

**IBAC TECHNICAL REPORT SUMMARY**

**Subject:** A-NPA - OPS 33 – JAR-OPS 0,2 &4

**Meeting:** AWGAS/HSC, Gatwick, UK April 2, 2004.

**IBAC File:** JAA/EASA

**Representatives:**

- | <b>IBAC</b>  | <b>IBAC Member Associations</b>  |
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| <ul style="list-style-type: none"><li>• Ray Rohr</li></ul> | <ul style="list-style-type: none"><li>• EBAA - Heinz Lichius</li><li>• BAUA – John Batty</li><li>• IBAA – Marco Rosati</li></ul> |

**Reported by:** Ray Rohr

**Summary:**

At their March 4, 2004 meeting the JAA Operations Sectorial Team (OST) accepted the Comment Response Document and Action Plan that the AWGAS had developed, and directed the AWGAS to continue work on progressing JAR-OPS 0, 2 & 4 to a NPA. They agreed that the NPA for JAR-OPS 0 and 2 should reflect the regulatory philosophy upon which the A-NAP was based, and incorporate the recommended changes identified in the Comment Response Document and the Action Plan. This direction is consistent with the position that was presented in the IBAC coordinated response to the A-NPA. The only dissenting voice at the OST meeting was the Italian civil aviation authority, ENAC. Their position is that they want JAR-OPS 2 to be similar to JAR-OPS 1 and want corporate operators to be certificated rather than registered. Their position paper is included in the Technical Report of the March 4, 2004 OST meeting.

The AWGAS/HSC April 2, 2004 meeting was convened to progress the A-NPA on JAR-OPS 0, 2 & 4 to a NPA. At that meeting the Action Plan that had been approved at the March 4, 2004 OST was reviewed and tasks assigned to Committee members. Also, a Management Committee of six people was created to assume the task of managing the development of the NPA. This has been necessitated because the current chair of the AWGAS is retiring from the JAA and UK CAA, and a replacement Chair has not been appointed. Ray Rohr, the IBAC Chief Representative, has been assigned to the six-member Management Committee and to several Task Groups. IBAC member association representatives are also heavily involved in the Task Groups. Those tasks are highlighted in yellow.

The goal is to have the work of all of the Task Groups completed by the end of June. The AWGAS will meet on July 21 & 22 to review their work and finalize the NPA.

**Implications for Business Aviation:**

This should result in an NPA for JAR-OPS 0, 2 & 4 being published early in 2005. The philosophy and content of the regulations should favorably reflect the position taken by IBAC and its member associations in their July 18, 2003 submission to the JAA on the A-NPA.

**Decision Required**

Through the final stage of regulatory development IBAC will continue to support the position contained in their July 18, 2003 submission to the JAA on A-NPA OPS-33.

Structure of Meeting

- Establishment of Concept
  - Problem Domain
    - Business Aviation
      - The partition of the population (corporate within business)
      - What do they fly and what do they do
    - Aerial Work
    - Existing regulations
  - The process of finding a solution
    - The basis for proposed solution (problem → model → solution)
    - The proposed solution
- Exposing the solution to comment
  - Comment response process (problem → model → solution → consultation → comments)
  - Analysis of comments
    - Main issues of agreement
    - Main issues of disagreement (and the basis for disagreement)
      - The changes of position resulting from discussion in comment/response (and reasons for change)
    - Reassessment of solution (problem → model → solution → consultation → comments → revised solution)
    - Issues that have been discussed and have been resolved
    - Issues that have been discussed and need to be resolved
- Future Progress of Proposed Regulation.

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#### Establishment of Concept

##### Understanding the Problem Domain

- We had to understand the domain in which the problem resided
- We had to understand divisions and the constituent parts of the domain
- We had to establish the existing key elements of each constituent part
- We had to establish the commonality of the elements in States
- We had to understand the main differences between States
- We had to examine existing regulation of the problem domain
- We had to establish and examine existing International Standards for each functional area

##### Business Aviation

- What was the basis for the establishing the boundary for this activity (from other similar activities i.e. recreational activities)
- Are there established discriminants (are there intuitive handles)
- Is the population presently clearly segregated from similar activities
- Is any part of the population presently regulated in any State
- What is the basis for this regulation (if it is regulated)

##### The partition of the population (corporate within business)

- Is the population presently partitioned and why
- Does the business population need to be partitioned into subsets
- Is there any natural boundary that can be used for partition
- Is there a need for different Standards
- Is there a difference in the way the activities are organised

