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Aeronautical Equipment by Type of Service and Relevant Characteristics.
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COELUM Pronunciation: 'che-l&m, is Latin for airspace 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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Aeronautical Equipment by Type of Service and Relevant Characteristics.

by *Viridiana Barquín*.

As in most countries with which Mexico has entered into bilateral agreements, Mexican Civil Aviation Law has classified the public transport as (i) public or private; (ii) regular or not regular; (iii) national or international; (iv) passenger, cargo or mail; and (v) commercial or noncommercial. But there are more elements to consider; for each division a specific type of authorization or permit will apply and the type of aircraft will be determined also by the one that offers the best fit for the performance of such service. Thus, in addition to determining the weight and capacity of the equipment for each particular kind of service, the classification will also dictate the registration marks and therefore the import regime.

1. The registration marks that distinguish public air service in Mexico are identified with the prefix “XA”, whether national or international, regular or charter, and passenger, cargo or mail; but the features of each aircraft will be determined by the nature of the applicable service, as illustrated below:

A. Regular public service (subject to specific routes, itinerary and fixed frequencies) is provided by commercial airlines with an aircraft carrying capacity of 50 or more passengers, from manufacturers such as Airbus, Boeing, Bombardier, Embraer, etc. For this type of service, a concession from the Ministry of Communications and Transport (“SCT” by its initials in Spanish) is required; the operator must be an air carrier constituted under the laws of the United Mexican States (where restrictions on foreign investment must be observed) and with the principal place of business in Mexico; foreign companies however may request permission to provide regular public service but only for international routes. Moreover, foreign registered aircraft can operate in Mexico with authorization from the Mexican DGAC. Mexican operators are obliged to have in full force and effect an Air Operator’s Certificate (“AOC”) from the Mexican DGAC, whereby the air carrier is authorized to conduct air transport operations with their fleet, routes and in accordance with terms and conditions as specified therein. In addition, any and all air carriers providing services to and from any point of the Mexican Republic, either Mexican or foreign must have in full force and effect, an airworthiness certificate, certificate of registration and insurance policy for every single aircraft used in providing this service.

B. Non regular public service (not subject to specific routes, itinerary or fixed frequencies) is mainly focused on charters and air taxi services. The first can be provided with high capacity aircraft and the latter can only be provided with the aircraft authorized for that purpose, which can be up to 15 passengers or 3,500 kg of cargo and a permit from the Mexican DGAC is required. The operator can be an individual or an air carrier of Mexican

nationality or if constituted abroad, with permission only for international routes. This type of service is provided with commercial (charter) and executive (air taxi) aircraft, being aircraft with capacity of 3 or more passengers, such as Bombardier, Hawker, Cessna, Gulfstream, Learjet, Augusta, Bell, etc. and including helicopters. Aircraft operating this service must be registered in Mexico, with the exception of particular cases duly authorized, and the operator is required to obtain and maintain in force the AOC, airworthiness certificate, certificate of registration and insurance.

2. The registration marks for aircraft used to provide private services in Mexico are “XB”. This can be for commercial or non commercial purposes. Under the commercial figure, the air transport is provided as a profitable service to one or more individuals or companies and a permit from the Mexican DGAC is required. The aircraft commonly used for this type of service are those with capacity of 4 passengers or more, such as Cessna, Beechcraft, Cirrus, etc., known as “light weight equipment” (*“equipo ultraligero” by its Spanish translation*). The operator can be an individual or a company organized and existing under Mexican laws (with the limitation on foreign investment noted above) or a foreign carrier with authorization just for international routes, provided that in both cases, an airworthiness certificate, an insurance policy and a registration certificate in full force and effect are mandatory. On the other hand, the non-commercial form is characterized by not-for-profit, so it is considered that the use of the aircraft is for private purposes. Generally in this mode are executive aircraft and low capacity aircraft, capable of carrying one or two individuals, such as Aeronca, Intersputnik, Piper, Quicksilver, Taylocraft, etc. No permit from the Mexican DGAC is required for the operation of this type of aircraft except for foreign registered aircraft, which need prior authorization from the authority to land, take off and overfly Mexican air space. Such authorization can be (i) for one entry only, valid for 6 months or, (ii) for multiple entries, valid until the last day of the year on which such permission is granted. Notwithstanding the foregoing, this type of operation itself is indeed subject to Mexican civil aviation laws and rules, so that operators, whether domestic or foreign, are required to have the repeatedly mentioned certificate of airworthiness, certificate of registration and insurance policy for the aircraft.

