

INTERNATIONAL CIVIL AVIATION ORGANIZATION
FIRST MEETING OF DIRECTORS OF CIVIL AVIATION OF THE
CARIBBEAN REGION (CAR/DCA/1)

(Grand Cayman, Cayman Islands, 8-11 October 2002)

Agenda Item 2: Safety Oversight

**ACTION BEING TAKEN BY THE UNITED KINGDOM TO IMPROVE OVERSIGHT
OF CIVIL AVIATION IN ITS OVERSEAS TERRITORIES**

(Presented by the United Kingdom)

SUMMARY

This paper briefly outlines the actions being taken by the United Kingdom to improve its oversight of civil aviation in its Overseas Territories as result of concerns raised by ICAO during the Safety Oversight Audit in July 2000.

1. Introduction

1.1 The United Kingdom has a number of semi-autonomous Overseas Territories (OT) around the world. In fact, there is probably at least one Territory in every ICAO Region. There are five in the CAR Region alone.

1.2 For many years it has been UK government policy to allow these territories to develop towards full self-determination. The UK government also acknowledges that, currently, most of these territories wish to remain as part of the UK.

1.3 This policy of self-determination has allowed the Overseas Territories (OT) to develop in different ways and, in aviation terms, they each now have their own distinct character. Although the basic legislation, the Air Navigation (Overseas Territories) Order, is made in the UK and therefore common to all the OT, each OT has developed its own local requirements and procedures.

1.4 The UK Civil Aviation Authority (UKCAA) has no jurisdiction in the OT but has long been retained by the UK government to advise on aviation safety in the OT.

2. ICAO Audit of the United Kingdom and its Territories

2.1 During the preparations for the ICAO Safety Oversight Audit of the UK, the Safety Oversight Section in Montreal requested to visit one or more of the UK's OT as part of the Audit. This was agreed by the UK government and the MoU drawn up accordingly.

2.2 The Audit took place in July 2000 and the first part consisted of meetings in the UK with various specialists from the UKCAA and visits to a sample of UK industry. During their time in the UK, the ICAO Audit Team members also met with UK Government officials to discuss the constitutional and legal relationship with the Overseas Territories. The Team then split into two and visited two of the UK's Overseas Territories – Bermuda and Turks & Caicos Islands – as a representative sample.

2.3 The Audit was completed by a formal debriefing in the UK to UKCAA senior management, UK Government officials and the Directors of Civil Aviation of seven of the UK's Overseas Territories.

3. ICAO Audit Findings

3.1 Separate findings and recommendations were made for the UK and the Overseas Territories.

3.2 Most of the recommendations aimed at the UK were concerned with procedural improvements and better coordination between different departments of the CAA. The only major finding concerned the lack of comprehensive provisions to cover International General Aviation operations. This is currently being addressed in conjunction with our European partners in JAA (Joint Aviation Authorities).

3.3 The findings made concerning the Overseas Territories (OT), however, were more serious. ICAO pointed out that, whatever administrative arrangements might be put in place in each territory, the United Kingdom remains *“internationally responsible for aviation safety and regulation and for the operational oversight of aircraft registered in the Territories”*. ICAO found that the *“United Kingdom does not maintain a record of regulations or requirements in force in the various Overseas Territories and therefore cannot effectively oversee whether the Territories are, in fact, in compliance with the basic legislation or with the ICAO Annexes”*.

3.4 The fundamental aviation legislation in force in the OT is made in the UK and is very similar to the legislation governing UK aviation. For the OT, however, the individual Governors of the territories take the place of the UKCAA and have the equivalent powers. Governors have to cover all aspects of running a small country and they, therefore, tend not to be expert in aviation matters. Where a territory has relevant aviation activity, a Director of Civil Aviation (DCA) is appointed by the Local Government and carries out the Governor's duties on his behalf. The link to Her Majesty's Government (HMG) in the UK is provided through the Governor via the Foreign and Commonwealth Office. These DCAs, however, are completely independent of the UKCAA.

3.5 Overall, ICAO found that the *"United Kingdom has not established an effective system for fulfilling its safety oversight obligations and responsibilities in its Overseas Territories"*.

4. Corrective Action – Overseas Territories

4.1 Because the ICAO Audit Report inferred that the findings in Bermuda and Turks and Caicos could not be considered exhaustive, the UK Government decided that a comprehensive permanent solution needed to be found. So, in addition to the specific corrective actions produced to address the ICAO Recommendations, the UK Government commissioned a study by independent consultants to determine the most appropriate system needed to ensure it could meet its international obligations on a continuing basis.

