



FINAL REPORT OF THE FUJA II WORKING GROUP



"You can't predict the future...but you can create it!"

*Peter Ferdinand Drucker
(1909-2005, Writer, Consultant and University Professor)*



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EXECUTIVE SUMMARY

1. The background for this report is the fact that EASA (hereafter also referred to as the Agency) is meant to take over responsibility for the fields of air operations and pilot licensing. The revised EC Regulation 1592/2002 (Basic Regulation) will be published on 19 of March 2008 and will enter into force 20 days later. The Agency will then take over all responsibilities which were previously in the hands of JAA. As it does not make sense to have 2 organisations dealing with the same subjects in Europe, the moment has come to enter into the final phase of JAA and to decide on the closing of the JAA system.
2. The Working Group presents herewith its findings. By doing so, it takes into account the fact that not all JAA members are members of or properly associated with EASA and makes proposals for ensuring, to the best possible, a pan-European solution.
3. The Working Group was comprised of representatives from all parties concerned in this matter: EASA Member States, non-EASA JAA Member States, the Agency, the European Commission, ECAC and JAA-T. The report has the unanimous support of the Working Group.
4. The report is a logical follow-up of the FUJA I report adopted in August 2005 and its implementation.
5. The Working Group proposes that the closing date for the JAA Liaison Office (JAA-LO), including the Chief Executive's Office, shall be 30 June 2009 and that the JAA foundation statutes shall be adapted by the same date. That implies that the JAA system is closed down by that date. All staff of JAA-LO will have their working arrangement terminated latest by that date. It also proposes that through an ECAC Resolution to be adopted at a Special Plenary Session, JAA Member States shall be asked to withdraw from the Cyprus Arrangements.
6. The Working Group suggests to continue with the JAA Training Office (JAA-TO) as an organisation which should stand on its own feet in the legal form of a Dutch Foundation and as an associated body of ECAC.
7. To take care of the legitimate needs of the non-(yet) EASA JAA Member States the Working Group proposes to establish a liaison function within EASA.
8. The Working Group also encourages all non-EASA JAA Member States to negotiate an agreement with the European Commission as soon as possible with the view to establishing proper relationships with the Agency. The Working Group encourages the involved parties to show all possible flexibility in this process and emphasises the need to continue with standardisation visits to non-EASA JAA Member States after closing of JAA.
9. The report also indicates estimates for the costs of closing down the JAA system.
10. The Working Group concludes by submitting a set of proposed decisions by the Directors General of ECAC (ECAC DGs) and asking the Chairman of the JAA Board (JAAB) and the Chief Executive of JAA-T to inform about the implementation of the decisions taken during the coming JAAB and ECAC DGs meetings.

1. INTRODUCTION

1.1 Background

1. In order to consider the future of the JAA within the new framework for aviation safety in Europe created by the adoption of EC Regulation 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and the ensuing setting up of that Agency (EASA), ECAC DGs established in 2004 a Working Group on the Future of the JAA (FUJA) which they tasked to develop a document (“roadmap”) setting clear milestones for the JAA’s future.

2. The Working Group developed a report which was endorsed by the JAAB and adopted by ECAC DGs in August 2005 at their DGCA/55 (SP) meeting.

3. This report (the “FUJA I Report” or “JAA Road Map”) led to the transformation of the JAA into the JAA-T (“Transition”) consisting of a Liaison Office (JAA-LO) hosted in EASA premises in Cologne (Germany) and a Training Office (JAA-TO) in Hoofddorp (Netherlands). It foresaw a closing date for the JAA-LO, at the latest on 31 December 2010, after which date it was expected that the JAA-TO, whose training mission would continue, would stand on its own footing.

4. The implementation of the FUJA I Report is progressing according to schedule, and all crucial milestones have been carried out so far. The next important milestone will take place once EASA becomes legally competent in the fields of air operations and pilot licensing, at which time the JAA-T will necessarily scale down its rulemaking activities with regard to all EASA Member States.

5. In this last phase, JAA-T will continue to establish the necessary regulatory framework by transposing EASA regulatory measures to non-EASA JAA Member States (the “Cover Letter” principle). The JAA-T will have to ensure a proper handover of all relevant files to assist EASA in developing the IRs. Furthermore, the JAA-T Chief Executive will have to gradually reduce JAA-LO staff in the light of the FUJA I Report, the reduction of JAA-T tasks, especially in the field of rulemaking, and of the Service Agreement with EASA.

6. In this context, ECAC DGs considered, at their Special Meeting in Nicosia (Cyprus) on 30 August to 5 September 2007, a report from the JAA-T Chief Executive presenting the status of implementation of the JAA Road Map, main outstanding issues and a possible way forward. On this basis, they endorsed the suggested re-activation of the FUJA Working Group, renamed as FUJA II, to be chaired by the Chairman of the JAA Board, and whose membership would consist in JAA EB members (including EASA), and representatives from the Netherlands, the European Commission, ECAC Secretariat and JAA-T.

1.2 FUJA I Report and its implementation

7. The main milestones specified in the JAA Road Map (FUJA I report) have been implemented as planned. In particular:

- a) CJAA closed at the end of 2006 and its staff was reduced by two thirds, and JAA-LO opened its offices in Cologne in early 2007 where, being housed in EASA premises, it has increased synergies with EASA;

- b) The national contributions scheme for funding JAA activities has been changed as from 1 January 2007, all JAA Members contributing an equal share. JAA's Foundation statutes have been adapted;
- c) A number of activities have been transferred from JAA to EASA, such as the SAFA programme, the JSSI, the Research Committee and the activities of the Human Factors Steering Group;
- d) A new rulemaking process and programme has been adopted jointly with EASA;
- e) In terms of membership, Azerbaijan and Georgia became candidate members of the JAA (thus all ECAC Member States are also JAA Member States) and Serbia and Moldova became full members of the JAA.

8. Overall, implementation of the FUJA I Report is on course.

1.3 Extension of EASA competences

9. The extension of EASA competences was scheduled in two steps, the first one dealing with air operations, pilot licensing and third-country operators, while the second covers the areas of aerodromes and ATM/ANS.

10. After some initial delay in the development, the afore-mentioned first extension step is taken by publication of the revised EC Regulation 1592/2002 on 19 March 2008.

11. The publication of the revised EC Regulation 1592/2002 will legally extend EASA's competences and establish the basis for the Commission and the Agency to prepare and adopt the necessary Implementing Rules (IRs). Once these rules are available and in force, they will allow the Agency and NAAs to undertake the executive tasks entrusted to them by the revised EC Regulation 1592/2002. It follows that the Agency can only undertake e.g. standardisation inspections and certification tasks on the basis of the IRs when these are in place. It is foreseen that the main IRs will enter into force from early 2009 to end of 2012.

12. Finally, regarding the involvement of non-EASA JAA Member States in the work of EASA, it should be noted that the European Common Aviation Area (ECAA) Agreement and Article 55 in EC Regulation 1592/2002 provide the platform for the necessary association.

1.4 Objective and Mandate of FUJA II

1.4.1 Objective

13. As the date at which EASA becomes competent for air operations and pilot licensing is approaching, a fine-tuning process is needed to make the JAA Roadmap more precise.

14. There are two key issues which have to be considered, namely:

a) Closing date for JAA-LO

15. At the fifty-first Special Meeting of ECAC DGs in Yalta in 2002, DGs decided that the so called Option 3, by which the regulatory and certification activity would be conducted within the EASA system but with transparency to non-EASA JAA Member States for their relevant decision, was best suited for the transition period. It was also agreed that Option 4, under which JAA activities would be fully integrated with EASA, should be the ultimate goal. It was therefore suggested in the FUJA I Report to disband the JAA-LO on 31 December 2010 latest. At present, the JAA Road Map gives no further clarifications. It is now necessary to know specifically how and when the JAA-LO will cease to exist, in order to ensure a safe and smooth closing of the JAA-LO.

b) Future of JAA-TO

16. According to the FUJA I Report, it is envisaged that the JAA-TO would continue its training activities in the Netherlands on its own, when the JAA-LO, ceases its activities. In this context, the option which is most adequate for the future of JAA-TO has to be specified.

1.4.2 Mandate of the FUJA II Working Group

17. ECAC DGs mandated the FUJA II Working Group to discuss the fine-tuning of the final phase of the JAA and to analyse in detail the above-mentioned key issues, in order to make the Road Map for JAA more precise.

18. They assigned to the FUJA II Working Group the goal of producing (for the purpose of satisfying the request of the JAAB, endorsed by ECAC and as a deliverable to ECAC DGs) a detailed document regarding the final phase of JAA.

19. Special emphasis shall be given to the above-mentioned key-issues including a precise indication as to when the JAA will be disbanded and a clear statement regarding the best suited means and associated legal basis for retaining the JAA-TO as a training organisation.

20. Moreover, the Working Group was tasked to consider specific options to ensure that non-EASA JAA Member States are not left alone after disbanding JAA. Among non-EASA JAA Member States a certain fear prevails that by disbanding JAA, they will lose a forum to express their interest and views regarding rulemaking, standardisation and certification activities and the possibility to pass these views to EASA. Consequently, this puts the integration process of the remaining non-EASA JAA Member States at risk. The integration and standardisation process beyond the current EU borders, however, is of major importance to reach a pan-European system and is therefore in the interest of all European States alike. Against this background, the FUJA II Working Group was requested to consider ways and means for a consensual solution to associate non-EASA JAA Member States to on-going safety-related activities in Europe, in keeping with ECAC endeavours for pan-European solutions for the benefit of all its Member States.

