

FOR PUBLICATION
CIVIL AVIATION AUTHORITY
MINUTES OF 374TH BOARD MEETING HELD ON WEDNESDAY
2 MARCH 2005 AT 10.30 AM
<u>Present:</u>
Sir Roy McNulty Chairman
Mr J Arscott
Mr M Bell
Dr H Bush
Mr R T R Jackson
Miss C Jesnick
Mr J Keohane
Capt D Lusher
Mr R P Mountford
Mr R Swainson
Mr R J Britton Secretary & Legal Adviser
<u>In Attendance:</u>
Mr R Townsend HR Director
Miss S Hill Head of Corporate Strategy & Planning for Item VIII
I Minutes of the Previous Meeting and Matters Arising.
1. The Minutes of the Meeting held on 2 February 2005 were approved and signed subject to an amendment on page 3, paragraph 3 – substituting “including Alex Plant” for “led by Alex Plant”. On the action points arising:

<ul style="list-style-type: none">• Pensions – September Agenda item.
<ul style="list-style-type: none">• EASA – the Chairman confirmed that the agreed minutes of the meeting with M Goudou had been circulated. The half day session with David McMillan had taken place. A copy of the presentations will be circulated to Members.
Action: Chairman
<ul style="list-style-type: none">• Single European Sky – work in progress.
<ul style="list-style-type: none">• Waterfront Meeting – the Chairman confirmed this is arranged for later this month.
<ul style="list-style-type: none">• Reward Strategy – A paper setting out CAA's proposals is being prepared.
Action: Mr Townsend
II Chairman's Opening Remarks.
2. The Chairman reported on the following matters:
<ul style="list-style-type: none">• MoD Nominated Board Member – AVM Moran will succeed AVM Walker on 22 April.
<ul style="list-style-type: none">• GATCO – the Chairman had a constructive meeting with the new President of GATCO.
<ul style="list-style-type: none">• Ministerial Meetings – the Chairman is due to meet Alistair Darling next week. The topics for discussion will be the Air Transport White Paper, EASA, financial protection for holidaymakers and the NATS price cap review.
III Directors' Reports:
ERG – Doc 2005/12 by Dr Bush.
3. Dr Bush reported on the following highlights:
<ul style="list-style-type: none">• EU/US – further meetings with the Commission had taken place during February. High level talks between the EU and US are arranged for the end of March.
<ul style="list-style-type: none">• Qatar – talks with the Qatar Government are due in April.
<ul style="list-style-type: none">• Regional Air Services Study – the report was published on 24 February and received good coverage in the media thereby raising CAA's profile.
<ul style="list-style-type: none">• NATS Price Control – the consultation period ended on 28 February. Oral hearings with interested parties have been arranged for 17 March. There has been an aggressive attack on

the proposals by NATS in the media.
4. The Board noted the Report.
CPG – Doc 2005/13 by Mr Jackson.
5. Mr Jackson reported on the following highlights:
<ul style="list-style-type: none"> • <u>Guidance Note 26</u> – the draft guidance on the amendment to the ATOL Regulations dealing with contract splitting had been further reviewed to see if ABTA's concerns could be met. The dispute had been narrowed down to two paragraphs in the draft. Further advice has been taken from David Hunt QC who confirmed that the CAA's proposed wording is, in his opinion, correct and consistent with the Regulations. The guidance will be published on 4 March. ABTA have again threatened to commence Judicial Review proceedings.
6. The Board noted the Report.
SRG – Doc 2005/14 by Mr Bell.
7. Mr Bell reported on the following highlights:
<ul style="list-style-type: none"> • <u>EASA:</u>
<p><i>Management Board</i> – Mr Smethers, Deputy Chairman of the Managing Board, is to lead a transitional working sub-group to focus on completing the transition of certification tasks to EASA. It is intended that the group will consist of a manageable number of no more than seven members from States involved in certification.</p>
<p><i>EASA Visit to SRG</i> – an EASA team headed by M Goudou visited Aviation House on 16 February to brief staff on forthcoming vacancies arising in EASA. 40 posts are currently being advertised by EASA. It is to be hoped that there will be some take up by SRG staff despite the opposition to working in Cologne, principally due to lack of jobs for family members. To date DPSD has shrunk by 26 posts.</p>
<ul style="list-style-type: none"> • <u>Regional Office Review</u> – the former ten offices have now been reduced to eight.
Action: Mr Bell
<ul style="list-style-type: none"> • <u>Chief Medical Officer Appointment</u> – Dr Simon Janvrin retired at the end of February and has been replaced by Dr Tony Evans.
8. The Board noted the Report.

