



EUROPEAN COMMISSION  
IMPACT ASSESSMENT BOARD

Brussels,  
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## Opinion

**Title**                            **Impact Assessment on: Commission's proposal on better efficiency in the investigation and prevention of civil aviation accidents and incidents**

**(draft version of 27 May 2009)**

**Lead DG**                            **DG TREN**

### **1) Impact Assessment Board Opinion**

#### **(A) Context**

Directive 94/56/EC and Annex XIII to the Chicago Convention on International Civil aviation contain the obligation to investigate, by an independent body, accidents or serious incidents in civil aviation. Directive 2003/42/EC obliges aviation professionals to report occurrences (errors and potentially risky situations) in order to draw and disseminate safety lessons. This impact assessment accompanies the proposal to modernise the current system for civil aviation investigation and occurrence reporting in the EU to take into account the fact that safety standards are almost exclusively defined at the EU level, and that the European Aviation Safety Agency (EASA, created in 2002) is executing certain functions and tasks, including certification, on behalf of the Member States.

#### **(B) Positive aspects**

The report is accessible to the non-specialist reader and provides a comprehensive overview of the organisation and process of accident investigation.

#### **(C) Main recommendations for improvements**

*The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.*

**General recommendation: The report needs significant further work on a number of essential issues. It should be more explicit about the legal status, functions and costs of the different organisational structures envisaged under various policy**

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options, in particular for the preferred option of a European Co-ordinator. It should also analyse better the presumed conflict of interests which lead to the conclusion that neither the Commission nor EASA could carry out the central functions. The report should address more fully the inefficiencies of the current civil aviation investigation framework and specify whether they concern all or only some of the Member States. It should clarify the reasons for the problems with implementation of the current directives, and explain clearly how the proposed measures would address these problems. During the IAB meeting, DG TREN agreed to make the necessary changes in the impact assessment on this basis.

**In the light of these recommendations, the Board would like to examine a revised report, on which it will issue a new opinion.**

**(1) Be more specific about the legal status, functions and costs of the organisational structures under the various policy options.** The report should in particular clarify the status and administrative structure of the European Coordinator envisaged under policy option 4, also against the background of the Commission's standstill policy on agencies. It should clarify the legal basis of the Coordinator, its relation with the Commission, its governance structure, and its link to the National Safety Investigation Authorities (NSIA). The report should also be more explicit about the precise functions of the Coordinator and clarify which of these would be subject to problems of conflict of interest depending on the organisational structure. The report should clarify the responsibilities and competencies of the Coordinator in investigations of accidents inside/outside EU. It should also be clearer about the possible budget implications of this policy option, and provide cumulative costs (including costs of monitoring and reporting) for the Community and NSIAs in Member States. If the proposal includes the creation of a coordinating body, an ex-ante evaluation under the Financial regulation should be carried out, and either incorporated in this impact assessment or presented separately.

**(2) Analyse better the conflict of interests issue for the Commission and EASA.** The report should explain more fully the conflicts of interests which would prevent the Commission and EASA from performing the central co-ordinating functions (option 3, Common Regulatory Framework and Central Functions), and explain why mitigating measures could not be taken to deal with these risks. When assessing the options, the report should clarify whether 'safety benefits' and 'associated risks' used in the table under section 6.3 are separate criteria or in fact address the same issue. The report should explain on which basis it derives the 'cost-effectiveness' conclusions in the table under section 6.4.

**(3) Address further the inefficiencies of the current civil aviation investigation framework, and the reasons for the unsatisfactory implementation of the current directives.** The report should be more explicit about what the actual failures of the current system for civil aviation investigation and occurrence reporting in the EU are. It should distinguish between the general problems concerning the Community and those related to specific Member States. The report should explain better the drivers for the problems identified with implementation of the current directives (e.g. poor reporting to the Commission, lack of agreement on participation of EASA in investigations, weak implementation, lack of resources, data protection), and explain how these issues are addressed under each of the analysed options. It should also stress the importance of Community involvement in guarantying safety of civil aviation in the context of constant increase of air traffic. Furthermore, the choice for limiting the initiative to aircraft having

more than 2.250 kg should be justified more fully, as some smaller aircrafts below this threshold are also certified by EASA.

**(D) Procedure and presentation**

The different views expressed by various stakeholders on the proposed options should be presented more clearly. The length of the report should be brought closer to the recommended maximum of 30 pages. The executive summary should contain a clear presentation of any quantified benefits and costs of the various options.

**2) IAB scrutiny process**

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|-----------------------------|---------------------------|
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