21. Finally, the document to be developed by the FUJA II Working Group should also address the future status of the Cyprus Arrangements and the issue of the liquidation of the JAA, including financial, legal (Stichting Beheer) and personnel aspects.

22. The detailed terms of reference assigned to the FUJA II Working Group are enclosed at **Attachment 1**.

2. SUGGESTED SOLUTION IN RELATION TO KEY ISSUES

2.1 Legal and institutional aspects

23. With the adoption of the Commission proposal¹ amending EC Regulation 1592/2002 (Basic Regulation), the Community competence will be extended to include pilot licensing, air operations and approval of third-country operators. Implementing Rules (IR's) in these domains must be adopted in order to allow for the Commission, including EASA, to exercise the competence established.

24. Awaiting the adoption of the related IRs, the question has been raised as to what the situation is in the meantime for the JAA Member States, in particular for those States which are neither an EU-Member State nor associated in one way or another to EASA. In particular, the questions concern issues such as:

- what are the applicable (national) rules and standards;
- what procedure should be applied for adapting/amending these rules and standards;
- what are the reference standards to be used for the purpose of standardisation inspections;
- what are the applicable procedures for performing those inspections;
- what is the impact of the revised Basic Regulation (BR) on the mutual recognition of licenses and approvals in the “pre-IR” phase?

25. Distinction should be made between, on the one hand, EASA States which are EU Member States and other States associated with the EASA system, (such as EEA States and those States which are party to the ECAA agreement) and, on the other hand, the non-EASA JAA Member States. As far as the status of non-EASA JAA Member States is concerned please refer to **Attachment 2**.

26. For the purpose of this report, the transition period, starting after adoption and entry into force of the above-mentioned Commission proposal and ending with the adoption of the IRs in one, more or all domains covered by the extension, will be called “pre-IR” phase. The time period starting with the adoption of the IRs in one, more or all domains covered by the extension, will be called “post-IR” phase. By way of summary, the responses to the various questions are reflected in a scheme at the end of this sub-chapter.

2.1.1 What are the applicable (national) rules and standards in the “pre-IR” phase; may EU/EASA States adapt them and what rulemaking and decision making procedure should be applied to amend or adapt these rules and standards;

27. As a first general observation it should be noted, that full Community competence is established by the Basic Regulation, while related IRs will be enacted later. Hence, the actual competence shift does not immediately impact on existing EU/national rules and related procedures. This applies e.g. for Annex III of EC Regulation 1899/2006, hereinafter called “EU-OPS”, which is applicable as of 16 July 2008, while Community competence was established well before.

¹ COM/2005/579/FINAL.

28. In between, EU Member States may implement national rules and modify them as necessary but they must abstain from taking measures that would affect the exercise of the established Community competence.²

29. A situation similar to EU-OPS exists with the adoption and the entry into force of the amended Basic Regulation.³ EASA IRs will be elaborated and enter into force from early 2009 to end of 2012. Until they enter into force, EASA Member States have to take the necessary measures to regulate as appropriate. This may apply to a whole domain or only to gaps therein.

30. EEA members, as well as other States associated to the Community (called thereafter non-EU/EASA States for the sake of simplicity), are committed to updating the association agreements in order to introduce any new relevant Community legislation. This is done by decisions of the Joint Committees established by such agreements. As the process can take some time, consideration is currently being given to mechanisms that would allow anticipating such updates, taking into account parallel work within the Community. This was one of the reasons for involving the associated members in the comitology process. Apart from that peculiarity, they are subject to exactly the same rights and obligations as EU Member States with regard to the continued implementation of national rules (Refer to Scheme 1).

² This includes adopting national rules that would make it difficult to implement the rules to come or undertaking international commitments that would be different from these rules or affect the independence of the Community when elaborating such rules.

³ EU-OPS is in a similar position to national rules. It will be replaced by EASA Implementing Rules when they enter into force; this is already specified in the extended Basic Regulation. However, the legislator has specified also in that regulation that EU-OPS must be the basis for the future EASA Implementing Rules to avoid unnecessary changes in the short term.

SCHEME 1: Applicable standards and requirements in the “Pre-IR” phase

Pre-IR phase			EU	Non-EU/ EASA	Non-EASA/ JAA
Applicable (national) Rules	FCL-rules		JAR-FCL	JAR-FCL	JAR-FCL
	OPS-rules	OPS⁴, except EU-OPS	JAR-OPS, except JAR-OPS 1	JAR-OPS, except JAR-OPS 1	JAR-OPS, except JAR-OPS 1
		EU-OPS (applicable 16 July 2008)	EU-OPS @ latest amendment	EU-OPS @ latest amendment incorporated through Joint Committee or similar procedure And/Or incorporated as JAR-OPS1 through “cover-letter” procedure Or National	EU-OPS @ latest amendment incorporated as JAR-OPS1 through “cover-letter” procedure Or National
	STD-rules		JAR-STD	JAR-STD	JAR-STD

31. As required by their JAA obligations and the provisions of Article 5 of Regulation 3922/91, EU members and non-EU/EASA States must continue to make use of the JAA system for the adaptation of their national rules during the pre-IR phase, inasmuch as the JAA continues to exist. Where EU-OPS is concerned, the adoption of amendments thereof is subject to the EU comitology process. As agreed at JAAC 07/2 on 14 November 2007, non-EASA JAA Member States may choose to implement EU-OPS in their national law through the cover-letter procedure. The non-EU/EASA States shall incorporate EU-OPS through the Joint Committee or similar processes of the applicable association agreement.

⁴ JAR-OPS rules is meant to include the OPS family including e.g. JAR-MMEL/MEL etc.

SCHEME 2: Rulemaking and decision-making process for the adaptation of rules, including EU-OPS in the “pre-IR” phase

Pre-IR phase		EU	Non-EU/ EASA	Non-EASA/ JAA
Process for updating/adapting Rules other than EU-OPS	Drafting	National (JAA)/EASA	National (JAA)/EASA	National (JAA)/EASA
	Decision	National (JAA)	National (JAA)	National (JAA)
Process for updating/adapting EU-OPS-rules ⁵	Drafting	EASA	EASA	JAA Cover-letter
	Decision	EU comitology	Joint Committee procedure or Cover-letter procedure And/or National	JAA Cover-letter And/or National

2.1.2 Standardisation: What are the reference standards to be used for the purpose of standardisation inspections and which procedures should be used for performing those inspections (“pre-IR” Phase)?

32. According to the Basic Regulation, the Agency must conduct standardisation inspections in order to monitor the application by national authorities of the BR and its implementing rules. To that end certain standardisation methods and principles have been put in place with Commission Regulation (EC) 736/2006 (Standardisation Regulation). This means that the JAA will not have any responsibilities in relation to standardisation activities related to EASA Member States once the BR has entered into force.

33. The question of which rules should be used as the reference standards for performing standardisation inspections in the “pre-IR” phase should be addressed. (Refer to Scheme 3).

34. As a general observation it should be noted that the standardisation inspections referred to in the Standardisation Regulation may cover all domains mentioned in Article 1(1) of EC Regulation 1592/2002 and presumably would seem to include air operations and pilot licensing.

35. Awaiting the adoption of EASA IRs, the relevant national rules (read: JARs) should be applied as reference standards for standardisation inspections. EU-OPS

⁵ It should be noted that, at this stage, it is not foreseen to have EU-OPS amended in addition to the amendment Number 2, covering the “10 items” envisaged for mid-2008, before EU-OPS will be repealed by the enactment of IRs.

applies to EASA Member States and the same rules as incorporated through cover letter would apply to the non-EASA JAA Member States (Refer to Scheme 3).

36. Where the standardisation procedures are concerned it follows from the above that the existing JAA Joint Implementation Procedures can be applied by EASA when performing standardisation inspections.

SCHEME 3: Reference (national) rules for standardisation inspections

Pre-IR phase		EU	Non-EU/ EASA	Non-EASA/ JAA	Applicable Standardisation procedures	
Reference (national) Rules For Standardisation inspections	FCL-rules	JAR-FCL	JAR-FCL	JAR-FCL	JIP + JAAC	
	OPS-rules	OPS ⁶ , except EU- OPS	JAR-OPS, except JAR- OPS 1	JAR-OPS, except JAR- OPS 1	JAR-OPS, except JAR- OPS 1	JIP + JAAC
		EU-OPS (applicable 16 July 2008)	EU-OPS @ latest amendment	EU-OPS @ latest amendment incorporated through Joint Committee or similar procedure And/Or incorporated as JAR-OPS1 through “cover- letter”- procedure	EU-OPS @ latest amendment incorporated as JAR-OPS1 through “cover- letter”- procedure	Regulation EC 736/2006 / JIP + EC (for all EASA) JIP + JAAC (for non-EASA JAA Member States)
	STD-rules	JAR-STD	JAR-STD	JAR-STD	JIP + JAAC	

2.1.3 What is the impact of the revised BR on the validity of existing licenses and approvals and those issued in the “pre-IR” phase?

37. As a general remark, one can say that existing certificates issues by EASA Member States and other full JAA Member States remain valid provided, of course, that the holder thereof remains in compliance with applicable rules. As long as the necessary implementing rules are not in place, national authorities of the EU/EASA States continue to issue licenses on the basis of national/JAA rules. Certificates that have been issued by a non-EASA JAA Member State remain valid and continue to be recognised by other all other countries under the JAA system.