##### What do they do and what do they fly (corporate, business)

- What is the reason and the basis for the equipment used
- Is there any regulatory guidance (to prevent or permit certain equipment)
- What is the basis for the State of Registry issues
- What proportion have a non-European State of Registry
- Does this affect the way we regard/regulate the activity

##### Aerial Work

- Is there a clear and common understanding of what this activity is
- What was the basis for the establishing the boundary for this activity (from other similar activities i.e. recreational activities)
- Are there established discriminants (are there intuitive handles)
- Is the population presently clearly segregated from similar activities

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- Is any part of the population presently regulated in any State
- What is the basis for this regulation (if it is regulated)

#### The partition of the population (commercial and private)

- Is there a clear definition of commercial activity
- Is there a clear distinction between commercial and private aerial work
- Is there a need for a distinction
- Could this debate be affected by the concentration on training as an Aerial Work activity
- If training is removed from the problem domain, does it simplify the problem

#### What do they fly and what do they do

- Is there a similar modus operandi in Europe
- Is there a State of Registry issue
- Do the operators conduct only Aerial Work or is it part of their overall activity (CAT, Corporate, CAT etc)
- Do States conduct all of their own Aerial Work or is it outsourced
- When outsourced, is it to other European States
- Does this need to be acknowledged in any solution
- Is there any activity in which harmonisation (between JAA States) is not suited
- Are passengers carried (before, during or after the activity)
- What is the basis for carriage of passengers

#### Existing regulations

##### General Aviation

- Is there an International Standard (ICAO, ECAC) for General Aviation
- What is the basis for existing regulations (where they exist)
- Do existing regulations map closely to each other
- Is there a clear and defining regulation that can be used as a model (International or in Europe)
- Does a regulation need to be defined/distilled

##### Business/Corporate Aviation

- Is there an International Standard (ICAO, ECAC) for Business/Corporate Aviation
- What is the basis for existing regulations (where they exist)
- Is there a clear and defining regulation that can be used as a model (International or in Europe)
- Does a regulation need to be defined

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#### Aerial Work

- Is there an International Standard (ICAO, ECAC) for Aerial Work
- What is the basis for existing regulations (where they exist)
- Is there a clear and defining regulation that can be used as a model (International or in Europe)
- Does a regulation need to be defined

#### Common elements

- Are there common elements that can be described in one document
- Are these common elements part of existing regulations
- Is there a need for a base regulation (such as a Part 91)

#### The process of finding a solution

#### The basis for proposed solution (problem → model → solution)

- See the presentation and explanatory text

#### The proposed solution

- See the presentation and explanatory text

#### Exposing the solution to comment

#### Comment response process (problem → model → solution → consultation → comments)

- The processes of JAR-11 are being followed
- An RIA will be produced as soon as there is agreement that the proposed regulation should proceed

#### Analysis of comments

- Comment and responses are described in the C/R document
- All comments have been considered and, where possible, addressed
- See also the summary text at Appendix B

#### Questions posed; did we answer our own questions?

- Who or what is being protected?
- Can we describe the activities that we wish to regulate?
- Can we categorise such activities?
- What is the appropriate level of regulation required to achieve the objective?
- What is the best form of regulation required to achieve the objective?
- Are objective (goal setting) rather than prescriptive regulations more appropriate for regulating these activities?
- Can we define the operator in activities other than CAT?

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- How do we regulate the organisation of the operator?
- Do we need to specify professional staff for certain activities?
- Is it only commercial aerial work that we wish to regulate?
- Is it possible to layer the regulation?
- Is it possible to target the layers accurately?
- Is it possible to build extensibility into the model?

#### Main issues of agreement

- The underlying model was accepted before this phase of development was undertaken – it was a given for the purpose of drafting the regulation
- Industry soundly agree with the concept as published
- There is majority agreement for a very high proportion of JAR-OPS 0, 2 & 4
- The majority understand that business aviation should be in compliance with Annex 6 Part II
  - This view was consistent with the expectation that, for aircraft that were already operating internationally, the operating standards would be in line with Annex 6 Part II
  - This view was consistent with the view that the State of Operation could be separated from the State of Registry and that the State of Operation could set operational standards
  - This view was also consistent with the view that it would be difficult to require a standard above Annex 6 Part II for aircraft where the State of Registry was not in Europe
- If Corporate Aviation continues to be permitted to operate non-EU registered aircraft, Annex 6 Part II has to be the basis for the regulation
- The majority also saw the need to separate out the ICAO Part II requirement from the basic General Aviation operational requirements
  - This view was consistent with retaining the present level of operating standards for General Aviation as observed in existing national regulations
  - This view was consistent with a single set of general operating rules

