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Cross-Border
Transferability
of Aircraft.
by Viridiana Barquín
(First Delivery)

JULY NEWS on
Mexican
Aviation

COELUM: Pronunciation: 'che-I&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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Cross-Border Transferability of Aircraft.

by Viridiana Barquín*

(First Delivery)

The expiry date of the aircraft lease agreement is coming and therefore, both lessor and lessee are well prepared for the tasks and obligations that correspond to each other. There seems to be nothing to worry about, the aircraft operating lease sets forth processes for redelivery, thus the owner of the aircraft (which in most of the cases is the lessor also) is confident that the re-delivery process will be gentle as per the terms and conditions of the lease, and henceforth, the transferability to a new lessee (or a new owner if there is a sale and purchase agreement) would not have to be different.

“Being the simplification, efficiency and safety the main objectives to be achieved.”

The inspection of the aircraft and related documentation has been successfully conducted and it is confirmed that the lessee fulfilled the redelivery conditions, the lessor executes the relevant re-delivery certificate. There seems that the process should not be too complicated, provided that, the stages to cancel an aircraft registration for export, should not significantly differ from one country to another, let's consider for example, those applicable by the FAA for the requests to cancel an aircraft registration for export:

- Description of the aircraft (manufacturer, model, serial number and registration marks);
- Country to which the aircraft is being exported, and signature and appropriate title of requester;
- IDERA, if the Aircraft is subject to Cape Town,
- Copy of International Registry Search Certificates;
- Written certification, “that all registered interests ranking in priority to that of the requestor have been discharged or that the holders of such interests have consented to the cancellation for export purposes”;
- Evidence of discharge of interest or consent to export from the holders of interests ranking in priority to the interest of the requestor.¹

HOWEVER, where cross-border transfer implies that the aircraft pass from one Aviation Authority to another, matters relating thereto can be a burdensome and time-consuming. While a well-organized process properly defined in the lease agreement is vital to ensure that the re-delivery, de-registration, export, and re-registration of the aircraft is effectively conducted; there are a range of issues associated therewith, that have to be faced in different jurisdictions, causing that such process will not be so efficient; and, that must be taken into account as key considerations to maximize aircraft re-marketability, and on the other hand; to become the most cost effective solution to all parties, including governmental aviation authorities.

In that sense, ICAO, held meetings on 8 & 9 June 2016² and 12 & 13 December 2016, and new sessions for this year are sure to come, to analyze and discuss how cross-border transfer of aircraft can be facilitated within the existing regulatory frameworks, to reach that such transactions can be globally simplified³ and completed with greater efficiency, without distracting resources from activities that maintain or improve safety.⁴ As such, comments, suggestions and lines of action has been reached for all the work streams established for this

* IN COLLABORATION WITH MIGUEL RUELAS

1.- Synthesis of the list, complete requirements can be consulted at: www.faa.gov/licenses_certificates/aircraft_certification/aircraft_registry/export_aircraft

2.- https://www.icao.int/Meetings/a39/Documents/Cross-Border_Transferability_Summary_of_Discussions.pdf

3.- Being the simplification, efficiency and safety the main objectives to be achieved.

4.- https://www.icao.int/Meetings/a39/Documents/WP/wp_237_en.pdf (working paper A39-WP/237, submitted by the Aviation Working Group, and publicized at the ICAO website)

purpose, which can be summarized as follows; and that we would also identify as “stages”:⁵

1. Review of Cross-Border Transferability Process, Associated Issues, Responsibilities and Impediments.
2. Development and Enhancement of ICAO provisions.
3. Development of guidance material on importation of aircraft based on airworthiness assessments.
4. Recommendations on electronic tools and mechanisms.
5. Facilitate Delegation of Functions and Duties.

“...it is important to have an approach to the End-of-Lease Scenario and relevant implications in Mexico...”

In order to carry out an in-depth analysis of each stage, this article will be featured in different deliveries. Focusing now in the first stage (associated issues, responsibilities and impediments), it is important to have an approach to the End-of-Lease Scenario and relevant implications in Mexico where the termination of the aircraft lease agreement must be confirmed to the Mexican Registry (“RAM”) by the lessee (pursuant the applicable formalities and subject to payment of the applicable fees and duties); as an initial step to request the de-registration and the removal of the aircraft from the AOC⁶ and operations permit⁷.

As a general rule, we the process can be summarized as follows:

Step 1: Filing of request.

Step 2: Remove aircraft from existing AOC and permit.

Step 3: De-registration of aircraft.

Step 4. Obtain export certificate of airworthiness.

Step 5: Ferry flight permit

Step 6: New registration

Step 7: New certificate of airworthiness

Step 8: Add aircraft to new operator’s AOC.