4.2 The study reaffirmed ICAO's assertion that the Overseas Territories were indivisible from the UK as far as its obligations under the Chicago Convention were concerned. It further concluded that the ideal solution would be to extend the UKCAA's powers to include the OT. This, however, was deemed to be politically unacceptable to the Governments in the territories. A compromise solution had therefore to be found and, after considerable negotiation, the final outcome, which is yet to be formally approved by Ministers, is to establish a subsidiary company of the UKCAA, charged with ensuring the UK's obligations to ICAO are met. The Company will have its own Board, which will have places reserved for representatives from the OT.

4.3 The key advantage to this proposal, from the OT point of view, is that the new Company would not be bound to follow the UK regulatory system, provided that the system was compliant with ICAO. The advantage from the UK's point of view would be that a common set of Rules, Guidance Material and Procedures would be put in place for all the OT.

4.4 The Company will have its headquarters in the UK but will have an office in the Caribbean to look after the five OT in that Region. The Caribbean office will also seek to co-operate with the regional regulatory bodies both established and under consideration for the region. The Headquarters office would be responsible for the territories outside the Caribbean.

5. Specific Responsibilities of the new OT Regulatory Body

5.1 The Company would be responsible for ensuring that the UK's obligations to ICAO in respect of the Overseas Territories (OT) are met for the following technical areas (the reference in brackets is the appropriate annex to the Chicago Convention):

- Personnel Licensing (**Annex 1**)
- Rules of the Air (**Annex 2**)
- Meteorology (**Annex 3**) – this will be done through providing the “MET Authority” for the OT.
- Aeronautical Charts (**Annex 4**) – this will be done in conjunction with UKCAA.
- Units of Measurement (**Annex 5**)
- Operation of Aircraft (**Annex 6**)
- Aircraft Nationality & Registration Marks (**Annex 7**)
- Airworthiness of Aircraft (**Annex 8**)
- Aeronautical Telecommunications (**Annex 10**)
- Air Traffic Services (**Annex 11**)
- Search & Rescue (**Annex 12**)
- Aerodromes (**Annex 14**)
- Aeronautical Information Services (**Annex 15**) – this role will include responsibility for the AIP for the OT.
- Environmental Protection (**Annex 16**) – mainly in terms of noise and emissions certification.
- Dangerous Goods (**Annex 18**)

5.2 In addition, the Company would be responsible for the implementation of the ICAO Procedures for Air Navigation Services – PANS-ABC, PANS-ATM and PANS-OPS.

5.3 Facilitation (**Annex 9**), Accident Investigation (**Annex 13**) and Aviation Security (**Annex 17**) will remain, for the time being, the direct responsibility of the Governor of each Territory with the UK Department for Transport providing the overall UK Policy in these areas.

5.4 The means by which compliance will be ensured will be by a combination of UK Legislation, production and maintenance of Operating Rules, Guidance Material and Comprehensive Procedures and the inspection/auditing of the appropriate functional areas in the OT against these regulatory measures.

5.5 In some OT, the Company would provide direct regulatory oversight of the aviation industry. In others, it would audit, on a regular basis, the capability of the local DCA to regulate his own industry.

5.6 The Company would be responsible for ensuring the UK plays its part in appropriate ICAO Regional Meetings and initiatives in support of the Overseas Territories. This will either be done by providing the expertise directly or by coordinating the provision of OT experts, where available.

5.7 The Company would also be responsible for ensuring ICAO State Letters relevant to the OT are properly dealt with. For State Letters that require a *response*, this will involve either providing the response directly on behalf of the OT or by coordinating the response from the OT. For State Letters that require *action* to be taken this will be the responsibility of the Company through a combination of legislation/rule-making, instructions and technical assistance/verification.

6. Timescales

6.1 The target date for the new Company to be formed is 1 April 2003. It is expected that, on that date, a business plan will exist and a skeleton staff will be in place. It is likely that it will be another year before the Company will be up to full strength and the Operating Rules, Guidance Material and Common Procedures developed and in place. In the meantime, existing OT requirements and procedures will be used.

7. Action by the Meeting

7.1 The meeting is invited:

- a) to note the efforts of the UK to improve the oversight of civil aviation in its Overseas Territories;
- b) to consider the scope for cooperation between the States in the CAR Region and the proposed new UK Regulatory body for the Overseas Territories.