#### Main issues of disagreement (and the basis for disagreement)

- A minority disagrees with the basic model and consider that there should be two texts – JAR-OPS 2 for Corporate Aviation and JAR-OPS 4 for Aerial Work (not in line with the approved model)
- A minority considers that the regulation could not (should not) be applied to foreign registered aircraft
  - This position was consistent with the view that it was for the JAA to establish an equipment standard at the level required
- A minority consider that the basis for (the main body of) JAR-OPS 0 should be Annex 6 Part II (with some Part I requirements)
  - If JAR-OPS 0 was Annex 6 Part II compliant, it is accepted that exceptions and alleviations would have to be produced for a number of activities and a

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large number of activities would have to be removed from the applicability – it would no longer be a Part describing general operating rules

- A minority consider that the basis for JAR-OPS 2 should be a modified Annex 6 Part I
- Some parties do not agree with the principle of objective regulations – preferring the prescriptive route; however, if objective requirements are contained in the solution, methods of compliance would be preferred.

#### **The changes of position resulting from discussion in comment/response (and reasons for change)**

- Sweden initially objected to the proposal on the basis of disruption of JAR-OPS 1 & 3 and because of existing AOC regulations in their Aviation Regulations; however it can now support the proposal if there is no disruption in the short term and if there is an EU solution in the medium term.
- France initially objected to the proposal on the basis of complexity (it would have been difficult for operators to understand the regulation); if the implementation of the proposed regulation can be simplified, with the production of guidance on aggregation of rules, it could support the regulation.

#### **Reassessment of solution (problem → model → solution → consultation → comments → revised solution)**

During the process of addressing the comments there has been an attempt to define the issues which would require modification of the model and proposed parts in order to satisfy the commenters:

#### **Issues that have been discussed and can be resolved**

- JAR-OPS 0 needs to be amended to point to the PIC
- Applicability needs to be simplified to directly address the relevant population
- Business Aviation should only apply JAR-OPS 0 but Corporate Aviation JAR-OPS 2 (organisation and management)
- Clarification on the qualification for the entity of operator (which becomes the discriminant for JAR-OPS 2). This would be concerned only with issues of organisation and management.
- Reduction of the concentration on the person in management and more emphasis on the responsibilities of the position – thus removing the consideration of acceptance
- Safety Management Systems should replace quality systems and encompass the above points
- The production of a common terminology for technical manuals and in-flight paperwork is required
- Where ICAO wording has been used for equipment standards, it might need redrafting into European regulatory language
- There is a need for the production of guidance on a number of important concepts
  - A paper for Corporate Aviation specifying the aggregated requirement for JAR-OPS 0, International Appendix and JAR-OPS 2 (it is not certain in what form this will be)

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- The basis for the issue, continuation and removal of Registration for Corporate Aviation
- The basis for the issue, continuation and removal of Certification for Aerial Work
- The system of construction, content and method of publication of codes of practice for Corporate Aviation
- The system of construction, content and method of publication of codes of practice for Aerial Work activities
- The content and methods of compliance for Safety Management Systems

#### Issues that have been discussed and need to be resolved

- The maintenance system for foreign registered aircraft and the interface between the proposed Parts and ECAR-M has to be resolved.
- Industry would seek to reopen the debate on Subpart J and attempt to produce a text that meets the need for proportionality
- Industry would like objective text to specify a fatigue management system (probably in JAR-OPS 2 & 4 – Subpart Q)
- There is a need to discuss and agree the basis for the equipment standard – in particular whether there is a case for going beyond Annex 6 Part II
- The interface between ER/ECAR-M and the proposed JARs
- The exact requirement for Subpart E – All weather operations
- The system for the approval of specified activities (AWOPS, RVSM, RNP, MEL etc.)
- The extension to the OpSpec to include operations other than CAT
- A simplification of the administrative process of Registration to a clear and unambiguous text
- The security policy for International Business Aviation
- Consideration of craft in the microlight and ultralight category and considered for Aerial Work tasks
- Consideration of whether the Rules of the Air could be contained in JAR-OPS 0 (Subparts G and H)

#### Individual/group actions resulting from Comment/Response

- 1 Quality systems/SMS a recommendation for the regulations to be included in JAR-OPS 2 & 4 and associated ACJ material. [Draft has been prepared. Review new Transport Canada SMS model for air taxi and commuter operators when available and make a final recommendation] **(Ray Rohr +SMS task group) – June 30**
- 2 Differentiate between corporate and business populations: business JAR-OPS 0 / where there is a need for an organization JAR-OPS 2. After the applicability has been written, partition the populations to see the effect on the margins. **(Don Spruston, Jim Lyons, DB, JP Apr 30 - cc JH – litmus test cases to be run by ME) – June 30**
- 3 Subpart J chaired GAMTA + 2 or 3 from weight and balance working group **(KB) Steve Fischer now is Chair. He will work with Jeff Parker. – May 14**