38. For EASA Member States provisions are in place in the revised BRs to issue certificates on the basis of the applicable national regulations or, as the case may be, on

⁶ JAR-OPS rules is meant to include the OPS-family including e.g. JAR-MMEL/MEL etc.

the basis of the relevant requirements of Regulation (EEC) No. 3922/91 as amended by EC Regulation 1899/2006(EU-OPS).

39. Until the Implementing Rules are in place it is expected that EASA Member States may continue to issue certificates and approvals on the basis of applicable national rules or, as the case may be, on the basis of Regulation 3922/1991 (as lastly amended).

40. An overview is provided in Scheme 4 below

SCHEME 4: Recognition of certificates, including licenses and approvals in the pre-IR phase

Certificates ⁷ issued by →	EU countries	Non-EU/EASA	Non-EASA/JAA
Are recog- nised by ↓			
EU countries	Applicable community rules ⁸	Joint Committee (JC) decision or national law	JAA – Mutual Recognition ⁹
Non-EU/EASA EEA, CH-EU and ECAA	Recognition article under revised BR or JC decision or national law (including JAA – mutual recognition)	JC-decision or bilateral agreement or national law (including JAA – mutual recognition)	JAA – mutual recognition ¹⁰
Non-EASA/JAA	Bilateral agreement or national law (including JAA – mutual recognition)	Bilateral agreement or national law (including JAA – mutual recognition)	JAA – mutual recognition ¹¹

2.1.4 What happens in the “post-IR” phase, in particular, what is the validity of existing certificates when applicable IRs are in place?

41. Draft Implementing Rules based upon the amended EC Regulation 1592/2002 will enter into force from early 2009 to end of 2012.

42. As the Implementing Rules are still under development at the moment only some general indications can be given. Usually Implementing rules include a so-called grandfather right, which means that existing certificates may be accepted as if they have been

⁷ And similarly certificates and approvals.

⁸ (Revised) Basic Regulation and where applicable Regulation 3922/91 (as lastly amended).

⁹ For the situation where JAA has been disbanded but IRs are not in place see Paragraph 43 et seq.

¹⁰ See footnote 9.

¹¹ See footnote 9.

issued under the (amended) Basic Regulation. There may be certain conditions which will affect how those certificates will remain compliant with the new rules. Also, it is possible that existing certificates may keep their validity subject to certain transitional provisions in the relevant Implementing Rules.

43. Once the JAA system is disbanded, the mutual recognition between EASA and non-EASA JAA Member States as well as the mutual recognition amongst non-EASA JAA Member States would be lost without a similar tool being in place. To ensure the continuance of mutual recognition, it will thus be necessary to find the appropriate arrangements with non-EASA JAA Member States as well as with other third countries.

44. To provide for a better legal certainty and to be fully consistent with their Community obligations, EASA States should aim to replace the JAA arrangements with a set of agreements between the European Commission (or EASA associated States) and non-EASA JAA members to reflect the new situation. Such agreements should ideally be association agreements with a transitioning mechanism, such as the ECAA or the envisaged EC/Ukraine agreements. When full association on the basis of Article 55 of the Basic Regulation is too far-reaching for institutional or political reasons, an alternative solution would be to conclude Bilateral Air Safety Agreements (BASAs) reflecting as closely as possible the current situation; BASAs however can only be concluded with partners, which are fully standardised in the domains to be covered.

45. To conclude on this point, the best way forward would be that each current non-EASA JAA member considers the best option for itself and enters into negotiations to reach that objective;

- conclude a BASA with the European Commission and each associated state; or
- conclude an association agreement with the European Commission, which would also have to be ratified by the associated States (similar to the ECAA agreement).

2.1.5 Cyprus Arrangements

46. Considering the future of the Cyprus Arrangements, it is unequivocal that the Arrangements will be needed until the closing-down of the JAA-LO, in order to fulfil remaining JAA tasks.

47. After the closing down of the JAA-LO, the Cyprus Arrangements shall be dissolved. The Cyprus Arrangements loses its objective and content once the JAA ceases to exist. At the same time, keeping this document with a worldwide-known system in place for some decades could create confusion.

48. From a legal point of view, there are no reasons to keep the Cyprus Arrangements alive after disbanding JAA-LO. In this regard three aspects were considered: a) relevance for JAR archiving, b) relevance for a possible link between JAA-TO and ECAC and c) relevance for ECAA States. For the archiving of JARs and the continuity of JAA publications, no formal link to the Cyprus Arrangements is necessary. The Cyprus Arrangements are also no pre-requisite for future JAA-TO activities as associated body of ECAC. The necessary formal link as required by Art. 4 (2) of the ECAC constitution (now formed by the Cyprus Arrangements) can easily be replaced by a newly created arrangement. Finally, the Cyprus Arrangements are no pre-requisite for ECAA States, where reference is made to EC Regulation 3922/91.

49. With regard to the act of dissolving the Cyprus Arrangements, some formal requirements need to be adhered to. Strictly speaking, the Cyprus Arrangements do not contain a specific provision dealing with dissolution of the JAA. Albeit, any Authority may withdraw from the Arrangements by giving one year's written notice to the ECAC Secretariat (see paragraph 11 of the Cyprus Arrangements).

50. From a legal point of view, the way forward will be to dissolve the Cyprus Arrangements by unilateral acts of all JAA Member States based on an ECAC Resolution. In this Resolution, any Authority shall be asked to withdraw from the Arrangements in accordance with paragraph 11 of the Cyprus Arrangements, by giving one year's written notice to the ECAC Secretariat. Such an ECAC Resolution will have to be endorsed at an ECAC Plenary Session (Art. 6 ECAC Constitution). If a majority of Member States withdraws, the Cyprus Arrangements are no longer of value (political or practical), even if there are some States still adhering to it.

51. The draft ECAC Resolution on the termination of the Cyprus Arrangements is enclosed at **Attachment 3**.

2.1.6 Foundation Issues

52. From a legal point of view, the future of the Cyprus Arrangements does not affect, in principle, the status of JAA as a foundation based on Dutch Law. But the real dissolution of the JAA system is in fact taking place by closing or modifying the JAA Foundation Statutes.

53. As the JAA-TO will remain in the Netherlands (see Para 2.4 below), a Dutch legal structure for the future training organisation will also be required beyond the closing-down of the JAA-LO. The JAA-TO can continue as a foundation based on Dutch law, regardless of whether the Cyprus Arrangements will be kept or not. This has also the advantage that the current tax structure can be maintained. Nevertheless, changes to the current Foundation Statutes will be required.

54. From a legal point of view, the following two options are possible:

- a) to modify existing Foundation Statutes (meaning objective of foundation and management structure);
- b) to dissolve the current and create a new foundation.

55. Based on experience regarding the dissolution of a foundation (e.g. formalistic and time-consuming liquidation process) and the practical consequences of it (e.g. new chamber of commerce registration needed), option a) is by far the preferred one. This view is being shared by the notary of JAA. Consequently, the current JAA Foundation will be altered in order to adequately reflect future activities of JAA-TO starting at the closing-date for JAA-LO. This also implies that after the closing-date the JAA no longer exists.

2.2 Relation with non-EASA JAA Members (liaison function)

56. The FUJA II Working Group considered specific options to assure that non-EASA JAA Member States are not left alone after disbanding JAA-LO. The Working Group noted that among non-EASA JAA Member States a certain fear prevails that by disbanding JAA, they will lose a forum to express their interests and views regarding rulemaking,

standardisation and certification activities and the possibility to pass these views on to EASA. Consequently, this puts the integration process of the remaining non-EASA JAA Member States at risk. The integration and standardisation process beyond the current EU borders, however, is of major importance to reach a pan-European system and is therefore in the interest of all European States alike. Taking this into account, the Working Group considered ways and means for a consensual solution to associate non-EASA JAA Member States to ongoing safety-related activities in Europe, in keeping with ECAC endeavours for pan-European solutions for the benefit of all its Member States.

57. In this context, it was noted that there is no need to keep the JAA-LO per se because of the liaison issue, if an alternative solution can be found for the remaining non-EASA JAA Member States, after JAA-LO is disbanded, with a view to maintain a pan-European dimension. Currently, the ECAA Agreement and Art. 55 of EC Regulation 1592/2002 already offer an alternative platform for non-EASA Member States to be associated with the relevant European Commission / EASA work. In particular, the ECAA Agreement brings benefits to Member States. Today, it ensures observer status in the EASA Management Board (MB) and AGNA. When fully implemented, ECAA States will have MB and AGNA Membership, but without voting rights (similar to Iceland, Norway and Switzerland). Since this platform is open to any of the non-EASA JAA States it is, in the first instance, up to those States to be pro-active and make use of these provisions (*“Play the ball” - Argument*).

58. Nevertheless, the Working Group noted the relevance of keeping a liaison tool for the remaining 7 non-EASA JAA Member States (not yet being associated with EC/EASA) in advance of an ECAA Membership / Art. 55 solution. After considering several possible options, the Working Group identified EASA as the body to take best care of the liaison needs of the remaining non-EASA Member States after JAA-LO is disbanded. Consequently, a liaison function dealing especially with the non (yet)-EASA JAA Member States and accommodating their needs will be established within EASA’s International Department in early 2009. Details of this function will be elaborated by EASA making use inter alia of the JAA-LO experiences, this in order to ensure a seamless transition.