<p>DAP – Doc 2005/15 by Mr Arscott.</p>
<p>9. Mr Arscott reported on the following highlights:</p>
<ul style="list-style-type: none"> • <u>Single European Sky</u> – the March meeting of the Single Sky Committee should give a formal opinion on the Common Requirements and discuss the draft charging and flexible use of airspace Implementing Rules. The deadline for the Charging Rules has been missed. The DfT convened a meeting of the stakeholder forum to obtain industry views on the Common Requirements so as to inform the UK view. Eurocontrol has issued a Notice of Proposed Rulemaking on the extension of the airspace design concept to the lower airspace. This could impact on the UK’s joint and integrated service provision and on the provision of services over the high seas. DAP and Ann Godfrey will write jointly to the Commission making clear the UK’s concerns and pressing for an impact assessment to be undertaken.
<p>Action: Mr Arscott</p>
<p>A meeting with the ATA had been held to discuss possible CAA involvement in the regulatory aspects of SESAME. The project currently lacks an overall safety culture and the industry is keen to get CAA involved.</p>
<ul style="list-style-type: none"> • <u>Air Transport White Paper Judicial Review</u> – on 18 February Mr Justice Sullivan had decided that the decision making process which led to the adoption of the policies in the South East of England section of the White Paper was lawful subject to the description of the proposed second runway at Stansted being too prescriptive and the option of an extension to Luton’s current runway not being consulted upon. A declaration to this effect was given.
<ul style="list-style-type: none"> • <u>Nottingham East Midlands Airspace Change</u> – the decision was published on 28 February.
<ul style="list-style-type: none"> • <u>Windfarms</u> – Mr Arscott is to attend a meeting with DfT to see if there are airspace planning solutions to the proposed Whitelees Wind Turbine Development near Glasgow Airport.
<p>10. The Board noted the Report.</p>
<p>February Audit Committee – Report by Mr Mountford.</p>
<p>11. Mr Mountford drew attention to the need to disclose the extra non-audit fees paid to PricewaterhouseCoopers in the Annual Report. The Committee was satisfied that the provision of the contracted non-audit services did not impair the external auditor’s independence or objectivity.</p>

<p>In response to Dr Bush's question, Mr Mountford confirmed that Mr Irving, the internal auditor, is preparing a procedure which groups wishing to instruct PwC will need to follow.</p>
<p>12. The Board noted the Report.</p>
<p>IV Legal Report – Doc 2005/16 by the Secretary.</p>
<p><i>Capt Friend v CAA and Others</i></p>
<p>13. Mr Britton reported that Mr Justice Eady had dismissed all of Capt Friend's claims against CAA and the four individual defendants for malicious falsehood, conspiracy, breach of contract, inducement of breach of contract and wrongful dismissal. Leave to appeal was refused. Capt Friend has 21 days to seek leave direct from the Court of Appeal. The Judge ordered Capt Friend to pay £400,000 on account towards CAA's costs by 1 June.</p>
<p><i>ASSI</i></p>
<p>14. The Board confirmed the continued appointment of Capt Lusher as a director of ASSI until 31 October 2005.</p>
<p>15. Mr Swainson confirmed that the Secretary of State had approved ASSI's business plan. Apart from the Falkland Islands, all assessments of the Overseas Territories had now been completed.</p>
<p><i>Charges for Air Services</i></p>
<p>16. The Board approved the making of the CAA (Navigation Services Charges) Specification 2005 for the purpose of –</p>
<ul style="list-style-type: none">• Increasing the Shanwick Oceanic Control Area charge payable to NATS (En-Route) plc from £55.77 per flight to £56.44.• Increasing the London Airports Air Navigation Services charges payable to NATS (Services) Limited from £1.39 per tonne up to 100 tonnes to £1.42 and from £0.56 per tonne over 100 tonnes to £0.58.
<p>The Specification will be published in the London, Belfast and Edinburgh Gazettes to take effect on 1 April.</p>
<p>17. The Board noted the Report.</p>