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- 4 ~~Presentation of Codes of Practice (Explanatory text for inclusion in NPA) [for JAA Hoofddorp 20-21 January 2004] (CS + RR) (RM)~~
- 5 In JAR-OPS 0 'Commander' to be replaced by 'Pilot-in-command'. Work also at 'Operator' in same context. **(JL + DB) - Apr 30**
- 6 ~~Review Swedish accident data to apply lessons to JAR-OPS 0 & 2 to ensure that the Swedish experience is captured in the regulation (why did they opt for an AOC?). (RB) (Logic is limited - no further work required)~~
- 7 Personnel → process (Subpart C) [Consider JAR-OPS 1 operators also undertaking corporate flights or aerial work.] The concentration might be on the description of the process rather than a concentration on the 'person'. **(JP) Apr 30**
- 8 Propose an objective rule for JAR-OPS 2 & 4 for a Fatigue Risk Management System **(Ray Rohr IBAC will provide text from IS-BAO) Apr 30**
- 9 MEL and equipment requirements → discussion with appropriate committees **(JL) recommendations to OST. Joint w/g (IBAC/(Dirk Sojonz EQSC +1) to resolve the present text in JAR-OPS 0.030. May 30 Heinz Lichius will have a discussion with Dirk and involve Ray as required. Apr 15**
- 9.A. Discuss with EQSC the language of the International Appendices and see if they have a preferred text that is not above Annex 6 Part II but is more appropriately phrased for a JAR. **(Heinz Lichius, Dirk, RC & Luca) Apr. 30**
- 10 Subpart E to reflect industry's comments **(JL to discuss with AWOC)** – this might mean an elimination of existing text and reliance upon the need to comply with existing State minima. Requirement for training for AWOPS would be retained as the basis for approval. [Include these 2 actions carried forward from Naples meeting: 0.440 *appears to combine the requirements for Low Visibility Take-Off (LVTO) with those for Category II and III approaches - formulate query for the AWOPS Committee. 0.465 VFR Operating Minima – should this be in Subpart E or would it be better in Subpart D?*] **(JL & Steve Fischer will help find a member to contact Bo Eckerbert) (There are JAR-OPS 1 & 3 issues and harmonization issues. (Ray Rohr to be copied on paper)**
- 11 Resolve terminology and requirement for carriage of technical and journey logs – to ensure that we are all working with a common set of definitions. **(John Batty) Apr 30**
- 12 Review 2.180 & 2.185 to consider simplifying into a single text **(DB + JL) Apr 30**
- 13 Clarify status and recognition of CoPs (in explanatory material) – produce a full concept document and explanatory text for NPA, that describes and illustrates the principles and the different approaches in JAR-OPS 2 and JAR-OPS 4. **(JL + DB) (Rob McGregor) incorporates #4. May 30**
- 14 JIPs - produce guidance to States on how to apply the principles of Registration **(Post NPA work)** Initially Produce a Statement of Intent on the policy for implementation, registration (where possible to achieve consistent level) and a series of bullet points that address key issues **(RC, MR, JH cc JP, JL)** the finalized and agreed text to be part of the NPA explanatory text. **Apr 30**
- 15 Track security policy in EU and ICAO to establish requirement for JAR-OPS 2 **(IBAC)**

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- 16 Investigate the request by ACG for incorporation of regulations for the use of microlights/ultralights in aerial work. **JL ongoing**
- 17 Produce a paper of pros and cons for ~~recommendation~~ about the inclusion/exclusion of Rules of the Air in JAR-OPS 0. **(JL+ DB) May 30**
- 18 Check the analysis **(See Annex B)** summarizing the majority and minority views contained in the comments process and have been dealt with (either accepted and changed or rejected with explanation). **(AWGAS) June 30**
- 19 Subpart F - reference to Rules of the Air (or inclusion of the text of rules of the air) should be removed. **(JL) Apr. 30**
- 20 Check new third party insurance certificate requirement and advise. **(Martin Robinson)**
- 21 In addition, the following points were noted for further action:
  - Ops Specs admin and guidance material needed.
  - Learn from Denmark corporate registration example. A short history of the experience of registration in Denmark with lessons learned. **(JP) Apr 30**
22. Production of RIA material to put within the NPA e.g. the examination of the implication costs for three operators (small, medium & large) and the implications of IS-BAO. **(Ray Rohr & Don Spruston) Aug 30**
- 22.A Produce the RIA does and explanation of what does and does not do:
  - Cost to average operator – not total cost,
  - Cost to regulator not defined - due to uncertainty about safety oversight.  
**(to be done nearer to NPA submission) (linked to #22)**
23. Properly define the principles of the use of operating base with respect to when registration would or would not, be required including European bases but excluding freedom of navigation under ICAO Convention. **(JH GAMA) Apr 30**
24. Check that areas of difficulties have been resolved before the NPA is issued. Resolve – where possible – differences with:
  - Major CAAs
  - Equipment Sub-committee

