



WORKING PAPER

**SPECIAL AFRICA-INDIAN OCEAN (AFI)
REGIONAL AIR NAVIGATION (RAN) MEETING**

Durban, South Africa, 24 to 29 November 2008

Agenda Item 5: Development of a set of comprehensive work programmes in the safety field (Safety Committee)

**ICAO GUIDANCE ON ISSUANCE OF AIR
OPERATORS' CERTIFICATES**

(Presented by South Africa)

SUMMARY

This paper identifies the need to find a way for African authorities to authorize air service operations by the initial use of wet-lease operations, utilizing the combined operation of wet leases involving ICAO-compliant States and oversight by their competent Civil Aviation Authorities. This would ensure the development of sustainable and safe air transportation for the citizens of Africa and other parts of the globe where no reliable air transport is currently in existence. It is therefore recommended that ICAO develop procedures in which a State can grant an air operator's certificate (AOC) based on the existence of an AOC issued by an fully compliant ICAO State as a bridging measure, until the airline has established itself on its routes to comply in full with the certification and oversight requirements of its Civil Aviation Authority.

Action by the meeting is in paragraph 4.

1. INTRODUCTION

1.1 Currently, more than sixty African airlines are banned from operation into the European Union (EU) States. The main reason for this state of affairs is the inability of the Civil Aviation Administrations (CAAs) of the majority of African and even other States of the world to define and implement effective requirements and subsequent oversight for and the issuance of an air operator's certificate (AOC) under various conditions.

1.2 This is particularly true where an aircraft is operated under an air operator certificate of a particular State but is under wet lease by an operator who also holds an air operator certificate from another State. Serious questions arise in determining whether the lessor in one State, or the lessee in another State, is actually responsible for the operation of the aircraft and for compliance with the applicable safety regulations. This may also lead to the term *flag of convenience*.

1.3 The ICAO perception of the issuance of an AOC is based on two aspects: firstly, that the regulator should have the capacity and capability to define requirements and access the compliance thereto by the AOC holder, including continued surveillance thereafter; and, secondly, that the operator with its own aircraft will have an operational system in place to demonstrate its capability to provide a safe service and to maintain the level of safety.

1.4 Initial issuance of an AOC requires that the aircraft used shall be on the State's register and the operator based in that State, i.e. the AOC, is issued by the State of the Operator. Only after an AOC is in existence can consideration be given for the use of wet- or dry-leased aircraft by amendment of the AOC operations specification (OPSPEC). When such leases are put in place, ICAO also expects States involved to enter into Article 83 bis agreements.

1.5 There is currently no ICAO guidance material on how the issuance of an AOC using wet-leased aircraft is to be handled. This forces States to apply the current approach of initial issuance of an AOC prior to expanding the AOC by means of wet-leased aircraft.

1.6 The reality is that Africa needs additional air operators to develop its aviation industry, yet entry into the market is prohibitively expensive. The initial certification process is therefore a very expensive exercise and this has mainly resulted in less developed countries opting to issue an AOC "based" on the AOC of the State where the aircraft is wet-leased from. However, the fact is that, for Africa, the issuance of an AOC with the associated costs prohibits the establishment of viable and reputable air services. Currently, it is only less reputable persons that get involved, by either circumventing requirements or using political interferences to obtain AOCs.

2. DISCUSSION

2.1 To ensure the development of sustainable and safe air transportation for the citizens of Africa, and other parts of the globe where no reliable air transport is currently in existence, it is essential that a way be found for African authorities to authorize air service operations by the initial use of wet-lease operations, utilizing the combined operation of wet leases involving ICAO-compliant States and oversight by their competent Civil Aviation Authorities.

2.2 This would allow the establishment of much-needed air transport capabilities within and between States, as well as give the local Civil Aviation Authorities time to develop their oversight capability and competency. This would also enable the eventual transfer of oversight capability to the actual State of Operator once viability of routes has been established.

2.3 Without such an initiative, there is no reasonable way in which the safe oversight of air service provision in Africa can be established.

3. SUMMARY

3.1 It is therefore recommended that ICAO develop procedures in which a State can grant an AOC based on the existence of an AOC issued by an fully compliant ICAO State as a bridging measure, until the airline has established itself on its routes to comply in full with the certification and oversight requirements of its Civil Aviation Authority. To ensure global representation in the development of guidance material, it is proposed that ICAO establish a working group to develop draft Standards and Recommended Practices (SARPs) and associated guidance material related to wet leases and oversight responsibilities.

4. **ACTION BY THE MEETING**

4.1 The meeting is invited to approve the following recommendation:

Recommendation 5/x — Support to States in relation to accident prevention

That ICAO:

- a) as a matter of urgency, develop guidance material related to wet leases and oversight responsibilities of States; and
- b) provide expertise in the regional offices to assist States in Africa in this regard.

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