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Aero



In conversation with...

Rachel Barrie, Group Chief Underwriting
Officer, Global Aerospace

Legal news round-up

Significant global developments

Hydrogen powered aircraft

The future of regional air travel?

Immigration advice to support US aviation

A promising response to the
industry's labour shortage

HFW



HFW has been at the forefront of legal developments in the aerospace sector for over four decades.

Our clients are drawn from all spheres of the industry and our global team is one of the largest and dedicated to the sector of any international law firm. We have one of the fastest growing international networks, with a team of over 80 specialist aviation lawyers, positioned in offices around the world.

Our lawyers are able to advise on all forms of dispute resolution, competition and anti-trust issues as well as a complete range of commercial transactions, from mergers and acquisitions and aircraft sales, to purchases, leases and financing. We provide services to the aviation industry, aviation insurers and their brokers and all major stakeholders. We bring our experience, market insight, true sector knowledge and passion for what we do.

It's this continued service to the industry that has been recognised time and again in the legal and business rankings, and most importantly, by our clients.



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Introduction

A warm welcome to our quarterly roundup of significant legal and industry developments, with a focus on Sustainability.

In this issue Rachel Barrie, Group Chief Underwriting Officer at Global Aerospace, shares her expert insight on how insurers are supporting the aviation industry to develop sustainable technologies. From hybrid aircraft to specialist test equipment, there is no one size fits all answer for insuring the myriad of innovations emerging in the market today.

In a previous edition, we took a close look at the development of sustainable aviation fuels. In this edition, we look at how hydrogen is assuming increasing prominence in the thinking of established industry players, start-ups and governments, as a sustainable power source for the future.

In the wake of the pandemic, Houston-based Denise McGettrick looks at the widespread staff shortages faced by U.S. airlines, and the role of immigration law in rebuilding passenger aviation.

Please do get in touch if you'd like to talk to us more about any of the topics or issues that we have featured.

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Legal news round-up

Corridors, bubbles and traffic lights: navigating the uncertainty

Bilateral or multilateral agreements with other states in relation to quarantine-free travel appear to be the most likely way out of the current travel impasse, but are proving a challenge for the industry to negotiate.

In Asia, the prospect of a Hong-Kong Singapore “travel bubble” was first floated back in November 2020 and after many false starts its launch was eagerly anticipated in late July. However on 20 July the HK government announced that it remained too risky to proceed, thanks to significant differences in opinion between the two states over their respective approaches to vaccination and infection control measures. A further review will be conducted in late August.

Other states looking to navigate the complexities of opening up may benefit from an initiative just launched by the International Civil Aviation Organisation (ICAO). ICAO has been working throughout the pandemic with world-leading experts to provide practical support for the industry’s recovery. Its

new implementation package (iPack) on Establishing a Public Health Corridor (PHC) contains documentation, desktop risk assessment tools and checklists, as well as access to training courses and workshops updated regularly with the latest scientific evidence, under the supervision of a dedicated consultant to oversee planning and progress. By offering this service, ICAO’s aim is to encourage and facilitate more harmonised international approach to the lifting of restrictions.

Meanwhile in the UK, airlines and airports have been struggling to keep up with the ever-changing “traffic light” system in which countries are allocated different quarantine requirements depending on the level of risk. A short-notice downgrade of Portugal from Green to Amber, resulted in customer panic as tourists rushed to return to the UK before the quarantine obligation came into force. In response to this, a coalition including Ryanair, Manchester Airport Group, Virgin Atlantic, Tui UK, easyJet and IAG applied for judicial review, arguing that the UK Government’s decisions lacked transparency and rationality and insufficient reasons and methodology were being published. However the

High Court was not able to provide the hoped-for support. In a decision handed down on 21 July two judges endorsed the Government’s approach and declared that the published Risk Assessment Methodology more than met the applicable legal requirements. Read the judgment [here](#).

From 2 August, the UK will allow quarantine-free entry from Amber list countries to travellers who have been double-vaccinated in the US and EU. While this is a welcome development, the significant operational burden of assessing eligibility for the exemption falls to the airlines at check-in. A Civil Aviation Authority (CAA) notice issued last week made it clear that airlines must request and review documentary proof of vaccine status statements made by passengers, and that audits and spot checks will be carried out. Failure to implement an appropriate process or to maintain adequate records carries an immediate fixed penalty of £4,000 and the CAA makes it clear that it will not hesitate to prosecute where appropriate. The challenges of getting frontline staff up to speed at short notice are considerable.

Latin American travel demand increases due to “vaccine tourism”

The extent of universal access to vaccines is spreading at highly variable speed across Latin America. Chile and Uruguay have become regional leaders in immunizing their respective populations, with vaccination rates reaching 70% but most countries in the region are facing vaccine shortages, with some yet to reach 5% of their population and most not exceeding 30%. Meanwhile, the infection numbers remain high, with Brazil, Mexico, Peru and Colombia currently showing the highest Covid numbers. In fact, even in countries like Chile and Uruguay, with early roll-out success, numbers are beginning to move upwards, leading to curfews and lockdowns being reinstated.

The slow vaccination roll-out has been the driving force behind the increased air travel demand in the region, with the United States being the preferred destination for Latin American based travellers eager to secure access to the vaccines. It is estimated that before Covid, 77% of trips outside the LatAm region were US-bound. In March 2021, trips to the US climbed to 87%, seemingly closely linked to widespread, no-questions-asked vaccine availability to tourists in the United States. The New York Times reported in May that the Mauricio Macri, the former president of Argentina, wrote in a post on Facebook that he had received the Johnson & Johnson single-shot vaccination in Miami after realizing that “vaccines are being applied everywhere, from beaches to malls and even at pharmacies.”