59. In addition one shall not forget that ECAC DGs meetings are and will continue to be an important forum for all ECAC Member States to express their views and wishes and will help with liaison and integration in order to promote truly pan-European solutions on aviation matters.

2.3 Closing date of JAA-LO

60. According to the FUJA I Report, in order to keep a certain pressure and in respect of the “Yalta Decision”, the JAA-LO will be disbanded on 31 December 2010 latest. At the same time, the text of the FUJA I Report provides for no further clarification.

61. Several key criteria were set up in order to find a most suitable date for the closing-down of JAA-LO.

- **Extension of EASA’s Competences:** There was agreement that the decision on the closing date was dependent on the moment when EASA will legally be competent in the fields of OPS and LIC;
- **Standardisation and Mutual Recognition Activities:** Once the JAA standardisation and mutual recognition system is disbanded, the mutual recognition, in particular for

non-EASA JAA Member States, would be lost without a similar tool being in place. To ensure the continuance of mutual recognition, it will be necessary to find appropriate arrangements with non-EASA States as well as with other third countries;

- **Cyprus Arrangements:** The Cyprus Arrangements shall be dissolved by an ECAC Resolution, by which all Member States shall be asked to withdraw from the Arrangements in accordance with paragraph 11 of the Cyprus Arrangements. Hence, a one year's notice period needs to be respected from the moment such an ECAC Resolution has been endorsed;
- **Social Factors:** The Working Group noted the view of the JAA Chief Executive that for practical reasons, he will need around 9-12 months (from the moment the closing date is decided upon) to close down the JAA-LO. Within this timeframe, solutions will have to be found in relation to staff currently employed at JAA-LO as they merit a fair treatment;
- **Legal Issues:** There are a number of legal issues (future of the Cyprus Arrangements, foundation issues), financial issues (how to fund the transition and close the books) and organisational aspects (liaison with non-EASA JAA Member States, training provision) to be considered;
- **Financial Issues:** The dissolution and liquidation of JAA needs some time but can safely be done within 6 months thanks to the fact that all crucial issues were taken into account when the statutes were changed at the end of 2006;
- **Closing activities as such:** For a proper closing of the JAA-LO it is assumed that 6-9 months will be needed to handle all organisational and administrative issues (e.g. termination of contracts, removal, etc.). Moreover, based on experience, a period of about 2-3 months after the "legal closing date" will be needed, allowing the Chief Executive to ensure the final paper work.

62. Following discussions on above-mentioned issues and considering deliberations with regard to the Cyprus Arrangements (see Chapter 2.1.5), the FUJA II Working Group agreed that the closing of JAA-LO not only encompasses the so-called Chief Executive's Office but also the closing of the JAA System as such.

63. Taking the key criteria into account, the FUJA II Working Group considered how and when (fixed date) the JAA in its current form will cease to exist and discussed several conditions to be met in order to ensure a safe and smooth closing of the JAA-LO. There was full consensus that a closing date beyond end of December 2010 was out of question and that a date earlier than end of December 2010 should be envisaged in the light of progress made in implementing the FUJA I Report and in extending EASA's competences.

64. Based on an evaluation of all the criteria presented above, the FUJA II Working Group considered **30 June 2009** as the most appropriate closing date for JAA-LO. On the same date the JAA system will be disbanded by changes to the Foundation Statutes (see also paragraph 2.1.6). Please find for reference the organisational chart of JAA T in **Attachment 4**. The grey shaded parts will be disbanded on 30 June 2009.

2.4 Future of JAA-TO

2.4.1 Criteria

65. According to the FUJA I Report, it is envisaged that the JAA-TO would continue its training activities in the Netherlands standing on its own feet (meaning that JAA-TO will no longer be financed by national contributions), when the JAA-LO ceases its activities. Hence, the FUJA II Working Group considered possible options for the future structure of JAA-TO, including legal and financial status, management structure, staff issues and brand.

66. Several criteria, deemed essential for the successful continuation of JAA-TO, were set up:

(1) Criteria stemming from the FUJA I Report:

- **Good quality training services:** According to its mandate, EASA has a duty to ensure that good quality training services in the field of aviation safety are available on a sound economic basis to the whole aviation community. Moreover, in its current state of development, its first priorities are about fulfilling its core activities towards its customers;
- **Co-operation between JAA and EASA:** In a starting phase, co-operation between JAA and EASA could be envisaged as the flexible structure of JAA could facilitate co-operation with the industry in the development of standards and assessment mechanisms.

(2) Criteria based upon past experience:

- **Flexibility:** In order to be able to react quickly and efficiently on arising training requirements, it is of the highest importance that the training organisation remains very flexible;
- **Non-profit:** It is in the interests of both the training organisation, but even more importantly for the clients of the training organisation, that the organisation retains its non-profit status. This means that all surplus funds are either re-invested in new training courses, in facilities and/or in support of states/organisations in need of training, but unable to financially cater for these training courses themselves;
- **High quality standards:** It is of the highest importance that all training courses offered are of the highest possible quality. This means that constant investment in retaining this quality level is required;
- **Location:** Over the past few years it has been proven that the current location (Hoofddorp) is very convenient. Hoofddorp can be reached easily via Schiphol Airport, and the train connection from the airport delivers participants only a few minutes walk from the training centre. In addition Amsterdam is nearby and there are ample affordable hotel facilities nearby;
- **Name of training organisation:** The JAA-TO has over the past few years become synonymous with high quality training, providing training to both authority staff and aviation industry representatives. As a training brand JAA-TO has meanwhile become one of the leading brands in Europe;
- **Dedicated staff:** With regard to the permanent staff it is clear that a large part of the success of the training organisation is due to the dedication and professionalism of the

present permanent staff. In addition, JAA-TO has managed to associate a large pool of high standard and dedicated trainers;

- **Technical infrastructure:** Both in the area of facilities and in the administrative infrastructure, many improvements have been implemented during the past years. The JAA-TO has very high standards in both areas which has certainly added to the appreciation of the participants;
- **Full customer service:** The current JAA-TO structure offers full service to the customer with a range from Front-End-Application to Back-End-Administration.

2.4.2 Options and way forward

67. Taking these criteria into account, three different options were analysed:

- **Option 1:** JAA-TO under an ECAC umbrella;
- **Option 2:** JAA-TO as a stand-alone body and
- **Option 3:** JAA-TO under an EASA umbrella.

68. Several legal and practical constraints with regard to Option 2 (e.g. non-profit status, management structure, role of ECAC and EASA) led quickly to the decision not to follow this option further. Also Option 3 was not considered as a viable solution for future training activities. A detailed analysis of this concept by EASA identified major feasibility and legal issues. Inter alia, the following issues were taken into account: the viability and cost-effectiveness of such an activity for the Agency, the legal difficulties of transferring JAA-TO considering its statute as a foundation based on Dutch law, the availability of EASA's experts for a large number of trainings and the practicality of sending EASA staff to Hoofddorp to participate in trainings.

69. At the same time, Option 1 was considered as the way forward for the future structure of JAA-TO. Comparing the concept of keeping JAA-TO as an associated body of ECAC with the criteria listed above, it became obvious that this concept meets all of the criteria which are deemed essential for the continuation of JAA-TO.

70. The concept of keeping JAA-TO as an associated body of ECAC is based on the principle "change as little as possible to the current structure". This includes keeping the current JAA organisational status as an associated body of ECAC, as well as its legal status as foundation based on Dutch law. Solely, some minor changes to the Foundation Statutes, etc. will be necessary to continue with the current structure (see Para. 2.1.6). With regard to the Status as an associated body of ECAC, it needs to be taken into account that, according to Art. 4(2) of the ECAC Constitution, a formal arrangement between ECAC and the associated body is required. Considering that the Cyprus Arrangements will be dissolved in after the closing down of the JAA-LO (see Para. 2.1.5), the way forward will be to create a new arrangement in accordance with Art. 4(2) of the ECAC Constitution. A draft arrangement is enclosed at **Attachment 5**.

71. The concept presented above was fully supported. In the long term, the Agency would reflect on the creation of an EASA academy with the involvement of NAAs and training institutes of Member States.

2.4.3 Management Structure

72. With regard to the management of JAA-TO, the present structure can be more or less maintained, in the sense that the Director will report directly to a Foundation Board (FB). The role of the JAA Governing Bodies shall be replaced by the FB and by ECAC DGs meetings. It is important to ensure that the new FB will have sufficient knowledge and expertise in the field of aviation safety.

The FB shall be composed as follows:

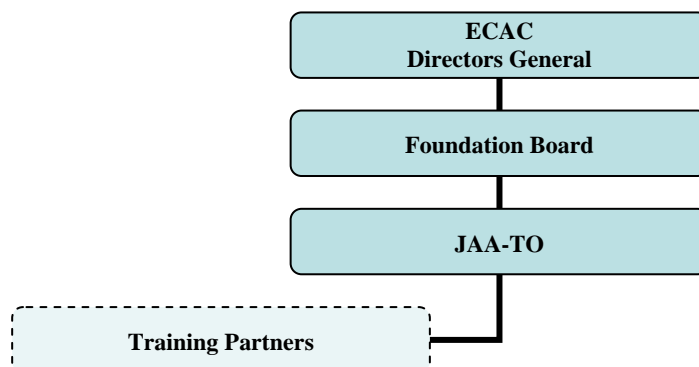
- Chairman: ECAC DG (Member of ECAC Co-ordinating Committee)
- Members: 3-4 members appointed by ECAC Coordinating Committee including at least 1 member from a non-EASA Member State.

