



Editorial



Cpt. M. Chalk
ECA President

A Challenging Year

The value of ECA for our Member Associations across Europe can never have been as high as it will be in the coming year! Never has the investment in ECA by the pilots' National Association been as crucial as it is now.

These are bold assertions, but elsewhere in this edition of Cockpit News you can read of ECA's efforts to:

- ensure all professional pilots (and therefore ensuring the safety of passengers and cabin crew alike) are properly protected from fatigue;
- ensure that professional pilots working for companies which take advantage of the new EU – Canada, EU-USA, ECAA and other economically liberalised air transport agreements are able to be properly and fully represented by their professional association;
- ensure that the voice of those who play a key role in delivering safe and efficient air transport are heard in the drafting of comprehensive regulation of the operational, licensing and organisational aspects of our European industry.

These are crucial and difficult areas of regulation, now fully delivered at European level. It is clear that the difficulties created for pilot representation by the economic liberalisations of the last 20 years were not the reason for the legislators and negotiators to conclude the current arrangements – but it is now the job of ECA and its member associations to ensure that these difficulties are addressed. The benefits of a less economically restricted market are clear for all to see – but so is the damage created by a lack of thoughtful market regulation to ensure unintended consequences are avoided. The banking system is currently weakest in those countries where the market was least regulated – or regulated with the 'light touch' approach.

IN THIS EDITION— Feb. 2009

President's Column.....	1
EU-Canada Negotiations.....	1
EASA OPS NPA.....	1-2
EASA Scientific Report.....	2

EU-Canada Air Transport Agreement — only for Unmanned Aircrafts?

If you have not had the chance to follow progress between the EU and Canada on the negotiation of a comprehensive (or so called 'Open Skies') air transport agreement, here is a brief summary of the official sources of information.

All EU airlines will be able to operate direct flights to Canada from anywhere in Europe. The Agreement removes all restrictions on routes, prices, or the number of weekly flights between Canada and the EU. Other traffic rights will be liberalised gradually in parallel with the opening up of investment opportunities. The agreement will finally establish a full Open Aviation Area between the EU and Canada. EU nationals will be able to establish operations in Canada and freely invest in Canadian airlines and vice versa.'

Both the European Commission and the Canadian Ministry of Transport congratulate themselves for the setting up of such a competitive environment. This agreement, initialled at the end of November last year, encapsulates the steps for a progressive grant of traffic rights and liberalisation of investment opportunities. If you read the official press releases you will also find important information on safety, security and environmental issues, but nothing else.

A European pilot operating long haul flights might miss the social dimension? Indeed you might wonder if once based in Canada and operating domestic flights, will you still have the possibility to be represented effectively? Will your current Member Association still be entitled to do it? Will you have to become a member of ALPA Canada? Which employment rights

will protect you based in Canada, if your European company fires you?

ECA had high expectations for this agreement; unfortunately once again the social dimension has been completely scorned. The European Commission, in its original proposal, remembered that all the signatory parties of the new air transport agreement have also signed the ILO declaration on fundamental principles and rights at work that embraces the freedom of association and the effective recognition and enforcement to collective bargaining.

"ECA had high expectations for this agreement; unfortunately once again the social dimension has been completely scorned"

Regrettably and paradoxically both delegations subsequently concluded that this provision should not be applicable to this agreement. How can the 27 European Member States and Canada refuse to recognise workers' fundamental rights? How can international and European social Charters be so badly flouted?

The only tool in the agreement left to Pilots' Associations from both side of the Atlantic is the monitoring of the effects of this comprehensive liberalisation. Shall we start by reporting the 345 flight attendants that Air Canada have just laid off from its transatlantic flights? ■

¹Source: European Commission press release: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1914&format=HTML&aged=0&language=EN&guiLanguage=fr>

EASA Publishes Draft Air Operations Rules

On 30 January, the European Aviation Safety Agency published NPA 2009-02. This Notice of Proposed Amendment (NPA) is more than 1000 pages long and contains the EASA proposal for future Air Operations rules. This OPS NPA follows the publication of NPAs 2008-17 and 2008-22 on pilot licensing and authority requirements. This means that our technical experts are very busy at this moment; they have four months to comment on the new proposal.

NPA 2009-02 is not a big surprise for ECA. We knew it would be long and complex and that it would follow the Agency's trend to change "hard law"¹ into "soft law"² – a trend that ECA and other major stakeholders do have concerns about. Most of the work was done by "in house" legal experts, aiming at a legal target audience, rather than the operational

community – also something that risks having undesirable consequences. The expert drafting groups, especially convened to contribute technical advice to the Agency, appear nonetheless to have had only a minimal influence on the draft rules. The ECA experts are now analysing the NPA text. Our objective is to ensure that the regulation responds to the needs

The European Aviation Safety Agency (EASA) has recently conducted an independent expert scientific review of the European rules on the prevention of crew fatigue. It is clear that the findings should now be swiftly reflected in revised rules – but we may need to be strong in supporting this position against those who see only the report's costs and not its benefits.

The agreement concluded with Canada, which deliberately ignores both Canada's and the EU Member States' legal obligations under the International Labour Organisation's Conventions, again throws into sharp focus the problems of a multi-national market with national employment rules. Once more, we may need to be strong in addressing these concerns with the legislator.

