



ISLE OF MAN REGISTRY COULD NUMBER 1000 BY NEXT YEAR

News / Business aviation



This year's Isle of Man Aviation Conference fell on June 23, an historic day: the following morning it became apparent that a majority of the UK populace had chosen to leave the European Union. Not knowing this, conference speakers were united in saying that remaining was the sensible decision—and couldn't see it going any other way.

Mark Byrne, director of Manx company ICM, which was running the one-day conference, opened by suggesting the possibility of true economic recovery failing to materialize yet, in a "triple dip" for the business aviation industry.

Simon Williams, Isle of Man director of civil aviation, gave a progress report on what has been achieved in the 18 months since he took over as DCA from Brian Johnson.

Williams said the registry is continuing the steady growth it has experienced since it started in May 2007. In fact, the island's aircraft registry is now the sixth largest in the world, according to Clare Christian, president of Tynwald (the island's parliament). "We just added aircraft number 871, a G650 registration M-GAGA," said Williams, and the register could be heading to 1,000 aircraft by next year, Byrne predicted later in the day.

“[We] don’t take growth for granted; we recognize it’s ours to lose. When I talk about growth, I mean appropriate growth. We want to deal with the right jurisdictions, the right aircraft, and let’s get the right structures in place. So the real focus is not on numbers so much as on doing things right: high registry standards and good customer service. If we do these things right the numbers will look after themselves,” said Williams.

He acknowledged, however, that “trading conditions are tough” but took an optimistic view, noting, “We have two percent of the world business aircraft fleet, so there’s plenty of opportunity out there still. Of the European bizjet fleet the Isle of Man is responsible for 15 percent, which is a significant proportion.”

Williams continued, “Europe is important to us and I’ve spent a significant amount of time and effort dealing with Europe. But we have as many aircraft outside Europe as we have within—we’re an ICAO-compliant third-country registry—but we are also working to be compliant with the whole EU regulatory suite. We are striving to get Europe to accept our regulatory oversight, and that seems to be working.”

He recently appointed Adrian Tickle to be the registry’s “man in Europe and our Part NCC focus point. But the final answer [on such issues] is with the European NAAs; we’re working closely with them to try to make your lives as easy as we possibly can.”

Williams is confident that he now has “the correct resources and structure in place, IT support system in place, legislation up to date, the Part NCC strategy is working, and our new online services have been launched. All certificates used to be a manual, labor-intensive process, but we can now do this electronically, shaving 65 minutes off a 90-minute process.” In addition, “the data is [automatically] populated over the rest of system, so the error rate is negligible.” He added that the registry is “About to launch a significant update to our online services, which will allow us to concentrate on expanding the business.”

The registry has a 10-year aviation support services contract with Baines Simmons and “inspectors are now in place for carrying out those 460 inspections a year,” this being the net number of aircraft on the register currently.

With the new Air Navigation Order, he said, “We inherited the ANO we have in place and have been lobbying [the UK Department for Transport] to get it through the Privy Council...the most important thing was to bring in ICAO Annex 6 Part 2, Section 3. That is a key part of my strategy in convincing European NAAs to accept our regulatory oversight.”

Williams also said adoption of the Cape Town Convention is “imminent” based on the UK’s ratification but he noted its “mind-boggling complexity.” At the conference he stated, “We expect to get approval from Tynwald in July so Cape Town can be in place by early next year. We are going for ratification but leaving Manx insolvency legislation in place. Reputable companies such as Credit Suisse are happy to do business already based on that.”

BREAKOUT SESSIONS

VAT ON FOREIGN AIRCRAFT

The first panel session discussed temporary admission (TA) of aircraft to the EU, a process under which aircraft from overseas registers (such as N-reg) are limited to six months before owners face import taxes. Phil Morris of PWC believes that the best bet for those basing aircraft in Europe is to

“fully import, as with TA you’re always going to be subject to uncertainty. [Regulators are] looking more closely at some aircraft and their operations; some member states are looking for more revenue.”

Paul Kawley of KPMG said, “In theory TA is a great idea—you don’t pay VAT—but how it’s interpreted, administered and enforced varies around Europe. The practice is very different, so you need to look closely at what you want to do.”

Session chairman Adrian Jones, tax director with Martyn Fiddler Associates, noted that it comes under the Customs & Excise Management Act 1979 in the UK, but “the UK handles it differently from Italy, where those managing it have uniforms and carry guns.”