73. With regard to the participation of EASA in future activities of JAA-TO, it was noted that EASA could neither be part of the management structure of JAA-TO nor involved as an observer or otherwise. According to the Community rules, EASA has to comply with the principle of equal treatment and consequently cannot choose JAA-TO as a privileged training partner without following a clear procurement process.

74. Nevertheless, close co-operation between EASA and JAA-TO is foreseen e.g. by EASA being one of the JAA-TO “Training Partners”. In this context, it is envisaged that JAA-TO, as an independent training provider:

- becomes one of the external training providers of the Agency’s staff selected through the Call for expression of interest and individual tenders per subject;
- becomes a partner in the “Agency’s Syllabus and e-Examination System” in the area of training for the aviation industry (as a member of the “Agency’s Syllabus System” and an established Examination Centre) and will ensure to offer a complete set of training courses on the basis of the syllabi published by EASA;
- contributes with experts selected through a prescribed procurement procedure to the Agency’s process of further technical training elements development, and
- becomes one of the selected providers / partners in the envisaged complex qualification programmes tailored for the Agency’s and NAAs new staff members.

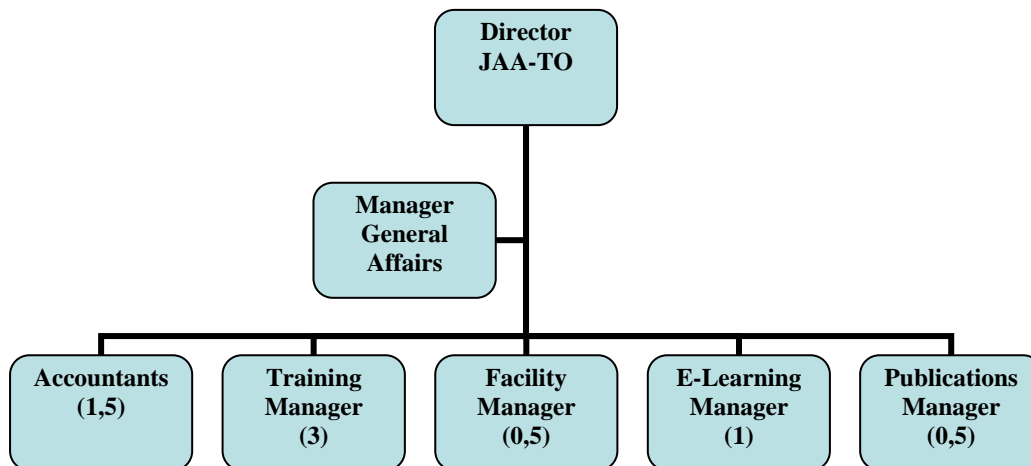
SCHEME 5: JAA-TO Management Structure



2.4.4 Organisational Structure

75. The new training organisation created under an ECAC umbrella is able to start with the current organisational structure of JAA-TO. As of 1 January 2008, JAA-TO employs 9 staff members representing 8,5 full time equivalents. JAA-TO at present has some 40 trainers under free lance contract, this number will continue to increase as the activities remain to grow also.

SCHEME 6: JAA-TO Organisational Chart per 01 January 2008



2.4.5 Financial Aspects

76. With regard to the financial structure, the JAA-TO is clearly in a position to cater for itself as far as finances are concerned. The training organisation has for the past few years generated more positive financial income than the total costs have been. In this respect it is essential that the current housing support by the Dutch Government is maintained for a few more years. The following issues need to be taken into consideration:

- **Housing support:** It is assumed that financial support from the Dutch Government for housing costs will continue (with a yearly decrease);
- **Non-profit character:** It is imperative that the organisation remains non-profit oriented. Any surplus shall be invested in new training courses and/or shall also be used to facilitate participation at training courses through assistance programmes;
- **Ownership:** JAA-TO will be owned by the 42 ECAC Member States.

77. JAA-TO can assume that training activities will continue to increase over the next years as this has been the case over the recent years. Associated with these increased activities will be additional income but also additional costs and required investments in training courses, material and facilities. At the same time, it is expected that the housing support from the Dutch Government will decrease over the years to come. But all-in-all JAA-TO can be self-financed on the mid- and long-term.

2.4.6 Name of training organisation

78. At present, the JAA name appears to have become a strong brand regarding training services. It is suggested to keep the brand as it is for the time being. It will be up to

the new FB to consider in due time a conversion into a new brand. The EASTO brand could be a possible future perspective.

2.4.7 Way forward

79. As mentioned in Para. 2.1.6, the concept of keeping JAA-TO as associated body of ECAC, can be reached with very limited efforts. Firstly, some modification to the existing Foundation Statutes (meaning a change of the Foundations' objective and its management structure) will be required. Secondly, a new arrangement between ECAC and the new training organisation will be necessary, since the Cyprus Arrangements will not be kept after disbanding JAA-LO. For illustration, a draft arrangement is enclosed at **Attachment 5**.

2.5 Staff issues

80. In early 2008, 20 staff members were working in JAA: 10 persons within JAA-LO (including the Chief Executive's Office) and 10 persons (representing 8,5 full time equivalents) within JAA-TO. While the professional future of JAA-TO staff is ensured by the fact that JAA-TO will continue as a Dutch Foundation (and as associated body of ECAC), the staff of JAA-LO, including the Chief Executive's (CE) Office, will see their working arrangement terminated by 30 June 2009 latest. The CE of JAA plans to elaborate a staff reduction plan once the FUJA II Report has been adopted, also taking into account the fact that the responsibility for air operations and pilot licensing will have been transferred to EASA. On third of the staff in Cologne is seconded by national administrations. The responsibility for this staff is transferred back to these national administrations from the end date of employment at JAA; full support of these national administrations is required. The remaining two thirds are working under consultancy contract; the individual contracts will be gradually terminated but not later than 30 June 2009. It goes without saying that the CE's office will deploy all its efforts to find acceptable solutions for all JAA-LO staff members.

2.6 Financial aspects

81. The approved JAA budget for 2008 foresees total costs of Euro 2,451,000, total income of Euro 825,000 and, considering also the positive results of previous years a national contribution of Euros 22,245.

82. The costs of closing down the JAA system including the costs linked to the changes of the JAA Foundation can be summarised as follows:

- **Staff costs:** In particular with the Dutch seconded staff at JAA-LO (3 persons) there will be an amount required for severance packages. This amount is maximized at 50 % of 18 months of salary costs. For the three staff involved this amount will be Euro 444,000 of which JAA's exposure will be a maximum of Euro 222,000. In addition outplacement costs, relocation costs and, in specific cases, a bonus for motivating staff to stay until the closing date will be needed. For these an amount of Euro 75,000 should be sufficient.
- **Housing / removal costs:** Costs for removal, relocation of fixtures and furnishings are expected to be a maximum of Euro 25,000.
- **Legal costs:** Legal costs can be expected to be Euro 15,000.

- **Unforeseen:** It seems prudent to take an amount of Euro 25,000 in consideration of any unforeseen costs.

83. The total costs of closing the JAA system and the JAA-LO in Cologne will be:

Staff costs:	Euro 297,000
Housing / removal costs:	Euro 25,000
Legal costs:	Euro 15,000
Unforeseen:	Euro 25,000
<hr/>	
Total:	Euro 362,000

84. An overall JAA budget 2009 covering the first six months of 2009 will be presented in due time to the JAAB. It is expected, at this time, that the national contribution for that period will be, including the closing costs, around Euros 13-15,000. A separate JAA-TO budget for the second half of 2009 will also be submitted to the JAAB in December 2008 for endorsement and to ECAC DGs for approval.

85. A financial report with balance sheet and a profit/loss account per 30 June 2009 will be submitted to the Foundation Board. Considering the current Foundation Statutes and in order to help JAA TO standing on its own feet to have a solid start any balance remaining at the end of June 2009 shall be distributed to JAA-TO.

2.7 Final remarks

86. Attention is drawn to the fact that a decision regarding the final phase of JAA is needed by the JAAB and ECAC DGs in March 2008 if the transition process shall be finalised in the spirit of the so called Yalta decision. No decision or a postponement of the decision would create uncertainties, increase the risk of safety gaps and make it impossible to respect the suggested closing date of 30 June 2009.

87. A decision is not only needed to terminate all contracts and arrangements of JAA in a proper and most cost-effective way, but also to give a clear view, well in advance, to all of the JAA staff involved but also to all of the JAA Member States.

88. The report also takes into account views and suggestions expressed during the 3rd Workshop for non-EU JAA Member States which took place in Belgrade, Serbia 14-15 February 2008.

89. The Working Group is urging ECAC DGs to actively support the different steps in the proposed plan and to adopt the recommended decisions in order to close an important, successful and longstanding chapter of European aviation safety in style and with dignity.

