

Ancient practices turned into law - Access to the International Registry in Mexico.

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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.

Ancient practices turned into law - Access to the International Registry in Mexico.

by Jessi Saba and Andrés Angulo.

This article is the second-part edition of Sierra’s Coelum, following the article ‘Ancient Practices Turned into Law’. This article will specifically focus on the process of obtaining the necessary authorization code (AEP code) from the Mexican Aeronautical Registry to access the International Registry and the lack of regulations in respect thereto.

The Cape Town Convention and the Aircraft Protocol (“CTC”)¹ establishes two different ways to complete registrations with the International Registry, these being (i) designated entry point, in which a contracting state designated an entity or entities through which the necessary information to effect registrations would be transmitted to the International Registry, and (ii) authorized entry point, in which a contracting states designates an entity or entities to provide an authorization code, which must be entered at the time of registration. As declared by Mexico, the Mexican Aeronautical Registry (the “RAM”) would act as an authorized entry point, which basically means that in order to access the International Registry in Mexico, an AEP code is to be requested to the RAM, under the terms established by the same.

In theory, the process should be easy, efficient, accessible, and friendly, though given the lack of legislation in respect thereto all aspects of the same are left completely to the RAM’s consideration, which certainly complicates the process and sometimes poses a threat on time sensitive transactions.

How it works – and why

When Mexico adopted the CTC back in 2007, only select pieces of legislation were amended to adapt certain aspects of law with the CTC. What the authorities missed completely was the creation of regulations to specifically address aspects of the process to provide users with access to the International Registry. With just a few weeks left for the decree of adoption of CTC to come into force and effect, the RAM called for a meeting with certain players of the industry to discuss the newly adopted convention, its scope, benefits, and specific aspects to be considered by the authority.

“In theory, the process should be easy, efficient, accessible and friendly...”

In that line, it was a select working group of industry’s lawyers who got together, discussed the process, and drafted what it is now used as the format to request to the RAM the AEP codes to access the International Registry. This format has been now used for almost 10 years, though the legal base is not clear. Nowhere within the Mexican legislation and regulations can this format be found, it is just customary to use that format, which opens for the possibility of changing and improving it. It is important to note that this format cannot be found online, it has been passed from hand to hand. The need for AEP codes has its legal base on the Cape Town Convention, which is an international

1.-Article XIX of the Protocol, Section 12.1 of the Regulations and Procedures for the International Registry.

treaty and therefore recognized in Mexico at a constitutional level, and upon Mexico's ratification of the Cape Town Convention, Mexico gave due notice to the Organization for Economic Cooperation and Development (OECD), advising that the RAM would be the authorized entry point and would issue the corresponding AEP Codes. What the government missed is the secondary legislation, an internal regulation or circular in which the process, the format and rules are contained, explained and easily available for the public.

Upon ratification of the Cape Town Convention, the same working group that created the format, drafted a form of circular for the authority, which was never finalized by the General Directorate of Civil Aviation and the Ministry of Communications and Transport.

The format, basically requires for the user to insert the name and contact details of each of the parties, the kind of international interest to be recorded (example: sale, assignment, lien, etc.), and the aircraft's registration mark and serial number, along with the corresponding engine serial numbers. This model is consistent with the formats used in other countries, as discussed in further detail in this article.

"This format has been now used for almost 10 years, but it has no legal base at all. Nowhere within the Mexican legislation and regulations can this format be found..."

Once the format is filled out, a writ must be prepared by the user and both documents must be filed with the RAM. It could take the RAM from two to ten days to issue a code consisting of sixteen characters. The problem is, as there is no regulation at all on how the process works and the legal timeframe for the RAM to issue such codes, it sometimes risks the day to day transactions as timing cannot be predicted.

It is important to note, at in accordance to Section 12.7 of the Registry Regulations and Procedures, a registration effected without the corresponding AEP code is invalid, therefore we must advise our clients that a delay in obtaining the AEP codes could pose a threat on closings, as registrations would be invalid if done without the code.

Another controversial aspect of the AEP codes is the discussion regarding the expiration of the once issued codes for a specific aircraft object. As practically all practitioner's agree that the AEP codes do not expire and that the same code can be used later on in some other transaction regarding the same aircraft object, some practitioner's consider that it would be a better practice to obtain an AEP code per specific transaction, marking and describing exactly which interests to be registered, and there are other few practitioner's that consider that an AEP must be issued not only per aircraft object, but per interest itself.

Given that the filing of documents before the RAM does not entail immediate registration as the RAM

reviews the document first and the process could take up to 90 days, it is of pivotal importance to be able to at least actually register the interests of the parties on closing on the International Registry, as this gives certainly to the parties that their rights are protected, even if local law registrations are not in place yet.