#### Future Progress of Proposed Regulation.

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*The following text is a summary of the comments and views expressed during the production of the comment/response document on the questions posed in the explanatory text and. A more complete oversight of the comments and responses to the individual Parts and Subparts can be seen in the C/R document.*

#### **On the structure of the Regulation**

The commenters were sharply divided on the structure (the basic model) with the majority in support (most enthusiastically) and a minority totally opposed. The opposition was, in the main, tied to alternative methods of regulation existing in some States.

A number of parties went further than the proposal and suggested that JAR-OPS 0 should be applied to all General Aviation (this was a judgement on the content of JAR-OPS 0 – which was specifically written at this level of application).

**Finland**; were party to all of the work and agreed unconditionally with the structure.

**CAA-N**; agreed unconditionally and also indicated that it had the potential for simplifying all Operational JARs.

**LFV**; initially disagreed with the model as it might interfere with the present working of JAR-OPS 1 & 3; however after discussion they found that they could agree provided that, in the short term, it would not interfere with other JARs and, in the medium term, it became the model for Operational JARs under EU-OPS.

**ACG**; supported the model provided, as with LFV, it applied to all of General Aviation.

**IAOPA**; welcomed the regulation as a basis for the regulation of General Aviation in Europe.

**Denmark**; conditionally agreed with the structure but wanted to see the International Appendix incorporated into JAR-OPS 0.

**France**; (prior to the discussion with their GA community) wished to have the structure reduced to two JARs – one for Aerial Work and the other for Corporate Aviation. Considered that a regulation for General Aviation still needed to be discussed under the auspices of the EU. However, after it was shown that a guidance document, providing an aggregation of the whole text for Corporate aviation, could be easily produced, the opposition was diluted.

**ENAC**; disagreed with the structure indicating that it was too complicated; JAR-OPS 0 was (without the international appendix) below the Standard of ICAO; JAR-OPS 2 was below the Standard for passengers carried under JAR-OPS 1; indicated that, in any case, the Standard for International General Aviation was too low for passenger carriage.

**LBA**; indicated that there was need for further discussion of the structure within the OST.

#### **On the Presentation of the Rules**

All commenters except one accepted that the rules subset (numbers and titles) taken from JAR-OPS 1 (whether used or not) should be present. The UK went further and indicated that Subparts that were not used should also be present - commented 'intentionally blank'.

The Equipment Sub-Committee commented that the number and title of rules not used, should not be present.

#### **On the Volume of the Regulation**

There was little direct comment on this question.

**Industry**; commented that the regulation would benefit from the removal of some whole passages. If this were achieved, the remainder does not constitute an overwhelming amount.

#### **On the Explanatory Material**

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Comment on the explanatory material, when made, was complimentary; indicating for those who had considered it separately, it expressed well the case for the proposal.

**Industry;** indicated that the explanatory material needed to be permanently captured (as it is in the FAA NPRM process) so that the intent and derivation of the rules will still be understood in the future.

#### **On the Applicability**

There were few who did not understand the applicability although there was general criticism that it was a complicated and laboured text. Suggestions were positive and indicated that, if the constituent parts of the proposed regulation were clearly targeted, the applicability could be simplified.

In particular, industry suggested that if the applicability of JAR-OPS 0 was specific to Business Aviation (which included Corporate Aviation) and the applicability of JAR-OPS 2 was confined to Corporate Aviation there could be an elimination of the requirement for the minor operator. (This required that the applicability discriminants for JAR-OPS 2 more clearly describe the conditions that defined the operator – the entity that was responsible for the organisation and management of the safety of operations)

A minority wished to make JAR-OPS 0 applicable to all of General Aviation – one also specifically including ultra-lights.