3. RECOMMENDED DECISIONS BY ECAC DIRECTORS GENERAL

90. On the basis of the report from the FUJA II Working Group, Directors General are invited to:

- a) Discuss thoroughly the issues related to the closing of the JAA system including the Liaison Office in Cologne and the continuation of the Training Organisation in Hoofddorp, the Netherlands;
- b) Reaffirm their decision at the Yalta meeting in August 2002 stating that the ultimate goal for a true pan-European regulatory system is to include – in whatever capacity – all non-EASA JAA Members in the work of EASA at the earliest possible stage;
- c) Recognise that the revised EC Regulation 1592/2002 will be published on 19 of March 2008 and will enter into force 20 days later and that the Commission, including EASA, will have responsibility in particular in the fields of air operations and pilot licensing as of this date;
- d) Recognise that Draft Implementing Rules based upon revised EC Regulation 1592/2002 will be published in sequence for consultation as NPA draft opinions starting April 2008 and will enter into force from early 2009 until end of 2012;
- e) Welcome the initiative of EASA to create a liaison function within its organisation in early 2009 which will take care of the legitimate wish of all to maintain the pan-European approach and to help the non-EASA JAA Member States in becoming associated with EASA.
- f) Recognise the need for appropriate resources to EASA for the liaison function and additional standardisation tasks given to it.
- g) Reaffirm the role of ECAC DGs meeting as a forum to discuss pan-European aviation safety matters;
- h) Decide to close the JAA system, including the JAA Liaison Office, by 30 June 2009 and, to that end, modify the JAA Foundation Statutes;
- i) Ask the Chief Executive of JAA to terminate the contracts of the staff of the Liaison Office latest by end of June 2009, recognising that for the seconded staff the full responsibility lies with the authorities seconding them;
- j) Ask the Chief Executive of JAA to submit a Final Report on JAA's financial situation per 30 June 2009 not later than 3 months after the closing of the JAA system to the Foundation Board;
- k) Decide to transfer any financial balance remaining to JAA Training Organisation;
- l) Decide to maintain the JAA Training Organisation in Hoofddorp, the Netherlands, in the legal form of a Dutch Foundation (modified JAA Foundation Statutes) and as associated body of ECAC;

- m)** Decide to dissolve the Cyprus Arrangements by submitting the attached ECAC Resolution at a Special Plenary Session of ECAC on 18 June 2008;
 - n)** Urge all non-EASA JAA Members to continue with their efforts leading to a relationship, preferably association with the Agency, at the same time pleading that the EC shows all possible flexibility to include all these States in suitable relationship with the Agency and emphasise the need to continue with standardisation visits to non-EASA JAA Member States after closing of JAA;
 - o)** Ask the JAAB Chairman and the Chief Executive of JAA to inform about the implementation of these decisions in the coming JAA Board and ECAC DGs meetings.
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LIST OF ATTACHMENTS

- Attachment 1: Terms of Reference of the FUJA II Working Group**
- Attachment 2: Membership and foreseen developments**
- Attachment 3: Draft ECAC Resolution on the termination of the Cyprus Arrangements and on having the JAA Training Organisation as an Associated Body of ECAC**
- Attachment 4: Organisational Chart of JAA T**
- Attachment 5: Draft Arrangement between ECAC and the JAA Training Organisation**
- Attachment 6: List of basic documentation**
- Attachment 7: Participants in the FUJA Working Group**

Attachment 1: Terms of Reference of the FUJA II Working Group

Background

1. With the adoption of the EC Regulation 1592/2002 by the European Parliament and the Council of the European Union (EU) and the subsequent set up of the European Aviation Safety Agency (EASA), a new regulatory framework was created in European aviation. Consequently, ECAC Directors General decided in 2004 to establish a Working Group on the Future of JAA (FUJA) in order to develop a detailed document (“Roadmap”) for the establishment of clear milestones for JAA’s future. The Working Group was chaired by the JAAB Chairman and consisted of representatives from Central JAA, EB Members, some national aviation authorities, ECAC Secretariat and the European Commission.

2. In August 2005 the final report of the Working Group (the so called “FUJA I Report”) was adopted by the JAAB and by ECAC's DGs, proposing a transformation from JAA into JAA-T (T for 'transition'), comprising a Liaison Office (LO) in Cologne (Germany) and a Training Office (TO) in Hoofddorp (the Netherlands), a closing date for LO (end 2010 latest) and indicating that afterwards TO will have to stand on its own feet.

3. The implementation of the FUJA I Report is progressing according to schedule, and all crucial milestones have been carried out so far. The next important milestone will take place once EASA becomes legally competent in the fields of air operations and pilot licensing which is expected by the end of 2007/early 2008.

4. At the Fifty-sixth Special Meeting of ECAC Directors General in Nicosia, from 30 August to 3 September 2007, Directors General agreed on the reactivation of the FUJA Working Group as proposed by the JAA Chief Executive.

Key Issues

5. Now that the exact date in which EASA becomes legally competent for air operations and pilot licensing is approaching, a FUJA fine-tuning process has to be launched in order to make the FUJA Roadmap more precise. There are two key issues which have to be considered:

a) Closing-date for JAA-LO

6. When developing the FUJA I Report, it was felt important to impose a time limit on the operational lifetime of the JAA Liaison Office (JAA-LO). This depends among others from the time needed for the non (yet) EASA JAA Member States to become associated with EASA.

7. At the Fifty-first Special Meeting of ECAC Directors General in Yalta in 2002, Directors General decided that the so called Option 3, by which the regulatory and certification activity would be conducted within the EASA system but with transparency to non-EASA Member States for their relevant decision, offered the highest prospects for the transition period. It was also agreed that Option 4 should be the ultimate goal, under which JAA activities would be fully integrated with EASA. In order to keep a certain pressure and in respect of the “Yalta Decision”, it was therefore suggested in the FUJA I Report to disband the JAA Liaison Office on 31 December 2010 latest. At present, the text of the FUJA gives

no further clarifications. However, JAA will need to know specifically how and when (fixed date) the JAA will cease to exist, in order to ensure a save and smooth closing of the JAA-LO.

b) Future of JAA-TO

8. According to the FUJA I Report, it is envisaged that the Training Office (JAA-TO) would continue its training activities in the Netherlands on its own, when the JAA Liaison Office ceases its activities. In this context, it has to be specified which option is most adequate for the future of JAA-TO.

Objective

9. The FUJA II Working Group shall discuss the FUJA fine-tuning for the final phase of JAA and analyse in detail the above mentioned key issues in order to make the Roadmap for JAA more precise.

10. The goal for the FUJA II Working Group will be to produce (for the purpose of satisfying the request of JAAB, endorsed by ECAC and as a deliverable to ECAC DGs) a detailed document regarding the final phase of JAA.

11. Special emphasis shall be given to the above mentioned key-issues including a precise indication when JAA will be disbanded (fixed date) and a clear statement regarding the best suited means and associated legal basis for keeping JAA-TO as training organisation.

12. Moreover, the Working Group shall consider specific options to assure that non-EASA JAA Member States are not left alone after disbanding JAA-LO. Among non-EASA JAA Member States a certain fear prevails that by disbanding JAA, they will lose a forum to express their interest and views regarding rulemaking, standardisation and certification activities and the possibility to pass these views to EASA. Consequently, this puts the integration process of the remaining non-EASA JAA Member States at risk. The integration and standardisation process beyond the current EU borders, however, is of major importance to reach a pan-European system and is therefore in the interest of all European States alike.

13. The FUJA II Working Group thus shall consider ways and means for a consensual solution to associate non-EASA JAA Member States to on-going safety-related activities in Europe, in keeping with ECAC endeavours for pan-European solutions for the benefit of all its Member States.

14. The document shall also address the future status of the Cyprus Arrangements and the issue of the liquidation of JAA, including financial, legal (Stichting Beheer) and personnel aspects.

Deliverables

15. As a deliverable, the FUJA II Working Group shall produce a single document as addendum to the FUJA I Report fulfilling the above-mentioned objective.

Composition

16. The following organisations shall be entitled to participate in the Working Group and are invited to nominate a representative, which can be assisted by one person:

- ECAC Secretariat
- EB Members¹²
- European Commission
- CAA The Netherlands (reason: JAA is a foundation based on Dutch law, JAA-TO is located in Hoofddorp, the Netherlands)
- JAA-T

Chairmanship

17. As decided by the ECAC Directors General, the FUJA II Working Group will be chaired by Mr. Kim Salonen, Chairman of the JAAB.

Schedule

18. The Working Group will commence its activities with a kick-off meeting where it will adopt these terms of reference, organise itself, have a first round of exchanges of views on the future of JAA and schedule its next meetings in view of having the draft report ready at the end of February 2008.

Meeting Dates

- | | | |
|----------------|---|---|
| First Meeting | : | 30 October 2007 (JAA-LO/EASA, Cologne) |
| Second Meeting | : | 5 December 2007 (ECAC, Paris) |
| Third Meeting | : | 17 January 2008 (JAA-TO, Hoofddorp) |
| Fourth Meeting | : | 21 February 2008 (JAA-LO/EASA, Cologne) |

If needed, further meetings will be scheduled.

Reporting

19. The Chairman of the Working Group shall submit a progress report to DGCA 128 on 6 December 2007 and the final report via the JAAB at DGCA/ 129 on 19 March 2008.

Termination

20. The Working Group will be disbanded after ECAC Directors General will have approved the final document.

¹² EB Members are: H. Yalcin (Turkey), U. Adam (Switzerland), D. Chapman (UK), P. Maack (Iceland), U. Schwierczinski (Germany), G. Crljen (Serbia), P. Goudou (EASA).