In Mexico, a lessor or owner cannot obtain the deregistration of an aircraft without the co-operation of the lessee/operator, as (i) it is only the operator who can request the removal of the aircraft from the AOC; and (ii) the lessor/owner is not in possession of the original aircraft registration certificate, which must be held by the operator only during the lease term (and returned to the RAM in order to be cancelled), and so, the filing of the relevant request must be conducted by the operator. Therefore, with the co-operation of the lessee, the deregistration process can be completed in about five to ten business days after the filing of the deregistration request, along with the duly executed lease termination certificate and the original registration certificate. It is important to note, that a notice of such de-registration from the RAM to the Aviation Authority where the aircraft will be registered, is essential, and in some cases, it is not couriered within such timeframe but thereafter. We can therefore conclude that at the outset de-registration process is a question of uncertainty to the lessor/owner of the aircraft who would expect to have the certainty of a more standardized process in order to move forward with the transferability of the aircraft to the new operator in order to, as mentioned, obtain the most cost-efficient results.

5.-[https://www.icao.int/ESAF/EASA-ICAO-RS00-2017/Documents/Presentations/FINAL%20-%20AWG%20White%20Paper%20for%202017%20RS00%20Swaziland%20Forum%20Executive%20Summary%20French%20%20English.pdf#search=cross%20border%20transferability%20workstream,paper submitted by the Aviation Working Group, and publicized at the ICAO website](https://www.icao.int/ESAF/EASA-ICAO-RS00-2017/Documents/Presentations/FINAL%20-%20AWG%20White%20Paper%20for%202017%20RS00%20Swaziland%20Forum%20Executive%20Summary%20French%20%20English.pdf#search=cross%20border%20transferability%20workstream,paper%20submitted%20by%20the%20Aviation%20Working%20Group,%20and%20publicized%20at%20the%20ICAO%20website)

6.- Operator’s Certificate.

7.- Provided that the RAM will not deregister an aircraft until the aircraft lease has been terminated by resolution of a court or with the consent of the operator in possession of the aircraft. If a security interest is registered in the Mexican Aeronautic Registry, deregistration cannot take place without the consent of the creditor.

Abhu Dhabi becomes first Airport to Lift US Laptop Ban.

Abu Dhabi has become the first airport to lift the US electronics ban, it announced today. Etihad, the UAE airline, announced that its hub airport had been cleared to lift the ban at by the US government after implementing extra security measures. Last week, the TSA announced it was demanding extra screening requirements for electronics as a security measure at 280 airports around the world, impacting 2,000 flights a day. It was said to be a bid to ensure the electronics ban was not expanded. Abu Dhabi is the first airport to meet with its approval. <http://www.independent.co.uk/travel/news-and-advice/abu-dhabi-airport-laptop-ban-lifted-etihad-electronics-donald-trump-a7819641.html> July 02, 2017.

Son of Concorde: Supersonic Passenger Jet to take off Next Year.

An American firm is promising the return of supersonic passenger aviation, with transatlantic airfares “about the same price as today’s business class tickets”. Boom, based in Denver, says London-New York will cost £2,000 one-way and take just 3 hours 15 minutes. With a planned cruising speed of 1,451mph, the plane is almost 100mph faster than Concorde. <http://www.independent.co.uk/travel/news-and-advice/boom-supersonic-flight-london-new-york-concorde-san-francisco-los-angeles-a7800071.html> July 02, 2017.

Mexico flights to US are now subject to additional security screening for electronic devices.

Passengers on flights from Mexico to the United States can expect longer security checks starting Wednesday -- part of a larger US push for extra scrutiny for inbound flights worldwide. Airlines in Mexico will now subject passengers on direct US-bound flights to extra security checks for portable electronic devices larger than a phone, Mexico’s civil aviation authority said. This comes three weeks after US Homeland Security Secretary John Kelly said his country would soon require all US-bound flights to implement the checks. Passengers planning to travel into the United States should “show up at the airport three hours before departure to comply with the procedures,” Mexico’s civil aviation authority said Tuesday. <http://edition.cnn.com/2017/07/19/politics/electronic-device-check-mexico-us-flights/index.html> July 19, 2017.

China To Allow More Private Ownership In Big Three Airlines.

The Chinese central government wants more private money to invest in its enterprises. Accordingly, it is moving to loosen ownership restrictions on its three biggest airlines while ensuring it retains control. The objective is evidently to improve the competitiveness of those carriers—China Southern Airlines, Air China and China Eastern Airlines—by increasing their exposure to private shareholders. <http://aviationweek.com/commercial-aviation/china-allow-more-private-ownership-big-three-airlines> July 21, 2017.

Senate panel rejects air-traffic control privatization.

Senators who decide how much to spend on the Federal Aviation Administration rejected Tuesday the Trump administration’s proposal to privatize air-traffic control. The senators joined their House counterparts in rejecting a proposal to move controllers from FAA to a non-profit corporation. But the decision isn’t final because the Senate and House must still debate and resolve their differences before spending decisions become final, months from now. The air-traffic control proposal is a top priority for airlines, which want more predictable funding to modernize equipment and training faster, for more efficient flights. But opponents in the Senate and House spending committees, and among rural lawmakers, worry that the corporation will be controlled by airlines without public oversight through Congress. <https://www.usatoday.com/story/travel/flights/todayinthesky/2017/07/25/senate-panel-rejects-air-traffic-control-privatization/508479001/> July 25, 2017.