**Industry;** considered that the present Applicability was a source of confusion. In part this was due to the inability of the working group to arrive at an accepted definition of Corporate Aviation. The solution lies in more clearly defining the regulated community thus removing the need for devices such as ‘minor operations’.

To resolve this problem it would be better to make JAR-OPS 0 applicable to Business Aviation and only requiring Corporate Aviation to apply JAR-OPS 2.

**GAMA;** did not support the regulation of operations using US registered aircraft.

**IAOPA;** had a similar approach that would remove the need for their members conducting business aviation (but not Corporate) not to have to apply JAR-OPS 2.

**CAA-N;** commented that as operators might be conducting all activities, there was a need for A & GM material to describe adequately the certification and organisational requirements. They also wished to review the carriage of cargo in helicopters to apply JAR-OPS 2 and not JAR-OPS 3.

**ENAC;** wished to restrict applicability to aircraft on the Register of a JAA member State or subject to a transfer under 83 bis (subject to a written agreement between Authorities); they also felt that any regulation of Corporate Aviation which applied to aircraft other than those registered in a JAA member State would need to be endorsed by the EU.

**ACG;** strongly recommended that applicability of JAR-OPS 0 be extended to all of General Aviation. The regulation of ultra-lights should also be brought into the regulation.

#### **On Harmonisation**

The comment on this issue was confined to not upsetting the balance of Corporate Aviation (as defined and understood by industry world-wide)

**Industry;** felt that the whole issue of applicability and definitions had to be well described to avoid the loss of harmonisation between the JAA and FAA.

#### **On Maintenance Requirements**

In view of the work ECAR-M, Subpart M of the three parts had been reserved and passages referring to maintenance had been generalised to require compliance with ‘applicable rule’.

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Several commenters remarked that the interface between these proposed JARs and ECAR-M had to be clarified. It was accepted that the interface might be complicated as it was not clearly understood whether ECAR-M was intended to apply to foreign registered aircraft operating in Europe.

ICAO appeared to indicate that the State of Registry was responsible for maintenance release “the (aircraft) shall not be operated unless it is maintained and released to service under a system acceptable to the State of Registry”.

#### **The Removal of Complexity**

The comments on this matter were confined to the removal of certain passages of text that were considered to be superfluous or not proportional. Additionally, a number of commenters indicated that the need for a Corporate operator to have to comply with three Parts (and the International Appendix) could be arduous.

**Industry;** felt that a number of passages of text was still too closely aligned with JAR-OPS 1 and would be shown to be burdensome - examples are: Subpart E – low visibility operating minima calculation, which could merely be a requirement to apply the accepted standard; night vision imaging systems, which could be removed and placed in guidance elsewhere; and Mass and Balance, which could be simplified.

#### **Safety Oversight**

Although not extensively commented, safety oversight was at the basis of many of the comments received on matters such as Registration, equipment standards and regulatory oversight.

For Corporate Aviation, industry generally felt that, providing the regulation was well founded and codes of practice were well defined, the regulator could continue with a light touch policy. A minority of regulators felt that this was unacceptable and the responsibility for safety resided with the regulator: this was a constant theme in the post NPA discussions – does the responsibility for safety reside with the operator or the regulator?

This clearly indicated the divide between the objective and prescriptive positions. The majority clearly understood that with the limited resources available to NAAs, a policy of inspection, assessment, certification, and approval was not an option. (This was also clearly spelled out in the instructions given to the working party and was the basis for the policy of Registration.)

**Industry;** felt that recognition of operations in accordance with existing Standards such as IS-BAO would ease the problem of the regulatory oversight for NAAs.

**ENAC;** considered that this was a key element that was missing from the proposal.

#### **Participation of Specialist Committees**

As the AWGAS was a committee constituted specifically for this task, it had produced the proposed regulation without the direct assistance of committees that were formed to consider regulations for commercial air transport. This was pointed out by the equipment sub-committee and the LBA.

**LBA;** questioned whether the technical committees of the OST should be tasked to revise the rules.

#### **Registration of Corporate Operators**

The comments on Registration with one exception (**GAMA;** who considered that it placed an undue administrative burden on industry) split the commenters into two groups: those who agreed and those who thought that Certification would be more appropriate.

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*Note: In order to clarify the issue of Registration, it might be necessary to split the subject into two elements: the process of Registration; and the safety oversight of an operator who had been Registered.*

A number of parties indicated that it was not clear what Registration was meant to achieve or how it would be implemented. During the comment/response process, it was accepted that Registration would be acceptable to the majority but would need to be further described and explained.

**ENAC and LFV**; both supported Certification on the basis that it was already required in those States.

Of those who commented on this issue, the remainder were in support.

