

COELUM

COELUM Pronunciation: 'che-läm, is Latin for air space or sky. The Romans began questioning the rights they had in the space above the land they owned and to how high above did that right extended to. Ad coelum et ad inferos, they discussed, meaning that their right of property would extend as high up to the heavens and down to hell.

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CONTENTS

The International Registry of Air Operator Certificates (AOC) Project.

Misael Arellano

P. 01-02

Customs Rules on the Temporary Importation Regime of Aircraft into Mexico.

Alejandra Llopis

P. 03-04

NOVEMBER NEWS on Mexican Aviation

P. 05-06

Contributors

P. 07

The International Registry of Air Operator Certificates (AOC) Project.¹ | Misael Arellano.

As decided by the ICAO's Council, the Secretary explored the feasibility of establishing an International Registry of AOCs to facilitate the surveillance of foreign operators. A task force of regulators and industry was convened, including the United States Federal Aviation Administration, the European Aviation Safety Agency, Transport Canada, the Australian Civil Aviation Safety Authority and the International Air Transport Association (IATA), to scope the development of the International Registry of AOCs.

ICAO through the Air Navigation Commission adopted Resolution A36-6 "*State Recognition of the Air Operator Certificate of Foreign Operators and Surveillance of their Operations*", in which States must assure that foreign operators flying in their territory receive adequate oversight from their own State and take appropriate action when necessary to preserve safety. This in certain way empowers States to take action when necessary to preserve safety.

"This in certain way empowers States to take action when necessary to preserve safety."

Amendments 30 and 11 to Annex 6 "*Operation of Aircraft*", Part I "*International Commercial Air Transportation – Airplanes*" and Part III "*International Operations – Helicopters*", respectively, established the requirement to carry a certified true copy of the air operator certificate (AOC) and a copy of the operations specifications on board aircraft. Since November 2008, Annex 6, Parts I and III, require

surveillance programs for foreign operators, as well as operator's contact information for operational management. States are now implementing these surveillance programs. These programs involve validation by States of the safety oversight of foreign operators and ramp inspections that will help States identify operators and aircraft where there may be safety concerns that need to be addressed.

Progress of the IRAOC.

The Council of ICAO, at the 187th Session, reported the progress on the development of the International Registry of Air Operator Certificates (the IRAOC) to encourage, in this case, the Directors of Civil Aviation of the Central Caribbean Region to participate in databases being developed by ICAO which will help States ensure implementation of a safety oversight programs for foreign commercial air operators. The task force in charge of the creation and establishing of the IRAOC came to the conclusion that the project should take place in two phases.

Phase I.

This consists in the implementation of a database to collect, from the State of the Operator, the AOC and the Operations Specifications content required by Annex 6; defining the application functionalities and the data to be collected as "the business rules". This accurate, timely and State-certified data would be available to Contracting States to facilitate surveillance of foreign operators. The task force took into account that it will be necessary to encourage the participation of

States and determined that a possible incentive could be an amendment to the AOC and operations specifications on board requirements in Annex 6, exonerating those operators for which the relevant data is accessible from the register, from carrying a certified true copy of the AOC and a copy of the operations specifications in their aircraft.

Phase II.

This will take place when stakeholders are using the register on a regular basis. It would entail the definition of an additional data set, and associated register functionalities, to provide sufficient data to facilitate international civil aviation operations and their surveillance. Development of the register application would allow this additional data to be uploaded and used.

Benefits would result for both States and industry with a more efficient management and updating of the information required by States for the authorization and surveillance of operations by a foreign carrier; and in the availability of additional risk management tools for the related surveillance activities.

Factors of delay.

As a result of the aviation industry's economic situation the funding of the first phase was delayed, as an approximate amount of \$ 82,000.00 USD required for the project manager, hardware and software application was supported by IATA. There is however a need to encourage States participation in the IRAOC through appropriate incentives or requirements, such as an Annex 6 amendment, in order to obtain the required funds for its development and proper application.

Tangible profits of the IRAOC.

Recognition of certificates and licenses is fundamental for international civil aviation. Many States are presently basing their recognition on mutual trust, however, they should verify that the condition in Article 33 of the Convention for such recognition is met, both for scheduled air services and non-scheduled flights.

