be too demanding for flying only simple aircraft in a simple air traffic environment and considered it appropriate to create an additional level of licence for these types of activities. As a consequence the Agency has proposed the creation of a new category of private pilot licence, a Recreational PPL (RPPL), as an alternative to the existing JAR-FCL PPL that may be issued by assessment bodies. The holders of such a licence will not be authorised to fly complex motor-powered aircraft or to engage in commercial aviation with a RPPL. The related implementing rules will need to be developed.

In addition, in Opinion No 3/2004 the Agency reached the view that the operation of general aviation aircraft shall be regulated through implementing rules adapted to the complexity of the aircraft rather than to the type of activity. In the case of non-complex aircraft not engaged in commercial activities these implementing rules would most probably be limited to the use of airspace or of requirements related to certain types of technical areas, such as emergency and radio equipments.

These implementing rules will also be directly applicable and compliance verified by Member States without the need for neither certification nor declaration. Here again these implementing rules need to be developed.

Furthermore, during the consultation that took place for the preparation of this Opinion, the views expressed by stakeholders showed that there appeared to be several issues that also needed to be addressed. Above all, the majority of stakeholders feel that they are already over-regulated and do not want to be faced with the same situation when the JAR OPS and JAR FCL regulatory framework is transferred to EASA. They consider that this is one of the reasons for the poor development of European general aviation. This has led many associations of sports aircraft, gliders and Microlight aircraft, to express the will to be or to remain excluded from the scope of EASA. This clearly poses the problem of aircraft that are almost identical in design and performance being regulated by different bodies which may create inequalities that would be unacceptable. In contrast, including more aircraft under EASA's scope of competence can only be envisaged if the regulations are re-thought and adapted to the complexity of the aircraft.

The Agency is concerned about the situation highlighted during the consultation and ensuing meetings with this segment of aviation and therefore wishes to address this issue as a whole to ensure a coherent system adapted to the needs of this segment of civil aviation.

In the feedback from 'industry' during consultation the microlighters wanted to be outside the scope of EASA, but then some countries wanted microlights to be inside the scope of EASA. In COM (2005) 579 the European Commission is asking EASA and the MDM.032 group to consider microlights to be within the scope of EASA regulation: « *Consideration should notably be given to aeroplanes and helicopters with a low maximum take-off mass and whose performance is increasing, can circulate all*

over the Community and are produced in an industrial manner, which therefore might be better regulated at Community level to provide for the necessary uniform level of safety and environmental protection. »

Taking into account the above, the Agency has decided to address all the issues raised above in a single activity that will focus mainly on this community as a whole. This will avoid, as is often the case that the solutions that are initially found for commercial air transport of large aircraft are then later generalised to the rest of the aviation community. The Agency feels that this is one of the reasons for what could be over-burdensome rules. The proposed activity will be similar to the one that led to the US Light Sport Aircraft rule and will address all aspects of non-complex aircraft when not engaged in commercial operations (design, certification, maintenance, operations and licensing). This may lead to appropriate adaptation of existing JAA material, such as draft JAR OPS 0 and 2, as well as to revised implementing rules for airworthiness and continuing airworthiness.

E.Sivel addressed the Terms of Reference and made the following points (some of which are covered briefly above):