3. Aircraft used for government service are divided into a) state and civil aircraft and b) military aircraft. Registration marks for these aircraft are identified with the prefix “XC”. The civil aircraft may be owned by the Mexican State or are intended to be used by the Federal State (excluding the army, navy or air force), state or municipal governments and state-owned companies (*“paraestatales” by its Spanish translation*). Just as for the private non-commercial service, no previous permit is required for the operation of an aircraft owned or in use by the state, but it is fully subject to Mexican civil aviation laws and rules. Military aircraft which are owned or, are intended to be used by the army, navy and air force are different from the aircraft owned or for the use of the Mexican State. Military aircraft are not subject to regulation by civil aviation.

“Usually, public air transport service in Mexico is provided by Mexican air carriers through aircraft (whether with national or international registration marks) leased from companies constituted and existing under foreign laws.”

Import Regime

Usually, public air transport service in Mexico is provided by Mexican air carriers through aircraft (whether with national or international registration marks) leased from companies constituted and existing under foreign laws. Therefore these aircraft will be admitted into the country under a temporary import regime. This temporary import regime grants the benefit of allowing the legal permanence of the aircraft in the country for a term of up to 10 years¹ with an exemption from paying import taxes and customs duties. It is important to note that during this period, the owner is prohibited from transferring the property or possession rights of the aircraft imported under this regime without previously modifying the regime from temporary to definite import regime and consequently paying all applicable taxes. This is provided that the change of regime will only be applicable if the transfer of property or possessory rights takes place within the Mexican territory. Foreign aircraft used for private services, either commercial or private, do not have this benefit, so to be operated within Mexico without having to constantly apply for authorization from Mexican DGAC to land, take off and overfly the national air space. These aircraft must be imported under the permanent import regime and subject to applicable import taxes and customs duties. General Tax on Imports² (*Impuesto General a la Importación* by its Spanish translation) can vary between 10% and 20% of the value of the aircraft depending on the weight. In addition the applicable Value Added Tax will be 16% of the General Tax on Imports.

“...temporary import regime grants the benefit of allowing the legal permanence of the aircraft in the country for a term of up to 10 years with an exemption from paying import taxes and customs duties.”

In summary, commercial aircraft are highly complex assets, whether for public or private service, regular or not regular, national or international or for cargo or mail, therefore an intimate knowledge of the aviation market, including the scope of applicable laws and regulations, tax regimes and a carefully prior study of the terms and conditions that will constitute the entire agreement between the parties is required for the proper development of each transaction.

1.- Article 106, V, b), Customs Law.

2.- Article 1, Chapter 88, Section XVII, General Tax Law of Import and Export.

Aircraft Dismantling, Recycling and Crushing in Mexico.

by Alejandro Lavat.

In this edition of Coelum we will discuss one of the few booming sectors of the global aviation industry, the dismantling, recycling and crushing of aircraft that are no longer needed by airlines who find themselves with older, inefficient aircraft that cannot be leased or sold.

This phenomenon is part of a global shift in the aviation industry which over the next 20 years will see 12,500 passenger aircraft around the world reach the end of their useful life. That is 400 plus aircraft a year to be recycled, stripped of their usable components and compacted into scrap metal.

Nowadays, there is a range of aircraft which are increasingly expensive to operate and in the current economic circumstances, their owners are reaching the conclusion that more money can be made from parting them out rather than keeping them in the air, so there is now a healthy activity in the recycling and dismantling industry.

“This phenomenon is part of a global shift in the aviation industry which over the next 20 years will see 12,500 passenger aircraft around the world reach the end of their useful life. That is 400 plus aircraft a year to be recycled, stripped of their usable components and compacted into scrap metal.”

This healthy activity is also because the aviation industry’s environmental image is being battered by its contribution to the emissions that cause global warming. It has spotted an opportunity so that when it comes to ending the life of an aircraft, its methods will be eco-friendly.