In this month extract was prepared by M. Ruelas, C. Espinosa, L. Salas, L. Caballero, C. Mondragón and R. Figueroa.

Airbus Launches Commercial Drone Services.

Airbus Aerial brings aerospace engineering, satellite imagery and drone services together. In May, Airbus announced its commercial drone service startup Aerial, which aims to bring aerospace engineering, satellite imagery and drone services together under one roof. Its targeted industries will include agriculture, infrastructure, energy and more. <http://www.flyingmag.com/airbus-launches-commercial-drone-services> July 26, 2017.

Forecast estimates 1.2 million pilots and technicians needed by 2036.

Boeing released its 2017 Pilot and Technician Outlook at EAA AirVenture Oshkosh 2017, which projects a demand for more than 1.2 million pilots and technicians over the next 20 years. The 2017 outlook shows a slight increase of 3.2% for pilots over the 2016 outlook, and a slight decrease in the need for airline maintenance technicians (4.6%). <https://generalaviationnews.com/2017/07/26/forecast-estimates-1-2-million-pilots-and-technicians-needed-by-2036/> July 26, 2017.

Congress requests the SCT a report on progress of the new airport in Mexico City.

The Permanent Commission of the Congress of the Union approved a point of agreement in which it requests the Ministry of Communications and Transportation (SCT) to send a report on the construction of the new airport of Mexico City within 30 calendar days. recalled that the construction of the New Mexico City International Airport is considered the largest public work in decades. According to information from the Airport Group, as of February 2017, 115 billion pesos had been committed, equivalent to about 65 percent of the total value of the project; Expenditure that includes the construction of two tracks, the foundation of the Control Tower, ground transportation center and the terminal building. <http://aerolatinnews.com/2017/07/28/congreso-pide-a-la-sct-un-informe-sobre-avances-del-nuevo-aeropuerto-de-la-cdmx/> July 28, 2017.

Electronic device ban “softens” amidst new Homeland Security requirements.

The U.S. will require airlines and overseas airports to step up their procedures for screening passengers and securing airplanes. Passengers will be allowed to carry electronic devices larger than a cell phone onto U.S.-bound flight if they board an airline that complies with new U.S.-imposed security directives calling for more extensive passenger screening, increased use of bomb-sniffing dogs, and improved security measures. “We could ban the devices outright,” a Homeland Security official said, “But we have chosen measures that address the risk without removing the devices from airplanes.” The new requirements, to be implemented in phases, will be imposed at more than 280 airports in 105 countries, affecting 180 airlines that offer direct flights to the US. An average of about 2,000 such flights come here every day, carrying a total of roughly 325,000 passengers. <http://www.nbcnews.com/news/us-news/u-s-hold-further-airline-laptop-bans-n777611> July 28, 2017.

Judges order FAA to review airplane seat sizes.

“This is the case of the incredible shrinking airline seat.” That’s how a federal judge in Washington D.C., Patricia Millet, described the issue in a decision she and two other judges handed down Friday, ordering the Federal Aviation Administration to review seat sizes and legroom on commercial airlines. Previously, the FAA has refused to mandate how much space airlines must ensure customers have on planes. But the judge’s decision will force the agency to revisit the issue. In a statement Saturday, the FAA said it is “studying the ruling carefully and any potential actions we may take to address the Court’s findings.”. <http://money.cnn.com/2017/07/29/news/companies/faa-airline-seat-sizes/index.html> July 29, 2017.

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VIRIDIANA BARQUIN

Mrs. Barquin, of Mexican nationality obtained her law degree by Universidad La Salle, Mexico and holds Master Degree in International Business by Universidad La Salle, Barcelona, with post-grade studies in International Arbitration by Escuela Libre de Derecho, Mexico, holds Certificate of Airline Contract Law by the International Air Transport Association (IATA- Switzerland) and International Air Law, Aircraft Acquisition and Financing, and Aviation Insurance Law (IATA- Mexico). Her practice focuses in cross-border transactions dealing with leasing, financing, sale and acquisitions, antitrust and corporate matters, having represented foreign companies in structuring and negotiation of a full range of commercial agreements and numerous disputes resulting in the successful repossession of assets through settlement and alternative methods of dispute resolution.

LANGUAGES: Spanish, English and Catalan.

PRACTICE AREAS: Aviation, Corporate, Commercial and International Business Law.

mail: vbarquin@asyv.com

**sierra**

Prol. Reforma No. 1190 25th Floor,

Santa Fe México D.F. 05349

t. (52.55) 52.92.78.14

f. (52.55) 52.92.78.06

www.asyv.com / www.asyv.aero

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