



The EASA Regulatory System

EBACE 2008
EASA Workshop



AGENDA

- I. The regulatory philosophy
- II. The Agency
- III. The rulemaking procedure



➤ I. The regulatory philosophy



Institutional framework

The principles

DECENTRALISATION IS THE RULE...

The EC Treaty is based on the principle that the Community **acts as a legislator**, while **Member States apply** Community law under Community control.

Community law is directly applicable (full part of Member States legal order).

Legal remedies for individuals and enforcement means are provided by Member States judicial systems.



Institutional framework

The principles

... CENTRALISATION THE EXCEPTION

The EC Treaty provides for the **delegation of executive powers** (rule setting + certification) to the **Commission** (hard law) or an **executive agency** (soft law)

In such cases:

- Delegated powers shall be strictly defined to allow judicial control of executive acts
- Judicial remedies available to individuals and enforcement means shall be specified when delegated powers allow individual decisions



The Basic Regulation

- The **Parliament** and the **Council** define the **Scope of Powers** transferred from the Member States to the Community
- They adopt the **Essential Requirements** specifying the objectives to be met

Basic Regulation

Regulation (EC) 1592/2002 of 15 July 2002

**Regulation (EC) 216/2008 of 20
February 2008**

**Annex I : Essential Requirements
for Airworthiness**

Annex II : Excluded Aircraft

**Annex III: Essential
Requirements for pilot licensing**

**Annex IV: Essential
Requirements for air operations**

**Annex V: Criteria for qualified
entities**



The division of competences

The Commission:

- **adopts implementing rules** (Commission Regulations 1702/2003 and 2042/2003)
- **oversees** the implementation of common rules by **NAAAs**, including use of safeguard provisions (art. 14 of EASA Regulation)
- **negotiates** international agreements



The Implementing Rules

- The **Commission** adopts **standards** for implementing the essential requirements

Regulation (EC) 1702/2003 on Airworthiness and Environmental Certification

Annex (Part 21)

Section A: Application Requirements

Section B: Administrative Procedures

Appendices: EASA forms

Regulation (EC) 2042/2003 on Continuing Airworthiness

Annex I (Part-M): Continuing Airworthiness Requirements

Section A: Technical Requirements

Section B: Administrative Procedures

Appendices: EASA forms

Annex II (Part-145): Maintenance Organisation Approvals

Annex III (Part-66): AML

Annex IV (Part-147): Training Organisation Requirements



The division of competences

The Agency:

- **develops opinions for common rules** (Basic Regulation and implementing rules)
- **adopts material** for the application of common rules (certification specifications, airworthiness codes, acceptable means of compliance and guidance material)
- **acts as focal point vis-à-vis third countries and international organisations** for the harmonisation of rules and the recognition / validation of certificates



The Agency's soft law

- The **Agency** adopts **non binding standards** for implementing the essential requirements

Guidance Material

Part 21

Certification Specifications

AMC 20
AMC 21

CS 25
CS 34
CS 36
CS E
CS P
CS APU

CS AWO
CS ETSO
CS Definitions

CS 22
CS 23
CS 27
CS 29
CS VLA
CS VLR

AMC & Guidance Material

Parts M, 145,
66, 147



The present set of rules

Basic Regulation
Regulation (EC) 216/2008 of 20/02/2008

ER :
Annexes I to V

Agency
Opinion

Regulation (EC) 1702/2003 on
Airworthiness and Environmental
Certification

Regulation (EC) 2042/2003
on Continuing Airworthiness

Agency
Opinion

Annex (Part 21)

Section A: Application Requirements
Section B: administrative Procedures
Appendices: EASA forms

Annex I (Part-M):
Continuing Airworthiness
Requirements

Section A: Technical Requirements
Section B: Administrative Procedures
Appendices: EASA forms

Annex II (Part-145):
Maintenance Organisation
Approvals

Annex III (Part-66):
Certifying Staff

Annex IV (Part-147):
Training Organisation
Requirements

Guidance Material
Part 21

Certification Specifications

AMC 20	CS AWO	CS 22
AMC 21	CS ETSO	CS 23
CS 25	CS Definitions	CS 27
CS 34		CS 29
CS 36		CS VLA
		CS VLR

AMC & Guidance Material
Part M,
145,66,147

Agency
CS ,
AMC &
GM

Parliament and Council

European Commission

EASA



The division of competences

Member States National Aviation Authorities:

- **provide expertise** as appropriate for rulemaking tasks;
- **develop national administrative rules** for the **implementation** and **enforcement** of common rules (administrative procedures)
- **may take action on a case by case basis** if so required to ensure safety or appropriate operational flexibility (safeguards).