- There are issues with Part M, which did not exist in JAA for light aviation. As Reg.1592 extended to non-commercial aviation there was a need for a Part M. The challenge is to develop an appropriate Part M for non-commercial light aviation.
- The extension of Reg. 1592 led to the thinking of the need for a RPPL, for holders of such a licence to fly non-complex aircraft in non-commercial operations.
- In the proposed change to Reg. 1592 ‘complex aircraft’ are defined, but not ‘non-complex aircraft’. This allows scope to develop the whole framework for non-complex aircraft.
- Complex aircraft generally need a (management support) structure to operate such aircraft. Non-complex aircraft may or do not require such a structure.
- GA in Europe is not flourishing as much as in the USA. What are the reasons for this? Is the sector over-regulated? “We need to get flying again and ascertain what works”.
- Do we need the full machinery of 1702 and 2042 or are they discouraging design and development of light aviation in Europe? Part 21 applies to any certified aircraft / balloons (other than Annex 11 exemptions) – maybe we need to adapt it to make it more appropriate for non-commercial, light aviation?
- The task of MDM.032 is to think afresh and come up with a ‘package’ covering all aspects. In terms of any sub-divisions within the category up to 5.7 tonnes, MDM.032 has a ‘clean sheet of paper’ and is encouraged to be free-thinking, imaginative and unconstrained by historic and current sub groups. Try not to segment the ‘up to 5.7 tonnes’ group too much.
- As regards the USA’s LSA, don’t copy it but do study it and bring forward the good ideas that work.
- “Consider the models of liberal regulation as represented by the UK BGA and the UK NPPL”
- The group will need to look at ‘in-service’ experience in devising solutions
- As much as possible, EASA wants to give ‘industry’ responsibility – “the NAAs do not need to do everything”.
- After the concept stage of MDM.032 there will be a need for the group to develop Implementing Rules (IRs) for licensing and accreditation criteria for assessment bodies. And the principle of assessment bodies may be extended to other than licensing.
- JAR OPS 0 – may have to develop IRs for airspace access. Eric Sivel commented that he “hoped that EU OPS will not be applied to GA as EU OPS should only be for commercial operations”. Currently EU OPS has come from the Council (of Ministers working group) and is going back to the Parliament. Any change in scope would require action to steer it away from non-commercial aviation.
- The group will need to revisit Annex I of Reg. 1592 (airworthiness) and determine if an alternative set of rules should be designed for light aviation. Any change to Reg1592 for this purposes could be ‘piggy-backed’ on the next proposed change to Reg. 1592, for the extension

of EASA competence to airports (reference Commission publication COM (2005) 578 of 15th November 2005).

- “What is the safety target?” That will need to be agreed.
- Annex II (exemptions), in terms of any changes required, is the **CONCLUSION** of the work of MDM.032 covering airworthiness, licensing and operations, not the starting point. The task of the group is to get the rules right and then do a cross check to see if particular aircraft can fit within the rules.
- MDM.032 will need to keep track of political developments in the EU and the Parliament as regards the changes to Reg. 1592 as they progress through the political system.

A.Leroy insisted on the fact that this should be a **bottom up approach** and that the floor is for the members of the working group. The EASA offers **to rethink entirely the non-commercial aviation below 5.7 Tonnes**. The members of the Working group **should not refrain from being creative**. He also mentioned that one of the motivations for this liberal attitude of EASA is that they have not enough time to deal with light aviation, being too busy with ‘heavy metal’.

The problem of co-ordination with other EASA working groups was raised since several drafting groups having been set up recently and which have started work on closely related issues (Group 005 on Pilot Maintenance, Group 021 023 on Part 21 and Group 017 on Part M, OPS 1, FCL1). A Leroy answered that **the work of these groups should fit into our sequence. MDM 032 will in fact steer the work of all other groups**.

D.Roberts also raised the issue of the definition of ‘commercial air transport’, contained in the proposed change to Reg.1592, and its impact on the light aviation sector where there is a mix of commercial and non-commercial activities, depending upon how the draft definition is interpreted. Eric Sivel considered the distinction quite clear; however, others considered that there needs to be further discussion on the applicability of the definition, for example in training environments, the mixed commercial and non-commercial use of individual aircraft, and the infrastructure that supports general aviation aircraft up to 5.7 tonnes. A degree of flexibility and proportionality may be required to find acceptable solutions.

The question of terminology was also raised in discussion, as there are different understandings and interpretation of key words and phrases. It was agreed that a specific workstream will need to address this issue, so as to achieve common understanding and interpretation. One example was ‘industry standards’ with which some members of the group were unfamiliar (n.b. EASA suggest for reasons of political acceptability / reaction / emotive responses we should refer to ‘industry standards’ rather than ‘self-regulation’).

