Air transport is completing its transition from national structures to a European approach. Yet we are still working with institutions that reflect the piecemeal development of aviation policy. This entails costs both for industry and for regulators because of the complexity and inefficiency of this organisation.

We need a strong European aviation industry that benefits from excellent infrastructure and delivers the highest possible safety levels. We need to offer air transport users choice and a good deal. We need to ensure that aviation makes its contribution to sustainable transport.

These goals cannot be reached unless we can work with simple, efficient and cost-effective structures. All stakeholders must have a genuine opportunity to be involved but we also need to ensure that decisions are taken in a timely fashion and put into practice throughout Europe.

The Commission will make the necessary proposals and expects that political decisions will be taken between now and 2010. By 2013 European aviation should have a regulatory framework that can address the challenges of the 21st century.
4. While there are many different aspects to regulation, the main **regulatory functions** can be summarised as follows:

- **Rule preparation**, i.e. preparing regulatory material by an organisation that has the technical competence to do so and that follows adequate procedures to ensure input by those that will be affected by the regulation;

- **Rule setting**, i.e. the promulgation of binding requirements in a context that allows for proper enforcement of these rules as well as for legal and political accountability for choices that are made;

- **Certification/licensing/operational approval**, i.e. the application of the regulatory requirements to individuals, organisations, equipment and procedures or groups of these so as to authorise ex ante the conduct of specific activities;

- **Monitoring/oversight/inspection**, i.e. the ex post assessment of continuing compliance with regulatory requirements, and the initiation of corrective action and enforcement where needed;

- **Enforcement**, i.e. the exercise of formal powers to ensure compliance with regulatory requirements including the imposition of dissuasive and proportionate sanctions; and

- **Implementation support**, i.e. a range of activities to assist the organisations in charge of the application of regulatory requirements such as support to monitoring, to certification etc.

5. In the aviation community, the **addressees** of regulatory functions are mainly

   - Aircraft operators;
   - Equipment manufacturers and maintenance organisations;
   - Airports;
   - Air navigation service providers;
   - The personnel of these organisations; and
   - Passengers.

While the military aviation community traditionally is not the subject of the exercise of regulatory functions, it is desirable to associate them closely so as to achieve an integrated approach where possible\(^1\).

6. The **subject matter** of regulatory functions relates essentially to

   - Safety;
   - Security;
   - Protection of the environment;

\(^1\) Involvement of military can take place through specifically military organisations, through their association with civil bodies (e.g. Eurocontrol military unit) or through their participation in civil bodies (e.g. membership of the Single Sky Committee).
– Seamless operation of a complex system through interoperability requirements and coordinating functions;
– Organisation of the market;
– International coordination and cooperation;
– Allocation of scarce resources (airspace, slots);
– Consumer protection, control over charges.

7. This paper submits a number of orientations for the organisation of regulatory functions in Europe:
- The number of actors intervening in the regulatory area should be reduced to the minimum practical;
- Responsibility for safety issues should be organically or functionally separated from responsibility for other issues;
- Wherever possible best use should be made of existing availability of technical and regulatory competence;
- The objective is to develop a homogeneous approach leading to a consistent outcome over all of geographical Europe – some flexibility is required to accommodate those States that are not full members of existing organisations;
- While proximity to operators and decentralisation of functions is desirable, it is also necessary to ensure consistency across Europe and final accountability for the functioning of the regulatory system as a whole;
- The rules should be elaborated with effective input by all interested parties, including military and other stakeholders, through robust mechanisms providing assurance that they are effectively heard;
- The resulting rules should be effectively applied and enforced where necessary.

8. On the basis of these considerations, a possible model could be developed along the following lines:
- Responsibility for rule setting is for the EU institutions which operate in the political, budgetary and legal context that provides best guarantees for acceptance and effectiveness of the regulatory framework;
- The EU institutions need to pursue a flexible approach to allow European non-EU members to participate actively in the rule setting; non-EU States in turn need to develop means to ensure the effective and consistent application of these rules;
- Under the EU legal system, the European Commission develops the initiatives and is in charge of the organisation of rule preparation. It works in close liaison with Member States and sees to the application of the “better regulation” principles.
- Responsibility for rule preparation in the field of safety needs to be fully assumed by EASA, initially for aircraft manufacturing and maintenance and for operations, but over time extending into all other areas.
• EUROCONTROL already ensures rule preparation on airspace and other issues related to air navigation. It could develop into a European aviation organisation that can assume responsibility for rule preparation under the EU umbrella in other areas where there is a need for a detailed EU regulatory framework, building on the mandate system that currently exists for the implementation of the Single Sky legislation;

• There should be an effective regulatory framework ensuring the seamless operation of the air transport system in Europe and the proper allocation of scarce resources. In a number of cases it may be possible to entrust the responsibility for the management of these aspects to cooperative bodies including the stakeholders that are affected by decisions on these matters;

• Responsibility for certification/licensing/operational approvals should be shared between EASA and national authorities operating under a uniform EU regulatory framework; for subjects that lend themselves to European-wide certification, this role is assumed by EASA for safety aspects and could be envisaged for EUROCONTROL for other aspects. Where it is not practical for national authorities to assume this responsibility because of insufficient scale of operations or shortage of resources, consideration should be given to setting up authorities on a regional basis grouping a number of States.

• Authorities responsible for certification/licensing/operational approvals have to ensure appropriate inspection and oversight by others than those issuing the certificate etc. Accident investigation and incident reporting likewise need to be organised in a manner conducive to the development of a “just culture”.

• The European Commission needs to assume responsibility for the consistency of the effective application of the regulatory functions across Europe and to organise the monitoring of the functioning of the regulatory framework. On safety issues this will be a task for EASA, on other issues for EUROCONTROL. In addition consideration should be given to the setting up of an independent body to monitor the performance of the aviation system, by extending and reinforcing the role of the Performance Review Commission.

• The European Commission also needs to assume responsibility for the international cooperation and coordination in order to ensure consistency with the overall EU external aviation policy.

• Within their territories Member States are responsible for the enforcement of the EU regulatory framework, under the legal framework stemming from the EU Treaties. Non-EU States will do likewise under the agreements providing for their association with EU aviation policy. Where appropriate States are encouraged to pool resources so as to ensure a sufficient level of expertise and budgetary means.

9. As for the timeframe of these developments, political decisions should be taken between now and 2010 on the basis of proposals already made or to be made by the Commission as quickly as possible. The entire regulatory framework must be completed in 2013. The Commission should carry out an assessment of the transition towards the new model and its impact on costs, safety and resources.