Differences with the JAA system

- Because of the nature of the EC, Member States **may no more**:
 - ★ **deviate from common rules** - except in the case of art. 14 of the Basic Regulation
 - ★ **impose additional requirements** - to ensure a level playing field and no discrimination
 - ★ **conclude international arrangements with third countries** - transfer of competence produces effects also for international competence



The division of executive powers

	TC STC ETSOA	DOA	POA	CofA/ Noise Cert.	CAMO A	MOA	MTOA	AML
EASA country	EASA	EASA	MS¹	MS	MS	MS	MS	MS
Non- EASA country	EASA	EASA	EASA	n/a	EASA	EASA	EASA	MS²

1) EASA, when requested by a MS

2) The MS receiving the application

Note: this table does not include the extension of scope



➤ II. The Agency



European Aviation Safety Agency

A Community body

- European Community (EC) Agency
- Legal personality
- Independence
- Legal, administrative and financial autonomy.

- Vision:
 - ✦ EU citizens should benefit from the safest and the most environmentally friendly civil aviation system in the world.
- Mission:
 - ✦ Our mission is to promote the highest standards of civil aviation safety and environmental protection in Europe and worldwide.



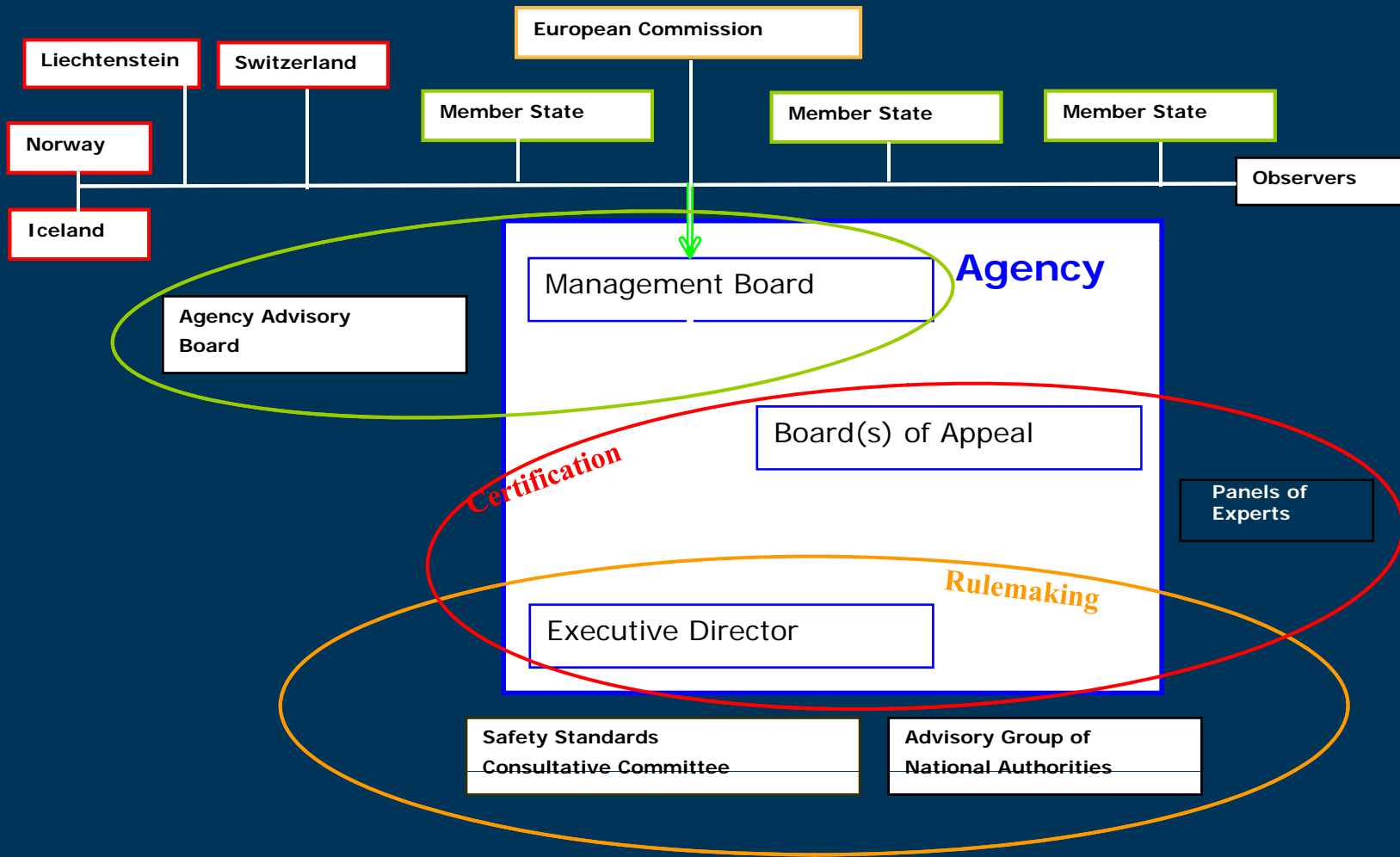
The statutory objectives

Objectives of the Agency:

- establish and maintain a high uniform level of aviation safety in Europe;
- ensure a high uniform level of environmental protection;
- promote cost efficiency in the regulatory process,
- assist Member States in fulfilling their ICAO obligations;
- promote Community views through co-operation with third countries and international organisations.