G.Newby suggested the group studies the EU regulations on boats – from small inland waterways dinghies to ocean liners - introduced some years ago, as a guide to how regulation should be structured proportionately.

3. Time Scale

A.Leroy explained that due to the complexity of the process and the lead times which are associated with any change in the basic rule, the time scale is as short as the scope is wide.

The time scale is as mentioned in the TOR of MDM 032. An interim report explaining the proposed concept for the regulation should be delivered in July 2006. This report will be the basis for an advanced NPA. Due to the various delays it is not possible to postpone this deadline. The next couple of months will be decisive.

4. Workstream

The working group made then some brainstorming in order to set up a workstream. The following ideas were proposed:

- Scope: start from 0, bottom up approach, subdivisions
- Terminology: it is important to define clearly what is a non complex Aircraft, what is commercial and non commercial
- Changes to basic regulation: which changes will we proposed
- Safety Level: which level of safety do we want? How to achieve it? Should we protect pilots against themselves or only protect third parties?
- Subdivision in aircraft categories: what is the driver to include a category within the common rules?
- Co-ordination with between MDM 032, MOA 21-23, OPS 1 , FCL 01
- Flow Chart for inter-dependencies and deliverables
- Timescale for deliverable
- Safety levels and associated limitations
- Involved companies are Small and Medium Enterprises (SME)
- Proportionality: must be the driving factor
- Define quickly the framework
- Workshops: should EASA organise workshops with stakeholders?
- Participation of Industry : manufacturers should be invited through associations
- Internal co-ordination is very important
- Case of hanggliders and paragliders if scope of work is to start at 'zero' and be all-encompassing
- Adequacy of Part 21 and Part M for today's certified light aircraft
- Roles of assessment bodies

The members of the working group were asked if they feel that all kind of activities be represented. Some believe that a representative of the EHPU hangliding and para gliding should be present. We have also proposed to invite a representative of the German glider manufacturers and Max Bishop. Finally the EASA will only invite a representative of ASD (light aircraft manufacturers)

5. First task

Leroy asked each participant to write a discussion paper in order to answer to the questions included in the first bullet of section 4 of the TOR of MDM 032:

« Develop a concept for the regulation of aircraft other than complex motor powered aircraft when used in non-commercial activities after a review of:

- Current regulatory system and implementation measures applied to that segment of aviation today
- Other approaches to that segment of aviation that have been put in place in other countries
- In service experience.

In developing this concept the group may wish to consider;

- the possibility of creating sub-categories of aircraft in this segment of aviation and the possibility of using industry standards »

After discussion it was decided to do this work separately each category of aircraft. The categories were intentionally not segmented in fine detail in order to favour the approach from zero. The responsible persons for each paper are in bracket:

- Hanggliders and paragliders (B. Taddei proposed to do the work but R.Schuegraf mentioned that he will contact K.Taenzler from EHPU.)
- Gliders (R.Stuck, D. Roberts)
- Balloons (H. Akerstedt)
- Powered aircraft (J .Konrad, B.Taddei)
- General aviation (J.Pedersen, M.Wilson)

The ideas which will be presented should be discussed within the concerned air sport community and should be subject to a consensus in the movement prior to being submitted.

A.Leroy asked everybody to present their views not only on the regulation of the category of aircraft for which they are experts but to propose a general concept.

D. Roberts suggested that there needs to be a philosophical paper on safety and its relationship to third parties (see the scheme below), as background to answer the basic questions of 'why regulate?' and if so 'how (much) regulation?' He undertook to produce a straw man paper on this.

The reports will have to be sent to the Secretary of MDM 032 before 18 April and will be distributed to all members before the next meeting

6. Next Meetings

26 April (beginning 9H) and 27 April (end 12H) Cologne

18 May (beginning 9H) and 19 April (end 16H) Cologne

15 June (beginning 9H) and 16 June (end 16H) Gatwick?

10 July (beginning 12H) and 11 July (16 H) Cologne

7. Closure

The meeting was closed at 16H

These minutes were drawn up by Roland Stuck and David Roberts