<p>V Financial Report – 10 Months Ended 31 January 2005 – Doc 2005/17 by Miss Jesnick.</p>
<p>18. Miss Jesnick reported on the following highlights:</p>
<ul style="list-style-type: none"> • <u>Financial Commentary</u> – volumes are still buoyant with the annual growth in available seat kilometres higher than budgeted. The cumulative income is above the budgeted level. Total operating costs are below the budgeted level. A major factor in this is reduced staff numbers which are currently 92.8% of the funded level.
<ul style="list-style-type: none"> • <u>One Kemble Street</u>The refurbishment project remains on time.
<ul style="list-style-type: none"> • <u>Kingsway Block</u> – the business cases for the refurbishment of the two floors have been signed off.
<p>19. The Board noted the Report.</p>
<p>VI Human Resources Report – Doc 2005/18 by Mr Townsend.</p>
<p>20. The Board noted the Report.</p>
<p>VII Final Advice to Government on Financial Protection – Doc 2005/19 by Mr Jackson.</p>
<p>21. Mr Jackson presented the Paper setting out the advice that the CAA proposes to offer DfT on the options for the future financial protection of air passengers. The advice had been jointly compiled by DfT and CAA officials together with modelling work by Ernst & Young. The model simulated a number of scenarios and examined a range of options. A conservative failure rate of 1% was assumed and also that all passengers were financially and</p>
<p>organisationally competent enough to arrange their own return. A draft Regulatory Impact Assessment had been prepared in accordance with the requirements set out in the HM Treasury Green Book.</p>
<p>22. The CAA’s recommendation to extend repatriation and deposit protection to all airline passengers leaving the UK is supported by Ernst & Young’s analysis.</p>
<p>23. It is proposed to submit the advice and the draft RIA to DfT within the next ten days. This will</p>

meet the timetable agreed with DfT last October. However, it is unlikely that Ministers will reach a decision before any General Election. The time can be used to improve the model and the presentation of the case. Ernst & Young will give a further presentation to DfT and CAA next week.

25. In summarising the discussion, the Chairman said that the CAA should send the draft package to DfT by the middle of March as planned. CPG should engage with DfT to work through the problems and issues with them. CPPC should take a further look at the drafts before they are brought back to the Board for final agreement.

Action: Mr Jackson.

26. The Board expressed its thanks to Mr Jackson, David Bourne and his staff for their efforts.

VIII Draft CAA Consolidated Corporate Plan – Doc 2005/20 by Miss S Hill.

27. Miss Hill presented the draft consolidated Corporate Plan which had been discussed by ExCo. The Plan followed a similar structure to last year's and was of similar length. Updates from the Group Business Plans are being incorporated into the draft. More work needs to be done on Single European Sky, EASA, the environment and the Air Transport White Paper. Miss Hill drew attention to a new high level environmental objective for the CAA developed by the CAA Aviation Environmental Working Group. Miss Hill presented the table of CAA business risks derived from risk registers. It was not considered appropriate to annex this to Section 5 dealing with business risks. None of the risks are high. Miss Hill confirmed that it was still open to Members to make any specific comments on the draft to her.

28. The Board confirmed that it was content with the form of the current draft.

IX CAA Overdraft/Temporary Borrowing Facilities – Resolution No 123 – Doc 2005/21 by Miss Jesnick.

29. Miss Jesnick reported that each year the CAA made arrangements for an overdraft facility with its bankers which was underwritten by HM Treasury. The facility is used to fund short-term working capital deficiencies that may occur in any one month up to a maximum of £5 million. No recourse has been made to the facility in the current financial year.

<p>30. The Board unanimously adopted Resolution No 123 to seek the consent of the Secretary of State as required by Section 10 of the Civil Aviation Act 1982 to secure overdraft or temporary loan facilities up to a maximum of £5 million during the period 1 April 2005 to 31 March 2006. A copy of the Resolution is attached to these Minutes.</p>
<p>X CAA Audit of ASSI 2005 – Doc 2005/22 by Mr Bell.</p>
<p>31. Mr Bell presented the Paper setting out the scope and timing of the 2005 audit of Air Safety Support International Limited. The CAA (Overseas Territories) Directions 2003 require the CAA to conduct such an audit at least annually. As agreed with ASSI the scope of the audit will be wider than the first audit conducted last year. Regulatory activities will now be covered together with the Caribbean office in Antigua and a relevant Overseas Territory – the Turks & Caicos Islands. The costs of the audit will be £40k which will be paid for by ASSI.</p>
<p>32. The result of the audit will be reported to the CAA Board at its September 2005 meeting.</p>
<p style="text-align: right;">Action: Mr Bell</p>
<p>33. The Board noted the contents of the Paper.</p>
<p>XI Any Other Business.</p>
<p>(i) Agenda Plan Update.</p>
<p>34. <u>May 2005</u> – add NATS Price Cap Review.</p>
<p><u>September 2005</u> – add Pensions.</p>
<p>This was the final meeting of the Board attended by Capt Lusher. David Lusher had been a non-executive Member since May 1999. The Chairman paid tribute to his wide ranging contribution to the Board particularly on safety matters and his work for the CAA as a whole. The CAA was very grateful for his services over the last six years.</p>
<p>The next Meeting of the Authority will be held at 10.30am on Wednesday 6 April 2005 in Conference Room 1</p>