EXPLANATORY NOTE

STUDY: "Scientific and Medical Evaluation of Flight Time Limitations"

The Agency would like to provide stakeholders with the following explanations to clarify the objective and further disposition of the study on "Scientific and Medical Evaluation of Flight Time Limitations":

The FTL requirements laid down in Subpart Q of EU OPS are the result of long lasting negotiations and were not defined on a purely scientific basis. Therefore, the European Parliament and the Council when adopting EU OPS (Regulation 1899/2006 amending regulation 3922/91) specifically requested a scientific and medical evaluation of Subpart Q (Regulation (EC) No 3922/91 article 8(a)):

- By 16 January 2009, the European Aviation Safety Agency shall conclude a scientific and medical evaluation of the provisions of Subpart Q and, where relevant, of Subpart O of Annex III.

- Without prejudice to Article 7 of Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, the European Aviation Safety Agency shall assist the Commission in the preparation of proposals for the modification of the applicable technical provisions of Subpart O and Subpart Q of Annex III.

After a first review of the work done previously in the domain at stake, the Agency concluded that a number of key elements of Subpart Q were widely accepted and that some elements needed more attention than others. Taking this into account, as well as the time constraints, it had been decided to put emphasis on the points within Subpart Q which are currently left at the discretion of the national authorities in accordance with article 8(4) of EU OPS.

To obtain the necessary expertise, the Agency considered it more appropriate to invite an external professional consultant to put together a group of experts, looking for the best available expertise and scientific experience around the world. To that aim, EASA decided also to establish a FTL advisory group representing the affected stakeholders, to assist in identifying the key elements to be evaluated and in defining the criteria to be met by the experts to guarantee a high level of knowledge, competence and independence, so that their conclusions could provide for a scientific basis for regulating flight time limitations and rest periods.

The draft final report of the study conducted by the group of experts was submitted to EASA on 30 September 2008 (and presented to the EASA FTL advisory group on 4 November 2008). A consensus between all experts has been found on all key elements referred to in the study leading to various conclusions that could broadly be described as, 'recommendations', 'precautions, advice, guidance', 'questions and need for further scrutiny or dedicated research'. As requested, the study conducted by the group of experts addresses 18 key elements of EU OPS Subpart Q as identified by the Advisory group.

Due to the forthcoming substitution of EU-OPS provisions by implementing rules on operations based on Regulation (EC) 216/2008, the European Commission considers preferable that studies and scientific evidence which might have developed recently should be taken into account when preparing the future

implementing rules, instead of launching an amendment to current Subpart Q provisions.

The EASA OPS NPA to be published on 30 January 2009 will not contain any elements resulting from the said study. Indeed, those elements presented as the conclusions of the study need to be fully evaluated not only in terms of potential impact on flight safety, but also, as regards its relevant economic, social, environmental, etc. aspects before they are transferred into concrete legislative proposals. Therefore, a rulemaking task will be launched by the Agency on the basis of the study and will include a Regulatory Impact Assessment considering the potential safety benefit, balanced against social, economical, environmental etc. aspects.

Besides, it must also be noted that the majority of the 18 elements evaluated in the study refer to those items of Subpart Q which are currently left at the discretion of the national authorities in accordance with article 8(4) of EU OPS, i.e. could be regulated stricter or more lenient than recommended by the study.
Finally, such a rulemaking task envisaged by EASA will also take into account any conclusions drawn from the discussions on Subpart Q in the meetings of the Air Safety Committee on EU OPS organised by the European Commission, experience gained in requests for derogations to Subpart Q, any amended ICAO SARPS, as well as any other relevant new scientific developments.