The applicable process of AOC's recognition in Mexico is called an "AOC's Validation" or "Convalidación de AOC" in Spanish and it is a very irregular process because of the legal basis on which the aviation authority bases its arguments and requirements. A foreign operator moreover must attend to and fulfill all legal requirements stated for national carriers and must to obey countless requirements that are impossible to verify even for the aviation authority.

With a proper application of the IRAOC, the surveillance of operations by a foreign carrier will be duly attended to, including those cases in which an specific carrier is using a foreign registered aircraft that can be deemed to operate under a flag of convenience for fiscal purposes or to take advantage of a system with minimal or no economic or technical oversight. Other requirements for the recognition of licenses and certificates could be standardized to avoid subjective problems and case by case requirements thus assisting States in exercising their safety oversight obligations, specific provisions and guidance regarding surveillance of aircraft operations, including scheduled air services and non-scheduled flights by foreign aircraft.

"Other requirements for the recognition of licenses and certificates could be standardized to avoid subjective problems..."

Customs Rules on the Temporary Importation Regime of Aircraft into Mexico | Alejandra Llopis.

The importation of goods into Mexico normally requires the involvement of the Customs Authorities and are often subject to import quotas¹. All products imported into Mexico must comply with applicable standards and requirements such as the NOMs² (Official Mexican Standards) that are published by the Mexican Government in the Official Gazette, under the terms of article 26 of the Mexican Law of Foreign Trade that establishes that in all cases, imported goods will be subject to the NOMs in conformity with the law.

Every day in Mexico, many commercial items enter into the country under a temporary importation regime, Mexico maintains a National Registry of its authorized importers which are those persons and companies that are authorized to import goods. All importers must be registered, otherwise they cannot import goods.

In the case of an aircraft lease agreement, it is necessary to determine the applicable customs regulations for the importation of an aircraft into Mexico.

Mexico has established two kinds of importation under Mexican Customs Law:

- a) **Definitive Importation:** It is considered to be a permanent importation of an aircraft or equipment from abroad intended to remain in Mexico for an indefinite period of time. The importer under this regime is subject to the payment of import duties and must comply with specific regulations.
- b) **Temporary Importation:** It is considered to be a temporary importation consisting of the entry of an aircraft or equipment, to remain in Mexico for a limited period of time. This regime is subject to the condition of returning the imported aircraft in the same condition as it was imported.

1.- Import quota is a protectionist trade restriction that sets a physical limit on the quantity of goods that can be imported into Mexico in a given period of time.

2.- The NOMs contains all the specific mandatory regulations for use, management, description, maintenance and warranty that a product must comply with in order to be sold in Mexican territory.

Article 106 V b) of the Mexican Customs Law, allows the aircraft to remain in Mexico for a maximum period of 10 years, and allows the possibility to temporarily import aircraft and helicopters that are often used by airlines that have been granted a permit for public air transportation. Permit holders have to provide their correspondent local tax authority every year as stated on the above mentioned article, with operational information regarding the aircraft during the required period (i.e. the names of the passengers and their tax id number, flight number and flight date) as required by the authority.

“Article 104 of the Mexican Customs Law, provides certain benefits to the party that imports the aircraft into Mexican territory. This benefit consists in providing an exemption from paying import taxes and compensatory fees applicable to the aircraft.”

Article 104³ of the Mexican Customs Law, provides for an important benefits to the importing party. This benefit consists in providing an exemption from paying import taxes and compensatory fees applicable to the importation of the aircraft into Mexico. This exemption benefits the lessee by eliminating important costs in the execution of the lease agreement.

The aircraft property and use may not be transferred to any person during the temporary importation, the foregoing is due to the fact that the importing party would then not comply with its obligations to return the aircraft on time. This restriction as currently drafted in the Mexican Customs Law has lead to a different interpretations with respect the location where such transfers can be conducted, whether within Mexican Territory or abroad. Otherwise the importing party will have to pay the corresponding import duties.

3.- This article provides for the exemption of taxes and compliance of various obligations.

News | November

Extract of Mexican Aviation News

OMA suggests a reduction in airlines' fares.

The current reduction in the number of passengers can be fixed if airlines offer tickets with more accessible prices. The reduction in the number of OMA's national passengers was mainly because of the suspension of Aviaca's operations from July 6, 2009 and because of Alma and Aladia's exit from the market. In September, OMA advised that the total number of passengers went down by 16.8% when compared to the same period last year. Milenio. 03/Noviembre/2009.