#### **Process of Corporate Registration**

This question was dealt with in more detail than that of Registration *per se*. Most of the comments contained a description of what the process might/should entail. As described above, for those States that did not have a history of Registration, a detailed explanation might be required.

A minority commented that Registration would not meet their standard required for safety oversight – those who commented along those lines already had a State system of certification for Corporate Aviation (one at least achieving this by fiscal methods).

**DGAC**; correctly postulated that Registration was a simple administrative procedure under which the operator agreed to comply with the regulation and code-of-practice. The Authority would of course retain the right to audit or inspect to establish that the operation was being carried out as declared. (DGAC also considered that Registration needed to be covered under the ER of EASA.)

**LFV**; noted that the process of Registration might be in conflict with existing Swedish Aviation Act.

**Industry**; supported a simple administrative procedure.

**UK**; also agreed with a simple administrative procedure and also felt that a further simplification of the rule might be achieved.

**ACG**; felt that a compliance process was needed.

**ENAC**; commented that Registration does not take into account the responsibility of the Authority and the need for a JAA Safety Oversight Program.

#### **Certification of Aerial Work**

As this was not universally commented, it is considered that certification for Aerial Work was generally accepted.

*Note: The issue raised by LFV that an AOC would be preferred to an AWC was considered as matter of semantics – the intent of the working party was to clearly distinguish between the processes for CAT and those for AW. Unless this was clear, the same level of certification and oversight would have been assumed.)*

**DGAC**; commented that aerial work might be regulated with a light touch similar to Registration.

**LFV**; commented that an AOC would be preferable to an AWC.

#### **Codes of Practice**

It was obvious from the comments received that, in States where codes of practice are an accepted method of compliance with regulations, the concept was acceptable.

## Appendix A

### A-NPA- OPS 33 – JAR-OPS 0, 2 and 4 Aide Memoir/Action Plan

Opposition to the concept (where it manifested itself) was a mixture of not accepting that Registration and codes of practice could meet the requirement for safety oversight, or not quite understanding how it could be applied.

Because there were two distinct applications of codes of practice: one in the form of an acceptable Operations Manual such as the IBAC manual; and the other a code of practice that would be the basis for a functional Aerial Work procedure written into an operators Operations Manual, it was clear that further guidance material was necessary.

Discussions of this subject during the comment/response process concentrated on the provision of guidance on: the production (who and how); acceptance (who and how); ownership (who); and amendment and publication (who and how). It was accepted that for Corporate Aviation at least one code of practice (IBAC with its publication, periodic audit and amendment service) could meet these requirements.

**LFV**; did not support codes of practice but preferred published ACJ.

**DGAC**; commented that there were three main methods of publication: the reference is made mandatory – as with SAE Standards; they are published and an AMC to the rule; or the Code is published and the operator encouraged to use it. Clarification should indicate which of these methods was being promoted. Option 3 was preferred in the beginning to broadcast existing codes.

**Industry**; called attention to the IS-BAO code of practice and suggested that this model might be accepted as compliant with JAR-OPS 2 – if this was accepted, the State might be able to scale down the regulatory oversight.

**ACG**; commented that the system was acceptable but involvement of the Authority in the production was required. SOPs might be derived from codes of practice (this is more likely in JAR-OPS 4 than JAR-OPS 2).

#### **Addressing of the Regulation**

During the production of the proposal, there had been a debate on whether the rules of JAR-OPS 0 should be addressed at the commander or operator etc. Later in the process, it was accepted that the addressing protocol used by ICAO was more appropriate for General Aviation as there was no understanding of commander or operator (except for maintenance and other areas where owner/holder might be used).

Comments clearly indicated that the rule in JAR-OPS 0 would have to be addressed at the Pilot-in-Command (PIC) except where owner/holder or operator was clearly called for.

**CAA**; commented that the targeting of the regulation was correct but that the use of Commander needed to be clearer – if used – to avoid a conflict with JAR-OPS 1 & 3.

**EQSC, ACG and CAA**; commented that the rule should be more clearly addressed and PIC was preferred.

**Industry**; clearly indicated that in JAR-OPS 0, Commander and Operator be changed to PIC except where Operator is clearly identified.

#### **JIPs**

In the comments and during the comment/response process, it was continually stated that there was a need for Joint Implementation Procedures. There were a number of reasons for this need: standardisation of the regulation itself; standardisation of the implementation; and clarification about the interface between the regulated activities and CAT.

Industry members also stated that it was important that a consistent standard be applied as a Corporate Operator could have operating bases in more than one State.