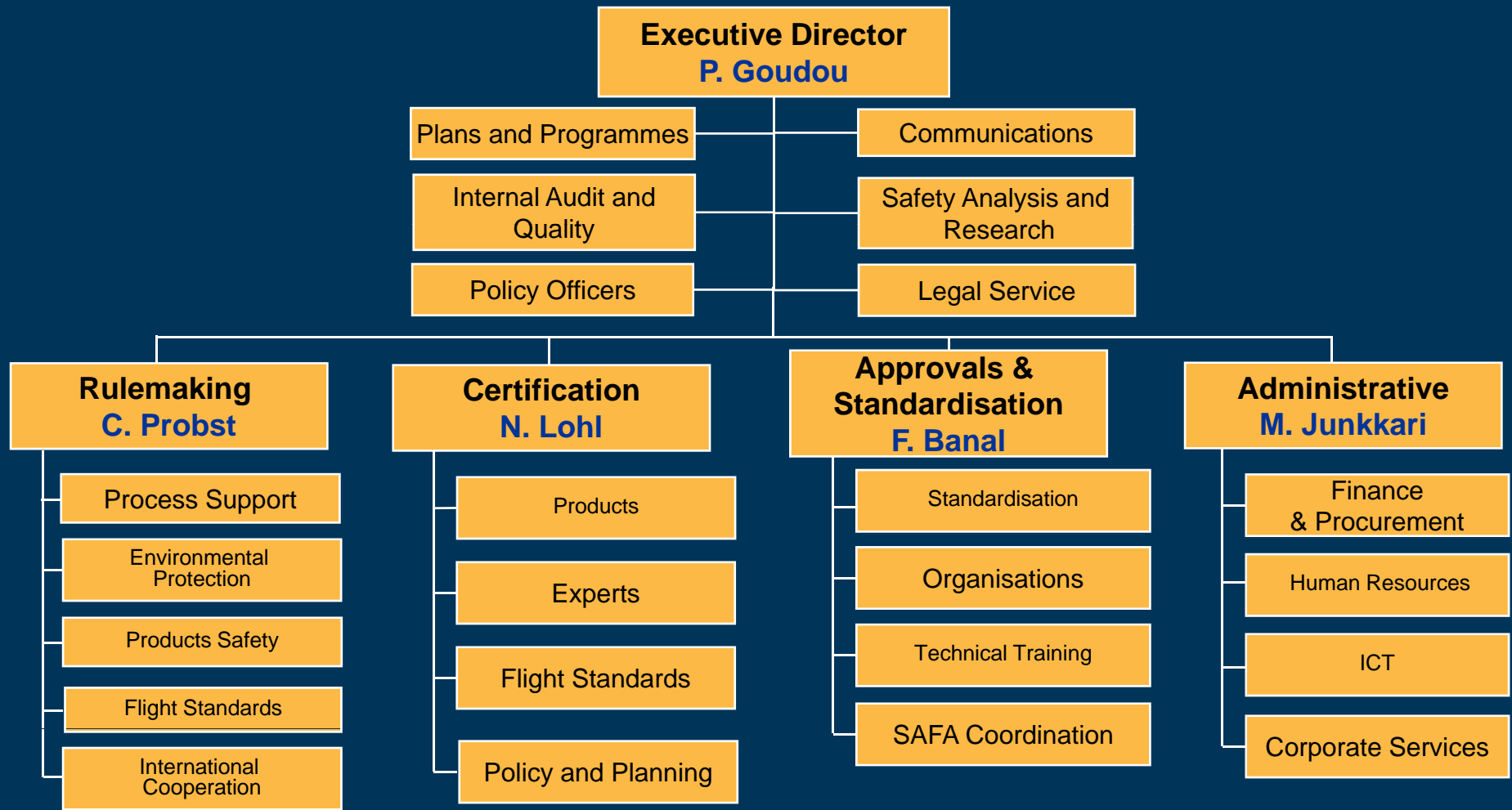


The governance scheme





The internal structure







➤ III. The Rulemaking procedure



European Aviation Safety Agency

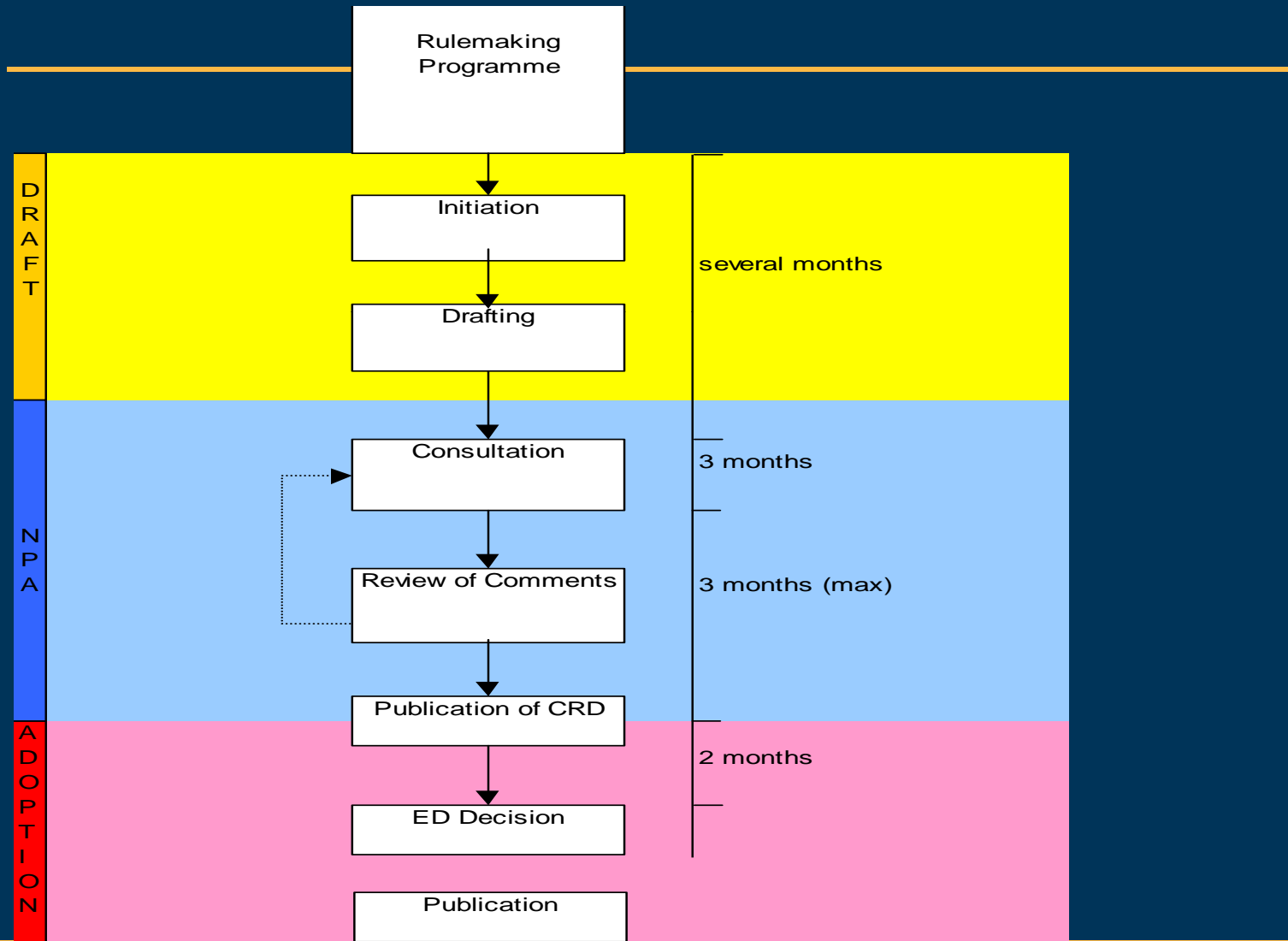
EASA Rulemaking Procedure

- Phase 1: Programming
 - ✦ Annual Rulemaking Programme
 - ✦ Advance Planning

- Phase 2: Processing of rulemaking deliverables
 - ✦ Opinions, Certification specifications, AMC and Guidance material