How it works – Compared Law

Some countries that also need AEP codes for obtaining access to the International Registry are, the United States, China, Brazil, Spain, Albania, United Arab Emirates, Ukraine, and Vietnam.

The first case to be studied is the US, in which the FAA is the authorized entry point. There is format provided by the FAA, which can be found online and requests basically the same information as the format used in Mexico. Now, this format comes with a set of clear instructions for its completion, can be completed manually or online, and faxed or mailed to a provided address. This makes the process more efficient, user-friendly, and quicker (which in certain transactions the time is of the essence). The format used in the US meets the requirements of the Federal Aviation Regulations, and comes with a privacy statement.

The second case is the studied is Spain, in which the Registry for Movable Assets has been designated as the authorized entry point. As well as the US, there is a format that can be easily found and accessed online. The same information as above is required, details of the user requesting the code, the aircraft's details, the interests to be registered and the parties thereto. This format also meets the requirements stated by the corresponding regulations and comes with a privacy statement.

The last case to be studied is United Arab Emirates, in which the General Civil Aviation Authority has been designated as the authorized entry point. As well as in the other two cases described above, there is a format provided by the authority which can be easily found and accessed online. The same information as above is required, though after review by the authority a payment has to be effected and the AEP is to be provided.

How to Improve

It is important to note that even though the format works, as it is, and has worked for a long time, it certainly needs to be amended to be a document specifically provided by the RAM, which could be easily accessed by the users, filled out and submitted online.

The lack of transparency and legislation has caused AEP codes to be delayed for use in certain transactions, which translates in the delay of registrations of the assets, and there is simply no way of knowing if the RAM will take two or ten days to issue such code. It is of major importance for the RAM and the Ministry of Communications and Transport to work through a set of clear regulations in respect to the process and rules to obtain AEP codes.

Finally, it is important for the authority to pass secondary legislation that sets out the process for obtaining the AEP codes, the format, timeframes, and all related aspects. This would certainly make the process easier, clearer and more certain for the users.

AT jet know-how must be capitalized on: academic.

The government should ensure that the knowledge in design and manufacturing gained from developing the Advanced Trainer (AT) jet is passed on, while ensuring the establishment of a strong manufacturing base for the aerospace industry, National Chung-shan Institute of Science and Technology Deputy Director, Ma Wan-chun, said at a public hearing at the Legislative Yuan on Tuesday last week. "The government should aim to move the nation's factories away from original equipment manufacturing of low-end products for foreign companies; it is urgent that academia and industry focus on the development of key technology, such as next-generation fighter jets and other national defense needs". Aerospace Industrial Development Corp (AIDC) engineering vice president Bird Du, said the state-owned company would become a supplier in the aeronautical industry supply chain, adding that the agency is in communication with companies that are prepared to allow AIDC to retain the rights to certain technologies it has developed, such as landing gears. www.taipeitimes.com December 15, 2016

AOPA Warns of Economic Impact of TFR Over Trump's Florida Residence.

The president of Aircraft Owners and Pilots Association, Mark Baker, wrote a letter addressed to the elected president Donald Trump arguing the potential economic consequences of a temporary flight restriction (TFR) surrounding Trump's Mar-a-Lago residence in Palm Beach, Florida. This restriction would affect six airports that generate over 8,000 jobs. The president stated that they understand the relevance of those restrictions when it comes to national security, they're just asking to take in consideration the consequences on the economy and the jobs in there created. A no-fly zone will be created as soon as Donald Trump takes office. www.flyingmag.com December 20, 2016.

Business faces 'confusion' over post-Brexit regulation, CBI warns.

UK may have to maintain or copy work of 34 EU watchdogs. Businesses in Britain face "confusion and uncertainty" over the post-Brexit regulatory regime with the UK having to maintain or copy the work of no fewer than 34 European regulators, the CBI employers' group has warned. Neither the British government nor the CBI is able to put a price tag on the cost of replicating European regulators in the UK to keep the rules for business as similar as possible. But ADS, the aerospace industry lobby group, has put an estimate of up to £400m over a decade just to copy the European Aviation Safety Agency, which regulates the industry. The aerospace and aviation sectors, which contributed £52bn to UK GDP last year, are deeply concerned at the prospect that Britain will pull out of the EASA, which sets rules for certification of everything from aircraft and their components to flight training schools. Recreating a domestic regulatory system in the UK would be expensive and take years, say executives. www.ft.com December 20, 2016.

Increase in aerospace industry transactions over the last decade to \$228mln.