## Appendix A

### A-NPA- OPS 33 – JAR-OPS 0, 2 and 4 Aide Memoir/Action Plan

*Note: Further reflection on this subject led to the belief that it would be too complex to have more than one Registration – a primary European operating base should be specified and operations to other States would then be conducted under the auspices of ICAO, exercising freedom of Air Navigation under Annex 6 Part II.*

Another area which would have to be addressed was approvals: in line with the accepted practice and ICAO procedures, approval for activities such as RVSM and AWOPS were shared between the State of Registry (in the aircraft sense) and the State of the Operator. In CAT is it unusual for these States not to be identical.

It was clear to the working party that where no transfer of responsibility under 83 bis had taken place, operational approvals would be the responsibility of the State of Registry (as provided under ICAO). If an operational approval was not forthcoming from the State of Registry, then a transfer of responsibility under 83 bis, or a transfer of Registry might be required to achieve the approval.

It was also clear to the working party that where a single operating entity utilised aircraft having different States of Registry, the embodiment of operational procedures that arose from operational approval (RVSM, AWOPS etc) should have a common implementation in the Operations Manual. The same might also be true of maintenance procedures.

**CAA and IVW** highlighted that, in order to achieve standardisation, JIPs would be required both for Registration and for other matters.

**ACG**; also wanted JIPs to give guidance on the oversight process.

**ENAC**; also commented that there was a need to provide acceptable methods of compliance with Registration.

#### **Definition of Corporate**

There were a number of comments on the definition of Corporate. In the absence of a single agreed definition - during the process of comment response - it was observed that it might be best to craft the applicability without the use of a definition by hard wiring the discriminant(s) for JAR-OPS 2 into the applicability clause. If this is done it would avoid any dispute over any definition and would permit the subject population of JAR-OPS 2 to be defined by function and not by name.

*Note: it was generally agreed that there must be continuing work to achieve a single and international agreed definition.*

It was also felt that, to avoid complications with the provision of services between groups in the same organisation (and cross charging for the carriage of staff), the relationship up, down and across had to be part of the applicability.

**LVF**; did not feel that the present definition dealt adequately with the relationships of Corporate.

**IVW**; preferred the definition produced by AWGAS.

**ACG**; considered that there had to be a definition agreed with industry.

#### **Definition of Operating Base**

With the exception of GAMA, the use of Operating Base was felt to be an extremely useful discriminant. However, in order to ensure that the regulation was not applied to foreign aircraft exercising freedom of Air Navigation under the terms of the Chicago Convention and where no operational control was being exercised in Europe – i.e. there is no European Operating Base, further guidance was required.

This would not affect the definition or intent of the proposed regulation in the use of Operating Base, but would merely reduce the number of grey areas.



## Appendix A

### A-NPA- OPS 33 – JAR-OPS 0, 2 and 4 Aide Memoir/Action Plan

**GAMA**; contended that the definition of Operating Base was too broad (probably a misunderstanding as they considered that a site where flight planning was carried out would have been included).

**ACG**; supported the definition.

#### **Subpart J**

In the A-NPA there was a request for comments on the level of requirements for Subpart J – Mass and Balance. These comments were forthcoming and were divided into two groups: those who thought that the proposed Subpart was acceptable as it was (mainly regulators) and those from industry (including at least one regulator) who considered that the subject should be re-opened.

**CAA**; considered that the proposed text was appropriate.

**Industry**; commented that the text, while appropriate for CAT was not well suited for Corporate operations and did not meet the requirement for proportionality. Some of this was due to the lack of text for standard masses and standard procedures. They stated that an objective requirement together with operations manual procedures would suffice.

**ACG**; commented that the text could be simplified.

**GAMTA**; volunteered to chair a group to reconsider Subpart J.

#### **QA v SMS**

This requirement was commented extensively by industry who showed a preference for Safety Management Systems. Further discussions between industry and Authorities might result in objective rules and appropriate guidance for SMS.

**Industry and CAA**; commented that ideally, this requirement could be replaced by an objective requirement for a Safety Management System.

**ACG**; commented that quality systems require substantial guidance.

#### **Applicability for Aerial Work (flight training)**

**ACG and CAA-N**; both commented that flying training is not entirely regulated in JAR-FCL and might benefit from being within the scope of JAR-OPS 0 and 4 using a dual approach; CAA-N commented further that the non-type-related aspects of flying training are not presently regulated and would benefit from operating to the Standards required by JAR-OPS 0 - thus there could be common European standards for the operational aspect of flight training (if common operating rules were accepted).