Pilots have always been at the forefront of aviation safety, with many of our colleagues over the last hundred years giving their time and expertise to ensure a constant improvement in the industry's safety record. Flying has become the safest way to travel. But this is all put at risk if the vehicle by which that effort has been supported – the professional cockpit crew associations – are undermined by these attacks on our ability to deliver full representation of members' interests. Just as we have had to fight to be heard in the past, I fear that unless European decision makers heed the power of our argument, we may be asking our Member Associations to support these efforts with new, innovative means to ensure we are better heard and understood! ■

Visit our Special FTL Web Section!



<http://www.eurocockpit.be/content/view/414/252/>

Next Meetings

11-12 Feb.: EASA Human Factors Advisory Group, Cologne, DE

11-12 Feb.: ECA Conference, Brussels, BE

16 Feb.: ECA Air Traffic Management & Airports WG, Brussels, BE

25-26 Feb.: ECA Executive Board, Brussels, BE

26 Feb.: EU-US Joint Committee, Paris, FR

The **European Cockpit Association** is the association of Flight Crew Unions from European States. Based in Brussels, ECA has 36 Member Associations, representing over **38.200** pilots from 36 countries. For more information: www.eurocockpit.be.

of our industry, guarantees highest safety levels, and takes into account latest scientific evidence to ensure that the rules to be applied from 2012 are truly the rules of the 21st century.

¹Legally binding rules, which need involvement of the European Commission, the Council, and to a lesser extent the Parliament

²Non-legally binding rules such as Certification Specifications or Acceptable Means of Compliance which can be adopted by the Agency.

Scientific Report Shows Need to Swiftly Revise EU Pilot Fatigue Rules

When back in 2006 Europe's Flight Time Limitation (FTL) rules were enshrined in the "EU-OPS" Regulation's Subpart Q, the EU legislator acknowledged that these rules are not based on scientific ground as to their ability to protect against fatigue-related safety risks. The legislator therefore requested a scientific and medical study of these rules. It also mandated the EU Institutions to amend Subpart Q in line with the study's results, and to do so "without delay". Despite resistance from the airlines, this study has now been carried out and published. It demonstrates a clear need to revise Subpart Q. However, strong resistance is building up to translating the study's findings into strengthened, science-based FTL rules that Europe's travelling public deserves.

Published on 22 January, the study puts doubts on the current FTL rules' ability to adequately protect passengers against safety risks stemming from fatigued pilots. Labelling some of these rules as simply "unacceptable" the group of scientists who carried out the work makes a list of recommendations on how to change Subpart Q. Among others they conclude that:

- the currently allowed maximum daily flight duty period of 13-14 hours should be reduced, as it "exceeds reasonable limits" and is "not in keeping with the body of scientific evidence";
- the maximum of 11:45 hours night duty should be reduced to 10 hours, because of the particularly fatiguing nature of night work;
- the practice of 3 consecutive 60-hour weeks (i.e. 180 duty hours in 21 days) needs to be stopped by setting an additional limit of 100 duty hours within 14 consecutive days (i.e. an average of 50 hours/week).



the study – the Agency did not take it into account when issuing its Air Operations NPA (see above article), on 30 January.

Obviously, EASA is not in a comfortable situation. On the one hand, the Agency has scientific evidence at hand showing a need to change FTL rules; and a legal obligation – by its own Basic Regulation – to take this evidence into account. On the other hand, it is under severe pressure from the airlines, who have tried to discredit the study as "flawed science" carried out by "biased" scientists; the airlines object to subsequent legislative changes.

Caught in this dilemma, EASA decided to refrain from any sensitive decisions, at this stage. Instead it announced a new "rulemaking task" to deal with the study's findings and recommendations, including a Regulatory Impact Assessment to weigh safety benefits against economic costs and other considerations.

Given the strong nature of some of the study's findings, EASA and the European Commission would be well-advised to kick-start a process that allows for a swift change in Europe's FTL rules. Unfortunately, quick progress is unlikely to happen.

The EU-OPS Regulation requires that proposals to amend Subpart Q are tabled without delay. However, the Commission does not seem ready to make legislative proposals anytime soon. Instead, it is waiting for EASA to assess the study report and to prepare EASA Air Operations rules for FTL, taking into account the scientists' finding. Quite regrettably – and in spite of having had 4 months to assess

While ECA fully supports a thorough rulemaking process, there is serious concern that those lobbying against the study will use this process to delay progress towards science-based FTL rules. At times where the economic downturn and growing competition exert severe pressures, investments in flight safety might soon be under attack, too. With pilot fatigue contributing to 15-20% of all fatal aviation accidents caused principally by human error, and with air crews being able to perform their duties safely only if they are sufficiently alert, it would seem only natural to invest in scientifically based FTL rules. ECA believes the regulator should act *now* to give passengers the confidence that they are adequately protected when boarding an airplane. ■

Cockpit News, February 2009
Email: eca@eurocockpit.be
Website: <http://www.eurocockpit.be>
Tel. (32 2) 705 32 93

European Cockpit Association
Rue du Commerce 41
B-1000 Brussels, Belgium
Fax. (32 2) 705 08 77