Attachment 2: Membership and foreseen developments

Table 1: Status Membership Process as of 01 February 2008 (Non-EASA JAA Member States + Montenegro)

	Familiarisation Visit	Application for JAA Candidate Membership	JAA Candidate Membership	Application for JAA Full Membership	Fact Finding Visit (FFV)		JAA Full Membership	Mutual Recognition	Current Status
					a) effective	b) planned			
Albania	18-20.09.2002	28.10.2002	26.11.2002			FFV planned for 2 nd half of 2008.			<p>The realisation of a FFV is planned for the 2nd half of 2008.</p> <p>The FFV process will be set in motion following completion of the Questionnaire for the Safety Assessment of JAA Candidate Member States and receipt of the formal application for Full Membership by the competent Authority.</p> <p>In the meantime, Albania has provided JAA with a progressive report of the Corrective Action Plan as presented to ECAA States in November 2007.</p>
Armenia	16.05.2003	15.01.2004	16.03.2004	04.12.2007					<p>Armenia has indicated to progress with the JAA Full Membership Process before November 2008.</p> <p>Upon official request, Armenia has been provided with the Questionnaire for the Safety Assessment of JAA Candidate Member States as well as some documentation regarding further procedures of the FFV.</p> <p>An indication on the anticipated date for realisation of FFV is pending.</p>
Azerbaijan	25-26.10.2005	05.09.2006	14.12.2006						<p>Azerbaijan has indicated by letter dated 19 October 2007 the firm intention to acquire JAA Full Membership status in the near future.</p> <p>A formal application for JAA Full Membership and indication on date for a FFV are pending.</p>

	Familiarisation Visit	Application for JAA Candidate Membership	JAA Candidate Membership	Application for JAA Full Membership	Fact Finding Visit (FFV)		JAA Full Membership	Mutual Recognition	Current Status
					a) effective	b) planned			
Bosnia and Herzegovina	07-08.09.2005	28.09.2005	06.12.2005			FFV scheduled for early September 2008.			<p>A FFV is scheduled for early September 2008. The FFV Team will be led by Mr. Goran Crljen, Serbia</p> <p>The FFV process will be set in motion following completion of the Questionnaire for the Safety Assessment of JAA Candidate Member States and receipt of the formal application for Full Membership by the competent Authority.</p>
Croatia	01.06.1994	23.11.1999	27.06.2001	16.01.2002	11-14.08.2003		16.03.2004	<p>MAST visit took place 5-9 November 2007.</p> <p>Follow-up OPST visit planned for May 2008.</p>	<p>As a result of the MAST visit on 5-9 November 2007, it is evident that, while having made progress, the Croatian CAA and industry are not yet ready in several respects.</p> <p>Another standardisation visit will be required in the future.</p>
Georgia	25-26.10.2006	06.09.2006	14.12.2006						<p>Upon reception of a JAA letter requesting to progress further towards JAA Full Membership status, Georgia has indicated a vested interest in the realisation of a FFV.</p> <p>In order to realise when Georgia is ready for a FFV, CAD Georgia has been provided with the Questionnaire for the Safety Assessment of JAA Candidate Member States as well as some documentation regarding the FFV further procedures.</p> <p>A formal application for JAA Full Membership and an indication on date for a FFV are pending.</p>
The former Yugoslav Republic of Macedonia	17.06.1998	26.06.1998	14.12.1999	18.12.2002	01-04.12.2003 (1 st FFV)	2 nd FFV scheduled for 23-28 June 2008.			<p>A 2nd FFV is scheduled for 23-28 June 2008. Planning of this 2nd FFV is ongoing. The FFV Team will be led by Mr. David Chapman, UK.</p> <p>By letter dated 03 December 2007 Macedonia has provided JAA with an update on JAR/EASA standards that have been adopted as by-laws under the new aviation act.</p>

	Familiarisation Visit	Application for JAA Candidate Membership	JAA Candidate Membership	Application for JAA Full Membership	Fact Finding Visit (FFV)		JAA Full Membership	Mutual Recognition	Current Status
					a) effective	b) planned			
Moldova	28.09.1999	20.01.1999	14.12.1999	10.07.2000	29.10.- 02.11.2001 (1 st FFV) 03- 06.04.2007 (2 nd FFV)		05.12.2007	MAST visit planned for April 2008.	A 2 nd FFV took place during 3-6 April 2007. The FFV report containing a positive recommendation regarding JAA Full Membership was submitted to JAAC 07/2. Following the JAAB 07/2 meeting of 5 December 2007, the JAA Board has granted Full Membership to Moldova.
Monaco		02.07.1992	15.12.1992		19-20.09. 1996		01.12.1996	MAST visit took place in April 2007	Findings of the MAST visit are closed. A mutual recognition statement was issued end of 2007.
Montenegro									Montenegro has applied for ECAC Membership via a ministerial letter dated 26 March 2007. A follow-up request for JAA Membership is being prepared. An ECAC Presidential visit with participation from JAA took place 11-12 July 2007. The process for ECAC membership is still ongoing. JAA Membership status can be obtained following successful completion of ECAC's Membership process.
Serbia	16.09.2004	22.10.2004	12.04.2005	14.02.2006	11- 14.07.2006		14.12.2006	Mutually recognised in the field of Licensing (JAR-FCL 1, JAR-FCL-2 and JAR-FCL 3). MAST visit took place 05-09.11.2007. OPST visit planned for April 2008.	An initial standardisation visit in the field of licensing was successfully performed. Subsequently, JAAC 07/2 endorsed to grant mutual recognition in respect of Serbian issued JAR-FCL licences, ratings, authorisations, approvals and certificates, in accordance with JAR-FCL 1.015(a)(1), JAR-FCL 2.015(a)(1) and JAR-FCL 2.015(a)(1). A MAST visit took place 5-9 November 2007. Mutual recognition for JAR-66 and JAR-147 are expected in the near future. For Part M and JAR-145 another MAST visit will be required within the next 6-12 months.

	Familiarisation Visit	Application for JAA Candidate Membership	JAA Candidate Membership	Application for JAA Full Membership	Fact Finding Visit (FFV)		JAA Full Membership	Mutual Recognition	Current Status
					a) effective	b) planned			
Turkey	23.08.1995	29.09.1995	26.03.1996	18.05.1999	15-18.11.1999		04.04.2001	<p>Mutually recognised in the field of Licensing (JAR-FCL 1 and JAR-FCL 3) and Airworthiness (JAR-145, JAR-OPS Subpart M).</p> <p>Follow-up MAST visit will take place from 02-06.07.2008</p> <p>Follow-up OPST visit planned for June 2008</p>	Status for Mutual Recognition JAR-66 and JAR-147 to be expected this year after the Follow-up MAST Visit.
Ukraine	07.02.2001	30.08.2000	11.12.2001						The FFV process will be set in motion following completion of the Questionnaire for the Safety Assessment of JAA Candidate Member States by the newly formed State Aviation Administration of the Ukraine and receipt of the formal application for Full Membership.

Table 2: Membership of European Institutions (Non-EASA JAA Member States + Montenegro)

State	ECAC	JAA	ECAA	EUROCONTROL	Current Status
Albania	Full Member	Candidate Member 26.11.2002	Member	Member	
Armenia	Full Member	Candidate Member 16.03.2004		Member	
Azerbaijan	Full Member	Candidate Member 14.12.2006			
Bosnia & Herzegovina	Full Member	Candidate Member 06.12.2005	Member	Member	
Croatia	Full Member	Full Member 16.03.2004	Member	Member	
Georgia	Full Member	Candidate Member 14.12.2006			
The former Yugoslav Republic of Macedonia	Full Member	Candidate Member 14.12.1999	Member	Member	
Moldova	Full Member	Full Member 01.01.2007		Member	
Monaco	Full Member	Full Member 12.1996		Member	Ongoing negotiations on association agreement with EC/EASA.
Montenegro	Application 26.03.2007		Member		The process for ECAC membership is still ongoing. JAA Membership status can be obtained following successful completion of ECAC Membership process.
Serbia	Full Member	Full Member 14.12.2006	Member	Member	
Turkey	Full Member	Full Member 04.04.2001		Member	Ongoing efforts towards EU Membership.
Ukraine	Full Member	Candidate Member 11.12.2001		Member	Ongoing negotiations with European Commission towards conclusion of a bilateral agreement.

Attachment 3: Draft ECAC Resolution on the termination of the Cyprus Arrangements and on having the JAA Training Organisation as an Associated Body of ECAC

Having regard to

- a) the “Arrangements concerning the development, the acceptance and the implementation of Joint Aviation Requirements” concluded in Cyprus, 11 September 1990, (hereafter referred to as the “Cyprus Arrangements”), signed by all Member States of ECAC;
- b) the “Protocol to Cyprus Arrangements on the Participation of the European Aviation Safety Agency” concluded in Paris, on 25 November 2003, signed by each Member State of ECAC and by the European Aviation Safety Agency (hereafter: EASA)

Whereas

- c) EC Regulation 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency establishes Community competence in some of the fields covered by the Cyprus Arrangements and requires EASA to execute some of the tasks covered by these Arrangements;
- d) ECAC Directors General endorsed at their DGCA/54 (Sp.) (Sinaia, 25-29 August 2005) the JAA Road Map which inter alia provides for the establishment as from 1st January 2007 of the JAA Liaison Office and of the JAA Training Office.
- e) ECAC Directors General endorsed at their DGCA/129 (Paris, 19 March 2008) the Final Report of the FUJA II Working Group;