Ian Jones, Ernst & Young director indirect tax, said, “The conditions for qualifying aircraft changed in 2011—and needed a fair bit of explaining. Before that it was the weight-based system, which was easier to define than ‘operating on international routes’ etc.” He said that if an aircraft is being operated on an AOC, then holding that aircraft out as qualifying is pretty straightforward. If not, you have to look at the actual usage of the aircraft. “HMRC [the UK tax authority, Her Majesty’s Revenue & Customs] has a pretty good grasp on it now.”

Ian Jones also noted, “The look-through principle works if the owner provides an AOC holder for qualifying use...but it has to be wholly—not mainly—for the qualifying purpose. That is clear.” But he warned that with claiming airline-type operations there are “typically various parties involved, so questions arise as to which to look at. [Authorities] will look at the user/operator of the aircraft and decide what the actual use is.”

Adrian added, “Some aircraft management companies assume all their aircraft are zero-rated...but their zero rating may apply to supply of management services, *not* to the supply of aircraft.”

NON-DOMS

Another issue that was discussed was the upcoming changes to the laws governing domicile, which will affect anti-avoidance tax rules. Part of this is the principle known as BEPS (Base Erosion and Profit Shifting) to ensure that entities pay taxes in the jurisdiction where they earn their profits. Many countries have already signed up to this and, as pointed out at the conference, the Isle of Man tends to be an early adopter/first to sign up to such initiatives. It was noted that countries such as the UK are now under pressure “especially after recent Panama [Papers] ruling.”

Isle of Man representatives made it clear that the island is committed to having a central register of beneficial ownership. “But the big question is whether the register is open to public or not.” It is a balance between legitimate confidentiality versus transparency.

Steven Quayle, counsel for Cains, an Isle of Man law firm, said there are reasons to protect confidentiality but “the Isle of Man also has to be careful about its future as an international finance center.”

PART NCC

The Part NCC rules (“Non-Commercial Complex”), which take effect on August 26, continue to baffle operators. According to Joel Hencks, managing director of consultancy AeroEx.eu, “There is still a lot of confusion around.”

One key point is whether an operator’s principal place of business or residence is in an EASA state (EU members plus Switzerland, Norway, Liechtenstein and Iceland). It could be up to two

years until the UK joins this latter list, but either way all UK operators are affected too.

Hencks said the principal place of business is nominally defined as “the head office or registered office” in Regulation EU 965/2012, Annex 97. Guidance Note GM1.ORO.GEN.105 suggests that, “For non-commercial operations that is usually the home base.” But questions remain, he said. For example, “What if the aircraft has a summer base and a winter base?”

“Buying an operations manual, putting it on the shelf and forgetting about it, this will not work,” he warned. Also, he said it is no use “Blaming the EASA for this Regulation...you have to remember that this is all based on ICAO Annex 6 Section 2, Part 3. So we as an industry had seven years to prepare and the deadline was known for three years. But we have a tendency to do everything at the last minute.”

It will also cover all aircraft in third countries that are used into, within or out of the Community by an operator established or residing in the Community; while aircraft registered in third countries that are used by a third-country operator into, within or out of the community need to be compliant with Part TCO (at present this applies only to commercial traffic under AOC). He continued, “For the rest this has been postponed, so it will probably be about 10 years down the line. It has been deferred until further notice.”

A panel discussion followed, the consensus being that many operators are not ready and some haven't spent the time getting ready. However, one panelist suggested that Part NCC removes the advantages of being a private operator, “so you may as well be commercial and then get tax advantages too.” But Hencks warned, “Don't compare it to CAT where everything is certified and you have the NAA on your back all the time. We may lose some flexibility but we still have a lot.” He added that non-compliance could “jeopardize” insurance cover.

BUSINESS AVIATION'S VALUE

The British Business and General Aviation Association (BBGA) has been coordinating with EBAA to deliver a consistent message to regulators about the value business aviation brings to Europe. The BBGA has been “doing a lot of work with EBAA...so we can have the main points [to hand] with a consistent message. It's important that we have a united message as lots of the people we deal with are likely to divide and conquer if we don't,” reported Mark Bailey, BBGA CEO.

He pointed out the disparity between the perception of business aviation and the reality. As outlined by various surveys, 85 percent of the industry's business is focused on AOC and corporate operation. Only 3 percent is in support of wealthy individuals, contrary to perceptions. “We have to be open about [the latter] but it is seen as our soft underbelly.” The other 12 percent is dedicated to SAR, community support, surveying and training.

Also, he said, “When going into the European Commission [for example], the thing that really amplifies our position is to talk about the number of small and medium enterprises [the industry supports]. If you walk in the door and say you represent 700 SMEs you really get listened to and get positions at the table.”

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