Continuing with this same idea is the reason that eleven companies agreed to join forces to develop an industry code of conduct and industry-developed recommended best practice in the areas of aircraft dismantling and materials recycling. The group’s aim was to drive and motivate the industry towards solutions for a safe and environmentally most responsible way of managing end of life aircraft and so in 2005 they founded the Aircraft Fleet Recycling Association (AFRA)¹.

AFRA is recognized as the leading global industry association dedicated to pursuing and promoting environmental best practice, regulatory excellence and sustainable developments

1.- <http://www.afraassociation.org/>

in aircraft disassembly, as well as the salvaging and recycling of aircraft parts and materials, where the membership has a common goal and mission, which is the sustainable management of end-of-life airframes and engines.

There are different types of Members:

- Original Equipment Manufacturers
- Aircraft Disassemblers
- Parts Distributors
- Aircraft Insurers and Appraisers
- Materials Recyclers
- Technology Developers

One of the most important achievements of AFRA is the commitment of Boeing to produce by 2016, aircraft with 90 percent recyclability of the end-of-service global fleet.²

In Mexico the situation is very different, first of all “the average age of the fleet is 18.2 years, above the average of 15.4 years that noted over the last 6 years. The report of the General Directorate of Civil Aviation (DGAC) reveals that by type of aircraft, the Airbus B4 are the oldest with an average of 27.5 years, followed by the MD-83 with 22 years, the Boeing 767 at 15.3 years and the ATR-42 with 14.9 years. On the other hand, there are newer aircraft with the Embraer 190 with just 2.4 years, Airbus A-319 at 3.0 years, the Airbus A-320 at 5.2 years and the Boeing 777 with 6.5 years”.³

At the moment there are no existing regulations with respect to the dismantling, recycling or crushing of an aircraft or even an internationally recognized Mexican company who provides this service, so generally the common procedure is to request the authorization to conduct required work for aircraft’s part out and dismantling from the airport commander of the airport in which the aircraft is located or make the request directly to the DGAC at the Aviation Safety Department.

“At the moment there are no existing regulations with respect to the dismantling, recycling or crushing of an aircraft or even an internationally recognized Mexican company who provides this service...”

2.- <http://www.onlineamd.com/aerospace-manufacturing-design-AFRA-recyclability-amd-070210.aspx>

3.- <http://m.cnnexpansion.com/negocios/2011/05/18/flota-de-aviones-se-envejece-en-mexico>

It should be noted that due to the lack of regulation, the Aviation Safety Department generally asks for the filing of different kinds of documentation, in a case by case basis, such as:

- An application addressed to the head of DGAC's Aviation Safety Department, in which the owner or the legal representative of the aircraft request authorization for the dismantling of the aircraft;
- Power of Attorney of applicant's legal representative;
- Bill of Sale or any other document in which the owner proves the ownership and possession of the aircraft;
- Dismantling Agreement between owner and service provider;
- Procedures for the identification of the parties removed, to explain the destination of the parts that are not used and how they are going to be destroyed.
- and sometimes a letter that confirms that no debts will accrue to the airports, authorities and other involved service providers⁴.

This documentation has to be reviewed and analyzed by DGAC's Aviation Safety Department and Legal Department. Approximately, after 3 days you will obtain a document in which the DGAC establish that they do not have any problem with the dismantling of the aircraft.

It is clear that in Mexico we should continue working to have the proper regulations concerning the dismantling, recycling and crushing of aircraft and in the meantime we have to deal with the discretionary of the aviation authority.

4.- This information is base on the experience of the author.

Airlines seek compensation from the Mexico City International Airport (AICM).

Both domestic and foreign airlines have been affected by the electrical failure which caused the closure of runways at the AICM. “We will sue AICM authorities for compensation for damages”, said the president of National Air Transportation Chamber (CANAERO). The AICM is focused on the investigation to discover the cause of this failure. Each airline, individually, will make its claim and CANAERO will advise and support these companies. *CNN Expansión. 02/October/11.*

The first 100% Mexican airplane will be manufactured in 10 years.