Considering

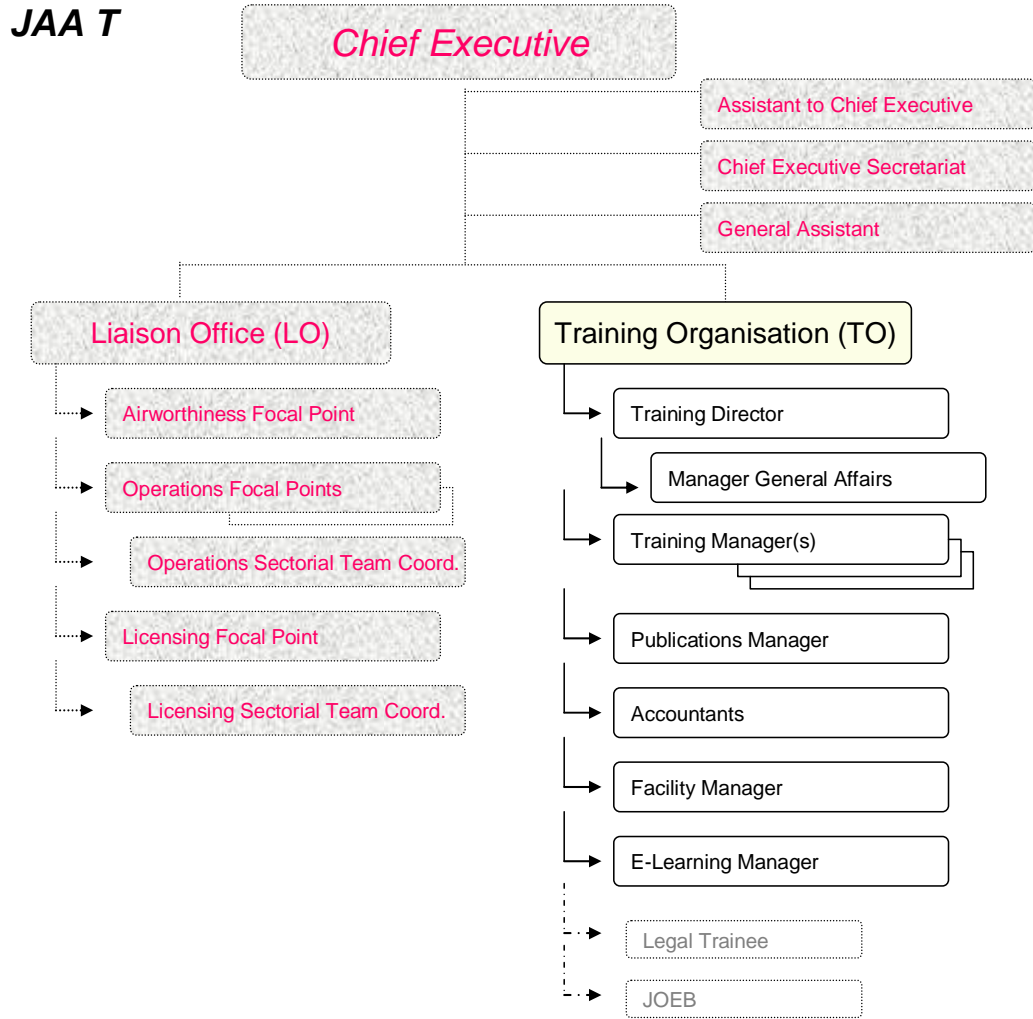
- f) that the ultimate goal for a true pan-European regulatory system is to include – in whatever capacity – all non-EASA JAA Member States in the work of EASA at the earliest possible stage;
- g) that the extension of the competence of EASA to the fields of air operations and pilot licensing has for consequence to establish Community competence in all the fields covered by the Cyprus Arrangements;
- h) that it is foreseen that Implementing Rules in these field will enter into force from early 2009 until end of 2012;
- i) that Members State of ECAC which are not yet members of the European Union may participate to the work of EASA either as a result of their being signatory of the European Common Aviation Area Agreement or in accordance with provisions in Article 55 of EC Regulation 1592/2002;

- j) that EASA will establish a Liaison Function in early 2009 which will take care of the legitimate wish of all to maintain the pan-European approach and to help the non-EASA JAA Member States in becoming associated with EASA;
- k) that, in this context, it is foreseen that the JAA system, including the Liaison Office, would cease to function on 30 June 2009;
- l) that any risk of confusion should be avoided and that there would be no point in maintaining the Cyprus arrangements in force when the JAA have ceased all regulatory and liaison activities;
- m) that article 11 in the Cyprus Arrangements provides that any Authority may withdraw from these Arrangements by giving one year's written notice to the ECAC Secretariat which will inform the other Authorities of such withdrawal;
- n) that there is a public-service interest in continuing to have the JAA Training Organisation as Associated Body of ECAC;

The Conference recommends that:

- a) each ECAC Member State signatory of the Cyprus Arrangements should withdraw individually from the said arrangements in accordance with the procedure in article 11, by giving one year's written notice to the ECAC Secretariat, this notification taking place at an appropriate time for the withdrawal to be effective immediately after the closing date of the JAA;
 - b) the JAA Training Organisation is considered as Associated Body of ECAC and
 - c) the President of ECAC and the person to be designated by the JAA Foundation Board agree on the details in an arrangement on training activities in the field of aviation safety.
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Attachment 4: Organizational Chart of JAA T



Attachment 5: Draft Arrangement between ECAC and the JAA Training Organisation

ARRANGEMENTS

on training activities in the field of aviation safety

The European Civil Aviation Conference (ECAC), represented by its President

And

The JAA Training Organisation (JAA-TO), represented by its Director,

Hereafter called the Parties,

Having regard to the Constitution of ECAC, especially Article 1 (4) and 4 (2);

Whereas the objects of ECAC include the promotion of the safety of European civil aviation;

Whereas ECAC may foster the conclusion and implementation of arrangements in furtherance of its objectives;

Considering the benefits of a pan-European approach to obtain a high consistent level of training in the field of safety;

Taking into account the decision of Directors General of ECAC on 19 March 2008, adopting the so called FUJA II Report and

Considering the fact that JAA-TO, located in Hoofddorp (The Netherlands) is a well functioning training organisation providing high quality training,

Taking into account the ECAC resolution on the termination of the Cyprus Arrangements and on having the JAA Training Organisation as an Associated Body of ECAC, adopted during the Special Plenary Session, held on 18 June 2008 in Paris,

Have agreed as follows:

Article 1

JAA-TO, established as a Foundation under Dutch law with non-profit character, with its seat in Hoofddorp, The Netherlands, is accepted as associated body of ECAC.

Article 2

The Coordinating Committee of ECAC will designate amongst the Directors General of ECAC the Chairman of the Foundation Board of JAA-TO.

Article 3

The Coordination Committee of ECAC will also appoint the 3-4 Members of the Foundation Board of JAA-TO.

Article 4

The annual budget of JAA-TO shall be submitted to Directors General of ECAC after endorsement by the Foundation Board of JAA-TO but prior to the budgetary year.

Article 5

The statutes of the JAA-TO Foundation, as amended on.....shall form an integral part of this Arrangement.

Article 6

This Arrangement shall enter into force on 1 July 2009.

Article 7

The Secretariat of ECAC shall be the depository of the original of this Arrangement.

Article 8

Any party may withdraw from these arrangements by giving 6 months written notice to the ECAC Secretariat.

Done at Paris,....in the English and French language. In the case of any inconsistency, the text in the English language shall prevail.

For ECAC:.....

President of ECAC

For JAA-TO:.....

(Person to be designated by the JAA Foundation Board)

Attachment 6: List of basic documentation

- Cyprus Arrangements concerning the development, the acceptance and the implementation of joint aviation requirements. (*Cyprus, 11 September 1990*);
- Protocol to the Cyprus Arrangements on the participation of the European Aviation Safety Agency. (*Paris, 25 November 2003*);
- Regulation 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;
- Framework Service Contract between the European Aviation Safety Agency and Stichting Beheer JAA (*Cologne, 14 January 2005*);
- Contract for the provision of facilities and services related to the hosting of the Joint Aviation Authorities Liaison Office by the European Aviation Safety Agency. (*Cologne, 16 October 2006*);
- Framework contract for the provision of standardisation coordination services by the European Aviation Safety Agency to the Joint Aviation Authorities. (*Cologne, 15 April 2007*);
- Arrangement on transfer of OPS, FCL and STD Standardisation co-ordination activities from JAA to EASA. (*Cologne, 15 April 2007*);
- Memorandum concerning the provision of services by EASA to JAA. (*Hoofddorp 09 May 2007*);
- DGCA/54(SP)-DP/4 – JAA Road Map (FUJA-Report). (*Sinaia, 25-29 August 2005*);
- DGCA/54(SP)-SD – Agenda Item 5 (Future of the JAA, paragraphs 7 to 11). (*Sinaia, 25-29 August 2005*);

- JAAB 06/2 (DOC 5) - Agenda for JAA-T. (*Warsaw, 31 August 2006*);
- DGCA/56(SP)-SD – Agenda item 10 (FUJA Update, paragraph 29).
(*Nicosia, 30 August - 3 September 2007*).

Attachment 7: Participants in the FUJA II Working Group

Finland	<i>(Chairman)</i>	K. Salonen
Germany		U. Schwierczinski
Iceland		P. Maack
Netherlands		J. W. Weehuizen P. Mulder
Serbia		G. Crljen
Switzerland		U. Adam
Turkey		H. Yalçin O. Basoglu
United Kingdom		D. Chapman
JAA T		A. Auer S. Mick J. Jonker
EASA		P. Goudou F. Manuhutu
ECAC Secretariat		J. Mariadassou O. Ardouin
European Commission		G. Kessler

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