In the last decade, transactions in the aeronautical components industry have increased significantly to 535 million Tunisian dinars (MTD) compared to 35 million dinars before, resulting in the creation of 12,000 jobs according to the Ministry of Industry and Trade. Major groups specialized in the aeronautical components industry are based in Tunisia, including the company Stelia Aerospace, which specializes in the aircraft fuselage industry, which employs 900 people. www.zawya.com December 21, 2016.

Brazil to File Complaint Against Canada and Bombardier at WTO.

Brazil says Canada's government injected US\$2.5 billion into aircraft manufacturer Bombardier, affecting the competitiveness of the market. The government of Brazil has announced it will open a formal complaint against Canada at the World Trade Organization (WTO) questioning the subsidies granted by the North American country to its aeronautical industry, specifically to Bombardier. According to Brazil's Ministry of Foreign Affairs, this year alone the Canadian government injected approximately US\$2.5 billion into aircraft manufacturer Bombardier. The Ministry say there is an indication that the Canadian Federal Government intends to make a significant new contribution to the company's capital soon, to ensure the viability of the new C-Series aircraft and its placing on the market at artificially reduced prices. By this contribution, the competitiveness in the market has changed and Canada isn't fulfilling the commitments he made by entering into the WTO. www.riotimesonline.com December 21, 2016.

In this month extract was prepared by Miguel Ruelas, Carla Espinosa, Luis Salas, Juan R Madero, Diana Aguilera, Selma Gonzalez and Fernanda Pérez.

Colombian Authorities: Pilot Error Caused Avro RJ85 Crash.

The Colombian civil aeronautics agency, Aeronáutica Civil, said on December 26 that pilot error was to blame on the plane crash occurred the past November 28 where 71 people died. Freddy Bonilla, the Colombian's secretary of air safety, said that no technical factor was part of the accident and also faulted the airline's management and Bolivia's oversight of the flight plan. Previous reports showed that the plane also exceeded its weight limit by 400 kilograms and wasn't certified to fly at the altitude that they flew. The final accident report it is expected to be published on April 2017 made by specialist from Brazil, Bolivia, Colombia, the U.K. and the U.S. www.ainonline.com December 27, 2016.

Helicopter Leasing Remains Attractive.

An analysis of the global civil helicopter market released by the IBA Group consultancy shows that it is an attractive venue for more leasing activity despite continuing negative trends. The number of new helicopters deliveries dropped 11% on 2015, heavy helicopters suffered the most with sales declining 49 percent year over year. North America continues to be the dominant market, while the drop in energy prices is disproportionately hitting the demand for older-generation medium and heavy helicopters; in general, accelerated the retirement of older helicopters, and depressed the prices of new orders. However, as Bristow has demonstrated in the UK, there are opportunities to privatize previously government-operated search-and-rescue operations as the legacy helicopters used in those operations reach their useful life limits, a market that remains promising for OGP helicopter service companies. The helicopter leasing is still economically attractive to investors, according to the IBA Group statements, because they have a longer useful life and depreciate more slowly than airplanes. www.ainonline.com December 30, 2016.

U.K. Will Fund Trial Of Drone-Delivered Medical Supplies In Tanzania.

The U.K. Department for International Development (DFID) will fund a trial of drone-delivered blood and medical supplies in Tanzania, according to a report from the BBC. The test program will be conducted in conjunction with Zipline, which began operating a similar service in Rwanda in October. The goal of the project is to greatly shorten the time required to send stock to health clinics in African nations. www.aero-news.net January 03, 2017.

GerMap Introduces New Mapping Drone.

The G170-V is a vertical take-off and landing/VTOL fixed wing airplane UAV (unmanned airborne vehicle), perhaps better described as a QuadPlane. Its 4 horizontal rotors give it quadcopter-like VTOL capabilities, and as a fixed wing airplane with 170 cm (67 inch) wingspan it operates like a regular fixed wing airplane. Applications in the drone are: aerial mapping, corridor mapping, forestry, agriculture, security, environmental monitoring, construction, rapid disaster response, and many others more. www.aero-news.net January 03, 2017.

CYGNSS program will help scientists study hurricanes from space.

A group of NASA satellites was successfully launched this morning in a rocket deployed from the belly of a modified airliner. The Orbital ATK Pegasus XL rocket carrying the satellites, which NASA will use to study hurricanes from space, was deployed over the Atlantic at about 39,000 feet from its carrier aircraft, the L-1011 Stargazer. The rocket free-fell for five seconds before igniting its first stage and heading out of Earth's atmosphere. www.flyingmag.com January 03, 2017.

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