“Within ten years, Mexico will produce its first airplane with 100 percent domestic manufacture”. So said the head of the Investment Promotion Unit and International Business of Proméxico. Mexico is already an aerospace industry product leader with exports of over 3,200 million dollars a year from more than 300 companies around the country. *Excelsior. 05/October/11.*

Pacific Airport Group (GAP) increased passenger traffic.

Passenger traffic at GAP Airport terminals rose 3.6% in September when compared to the same month last year. International passenger traffic jumped in September by 12.4%, in contrast to the modest expansion of 0.5% for domestic traffic. Between January and September, GAP, which manages 12 airports in Mexico, including the resorts of Los Cabos and Puerto Vallarta, said the total passenger traffic dropped by a 2.4 annual rate.

El Financiero. 06/October/11.

Mexicana Airlines: Plan C – Charters.

As part of the so called Plan-C, Mexicana is getting ready to initiate charter operations. After 13 months of being shut down, Mexicana’s administrator, Gerardo Badin, presented a project that would require three 150 seats Airbus aircraft. Mexicana’s Unions agree with this plan and are waiting to resume operations. *La Crónica. 11/October/11.*

85 % progress with Unions on the plan for the Mexicana de Aviación charter flights.

The pilots, flight attendants and ground handling Unions of Mexicana de Aviación have agreed to 85% of the document that will be filed with the Ministry of Communications and Transport and the Ministry of Labor and Social Welfare in order to restart operations as a charter airline. *Milenio. 14/October/11.*

Airlines moving to the Mexico City International Airport (AICM) will cause Toluca Airport to collapse.

Passenger traffic at Toluca International Airport (TLC) in the State of Mexico fell 40 percent in the third quarter of 2011, due to the migration of airlines such as Volaris and Interjet to terminals in Mexico City Airport who took advantage of Mexicana’s shutdown to start flying through the AICM. *Milenio. 19/October/11.*

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Extract of Mexican Aviation News

SCT is preparing guidelines in order to protect passengers from the airline abuses. The Ministry of Communications and Transport (SCT) is analyzing a series of guidelines of good customer service that are intended to apply to all international and national airlines, in order to protect passenger rights in issues like ticket-buying, lost luggage among other topics. For this, the SCT is doing an assessment of the airline documents to remove all of the “small print” items that undermine the consumer. *El Universal*. 27/October/11.

Airlines Arrivals Increase.

In September, 551,334 people travelled to Mexico. This represented an increase of 12.7% compared to the passenger numbers for September 2010. The increase for Mexico are because of the strategy of diversification of international markets undertaken by the Ministry of Tourism since last year in order to counteract the economic situation in the US, the source of most of the international tourist. *El Economista*. 28/October/11.

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Extract of Mexican Rail News

Commuter Train for the State of Oaxaca.

The Commuter Train for the State of Oaxaca is a safe, ecological, and fast transportation system that will reduce the travel time by 70% when compared to traditional auto transport. This Commuter Train will benefit 42 municipalities and benefit 720,206 people. This will benefit the population of the State of Oaxaca, because it's a modern, fast, secure, clean and economic means of transport, which will become the vertebrae of Oaxaca's transportation services. *Noticias de Voz e Imagen*. 12/October/11.

The Ministry of Communications and Transport (SCT): Planning a new Railway Project.

The SCT is currently planning a new Railway Project that consists of a train that will run from the Federal District of Mexico City to the State of Tlaxcala. This will benefit 300 thousand passengers daily, a total of 78 million passengers per year. Regarding the investments, both public and private initiatives are working together because this project will be beneficial in every sense. Also, this project is very viable, because it will be built for almost half the cost of highway construction which will allow this service to be economically accessible for the all passengers. *El Universal*. 26/October/11.

The State of Hidalgo, waiting results on the Commuter Train Project.

The Minister of Regional and Metropolitan Planning of the State of Hidalgo, said that the State is currently waiting for the results of the research into the Commuter Train Project, in order to know if the project is viable for the State. He also indicated that this project, among others, is of transcendental importance for the development of the region. The State is hoping to obtain a positive resolution, because they invested around nine million Mexican pesos on the viability study. *El Universal*. 28/October/11.

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