Aviaca's bankruptcy procedure granted. The airline's total debt is estimated to be over 4 billion pesos.

In its attempt to fly again, Aviaca moved one step forward now that it has been declared in bankruptcy by the 3rd District Judge in Civil Matters in Nuevo León. It presented a list of 497 total creditors, shared between creditors in Mexico, USA, Canada and Spain. The total debt adds up to 4,760.2 million pesos. This breaks down to 1385 million pesos owed to Mexican creditors; \$249.7 million US Dollars, \$171 thousand Canadian dollars and 1.7 million Euros. Reforma. 04/Noviembre/2009.

GAP's passenger traffic down by 5%. National passenger traffic had a reduction of 4.3 percent while the international passengers dropped by 6.7 percent.

GAP advised that passenger traffic in their terminals dropped 5% throughout 2009, still affected by the economic recession and the Influenza AH1N1 virus that spread in May of this year. The airport operator, which administrates 12 terminals including Guadalajara, Los Cabos and Puerto Vallarta, handled 1 million 462 thousand passengers, in comparison to 1 million 539 thousand passengers in October of 2008. Reforma. 06/Noviembre/2009.

Interjet estimates a profit in 2009.

Interjet will be the only national airline and one of the few in the world that will end 2009 with positive numbers. It is also adding four more aircraft to the fleet that now has fifteen aircraft. No numbers were revealed because Interjet is not a public company and due to the strong competition that exists in the national market. Even so, it estimated a growth of around 20% by the end of this year. El Universal. 09/Noviembre/2009.

Interjet demands a change to TUA regulations.

The Director of Interjet stated that the payment of the TUA only benefits airports, and has severe disadvantages for airlines. Between the 12% and the 35% must be paid by airlines to airports, but this measure has been abused and has become a huge charge for airlines. He also stated that in Mexico there is no one authority capable of reorganizing the industry. El Universal. 10/Noviembre/2009.

News | November

Extract of Mexican Aviation News

Airlines will have to compensate passengers for delays of three or more hours.

The Justice Tribunal of the US has ruled that passengers that suffer from a flight delay longer than three hours have the right to reclaim an indemnity similar to that applied for flight cancellations. In order for this sanction not be applied the delay must have been caused by extraordinary events. Maintenance activity will not be counted as an extraordinary event. Excelsior. 19/Noviembre/2009.

AMAV cautions against fare increases.

Jorge Hernandez Delgado, President of the Mexican Association of Travel Agents (AMAV), recommended prudence by domestic airlines, in order to avoid an exaggerated increase of fares for the coming holiday season so as to not inhibit the influx of tourists. He recalled that during the past summer high rates were seen in some areas. There was a lack of supply of about two thousand-seats, and at the present time the industry has not been able to cover the loss of seats due to the bankruptcy of some low cost airlines. La Crónica. 26/Noviembre/2009.

SCT requests aircraft audit to USA.

To comply with its safety improvement program, the Ministry of Communications and Transport (SCT) requested the FAA to audit air operations in Mexico, reported Humberto Trevino, officer of the agency. This audit, which will start next year, was ordered by the Mexican government after comments made in past audits of the need to improve training in all operational areas of aviation. Reforma. 23/Noviembre/2009.

From king to criminal.

During the presidency of Mr. Carlos Salinas the former millionaire Gerardo de Prevoisin acquired Aeromexico and Mexicana. He is now facing the Supreme Court of Justice in the days to come, for fraudulent administration of Aeromexico. He is facing a sentence for five years in jail and a fine of 262 million pesos to repair the damage that he caused. El Universal. 25/Noviembre/2009.

An Aviation Industry Invasion.

México will be exposed to an invasion of companies that have Queretaro and Chihuahua as their main targets. Jean-Paul Herteman's Safran heads the list with one factory In Queretaro already, and SAGEM with their factory in Chihuahua. These companies are followed by Bombardier, Honeywell, Cessna, Goodrich and GE Aircraft. They are coming to Mexico to see if there are enough suppliers and personal to operate this massive industry by lowering their costs through lower wages. Reforma. 27/Noviembre/2009.

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