Rulemaking process flowchart





The Programming Process (1)

- Acknowledgement and Agency response to rulemaking proposed by external persons
- Rulemaking inventory, including pre-RIA
- Draft Rulemaking Programme and Advance Planning (definition of working method)
- Consultation of advisory bodies (AGNA & SSCC)
- Adoption and publication of Rulemaking Programme.



The Programming Process (2)

- **Priorities are established in accordance with:**
 - ✦ **Objectives set out in the Basic Regulation and broader EU objectives in aviation policy**
 - ✦ **Risk assessment studies**
 - ✦ **ICAO obligations**
 - ✦ **Air accident investigations**
 - ✦ **Correction of acute implementation problems**
 - ✦ **Scientific/technological progress**
 - ✦ **Harmonisation with foreign partner authorities**

- **Supported by preliminary regulatory impact assessment that evaluate the pros and cons of undertaking a rulemaking action.**

- **Resources at Agency's disposal**

- **Regular reviews of the impact of the rules (to close the loop)**



Processing rulemaking deliverables

- Development of the Terms of Reference + establishment of rulemaking groups
- Draft Notice of Proposed Amendment
- Establishment of review groups
- Issue Comment Response Document
- Publish



Initiation

- **Definition of the task:**
 - ➔ **Reflect the rulemaking plan (s);**
 - ➔ **Problem, objectives, interface issues;**
 - ➔ **Timetable, milestones, working method;**
 - ➔ **Deliverables to be produced.**

- **Rulemaking group establishment**

- **Subject to:**
 - ➔ **Internal + advisory bodies + third country consultation;**
 - ➔ **Publication in the Official Publication;**
 - ➔ **Amendment of ToR.**



Notice of Proposed Amendment

- Reflect the respective Terms of Reference;
- Take into account:
 - ➔ EC law,
 - ➔ ICAO SARPS,
 - ➔ harmonisation with major partners (FAA, TCCA, etc.),
 - ➔ AIB recommendations,
 - ➔ Reflect state of the art and best practices,
 - ➔ scientific and technological developments;
- Full Regulatory Impact Assessment.
- Normal consultation period of 3 months (possibility for shorter or longer consultation).



European Aviation Safety Agency

Review Group

- **Why**
 - ✦ **To address strong opposite views;**
 - ✦ **Ensure fair and appropriate treatment.**

- **Composition**
 - ✦ **Rulemaking group + 2 members**



Comment Response Document

- CRD issued within 3 months after the deadline of the NPA consultation

- Provisions for:
 - ✦ Extension of the deadline for publication of the CRD;
 - ✦ Second round of publication of the NPA;
 - ✦ Consultation of AGNA in case of major objections from Member States.



Adoption and publication

- Issue opinions to the EC for amending the Basic Regulation and its Implementing Rules;
- Adopts CS, AMC and GM;
- Publication in the Official Publication (Agency website), no earlier than 2 months after the publication of the CRD.



Differences with the JARs

- The EASA rules contain **differences** in the **drafting style** resulting from the application of EU principles.
- Community legislative acts shall be drafted **clearly**, **simply** and **precisely**. The drafting of a legislative act must be:
 - ✦ clear, easy to understand and unambiguous;
 - ✦ simple, concise, containing no unnecessary elements;
 - ✦ precise, leaving no uncertainty in the mind of the reader.



Differences with the JARs

- As EASA **implementing rules** are binding in their entirety (not minimum standards nor recommended practices), they shall be **less prescriptive** to provide for flexibility (**performance based**).
- To provide for uniformity, **Acceptable Means of Compliance** have to be issued and **deviations** thereto **controlled** by the Agency.
- As a consequence some rule material included in Sections 1 of the JARs, may have to be downgraded to AMC.



Differences with the JARs

- Because the **scope** of the EASA system extends well beyond that of the JAA (ex: JAR-FCL and JAR-OPS only apply to aeroplanes and helicopters, EASA rules shall cover all other aircraft) and
- Because **drafting principles** of Community law require that a requirement applicable to various persons be set in a single text

It is not possible to have one rule per type of activity



**Thank you
for your attention**