Wealthy Brazilians, who must quarantine in a third country for two weeks before entering the US, have been investing in lavish multi-itinerary trips with layovers in the Caribbean.

By contrast, air travel to other destinations has become more challenging for persons travelling from Latin America. Certain European countries allow entry only to passengers immunized with certain vaccines but most countries in the LatAm region have

relied on a myriad of vaccine platforms. This has left many Latin America-based passengers unable to enter once-popular European destinations.

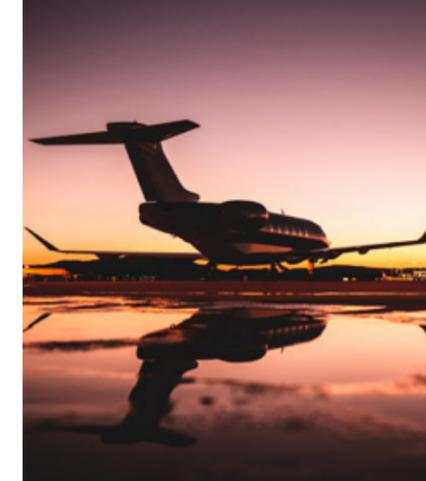
Vaccine tourism, however, is not without its challenges. Concerns over the appearance of new variants have led some countries to consider new restrictions, including travel bans and mandatory quarantines for travellers. These have had, and continue to have, an impact on the shape of aviation in Latin America. The success or failure of the vaccination programmes adopted by each of the 33 countries in the region will be crucial for the recovery of the industry. For more information, see our recent [bulletin](#) summarising the current entry restrictions and the status of vaccination efforts in the different countries.

ASEAN and EU conclude world’s first bloc-to-bloc air transport agreement

On 2 June 2021, the Association of Southeast Asian Nations (ASEAN) and the European Union (EU) agreed an outline Comprehensive Air Transport Agreement (CATA), marking the culmination of eight rounds of negotiations that started in October 2016.

The CATA will enhance air connectivity between ASEAN (consisting of 10 countries, namely: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam) and the 27 EU member states. It will guarantee that airlines of the combined 37 member states can operate any number of non-stop flights between countries in both regions (i.e. unlimited Third/Fourth Freedom Rights) and they will be permitted to operate up to 14 weekly passenger services with one stop within the other region to pick up passengers on the return leg (i.e. Fifth Freedom Rights). There will be no limits on flights with one stop to pick up cargo.

The CATA also establishes a foundation for closer cooperation in areas such as aviation safety, air traffic management, consumer protection, and environmental and social matters.



France bans short domestic flights

From March 2022 it will be illegal to operate a domestic flight in France over a route that takes under two and-a-half hours by train. This measure is part of the “Climat et Résilience” bill which became law on 20 July this year.

Some exceptions will apply; the details are still under discussion but they are likely to relate to connecting flight services or predominantly carbon-free air transport. The ban will be reviewed in three years.

The airport coalition UAF and the Airport Council International Europe said when the bill was introduced that there had been insufficient serious studies on the economic, competitive and environmental downfalls. In March 2021, SCARA (a French syndicate of independent air carriers) argued before a special commission that the ban was “discriminatory, inefficient and meaningless” because it mostly targeted French airlines and encouraging passengers not to fly would increase demand for other types of transport which could end up being more polluting than planes. These concerns appear to have fallen on deaf ears as the relevant provisions of the bill were passed by the Senate unamended.

A similar initiative in the Netherlands failed in 2019. It will be interesting to see if the French example reignites interest in other countries.

The precise terms are still subject to legal review and the date of entry into force has not yet been set.

For a more detailed examination of the benefits, challenges and impact of the CATA, please see our recent [briefing](#).

EU unveils “Fit for 55” legislative package

On 14 July the EU Commission launched a package of legislative proposals to make the EU’s climate, energy, land use, transport and taxation policies fit for reducing net greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels. Achieving these emission reductions in the next decade is crucial to Europe becoming the world’s first climate-neutral continent by 2050 and making the European Green Deal a reality.

For aviation, the key proposal is the ReFuelEU Aviation Initiative which will oblige fuel suppliers to blend increasing levels of sustainable aviation fuels in jet fuel taken on board at EU airports, including synthetic low carbon fuels, known as e-fuels. Crop based biofuels, generally considered not to be sustainable, are excluded. ReFuel EU Aviation sets out ambitious mandatory blending requirements starting with 2% in 2025 rising on a sliding scale to 63% by 2050. There are also proposed changes to the Emissions Trading Scheme, energy taxation and an Alternative Fuel Infrastructure Regulation which governs the supply of electricity to stationary aircraft. The politically-sensitive revision of the Energy Tax Directive will gradually increase tax on the most polluting fuels such as petrol, diesel and kerosene used as jet fuel over a period of 10 years. This will require unanimous backing from all 27 EU states.

Mandatory uptake of SAF is laudable, but is only realistic if steps are taken to remedy the limited supply of SAF on the market and the high costs associated with its production. Oil industry analyst Rebeka Foley commented in the Financial Times that “this can only happen with substantial

investment into other methods of SAF production, beyond what is scalable today. Investing in alternative fuel technology remains risky, and producers need direct incentives for research and development and to ensure new pathways are competitive.” This issue is not addressed head on in the “Fit for 55” package.

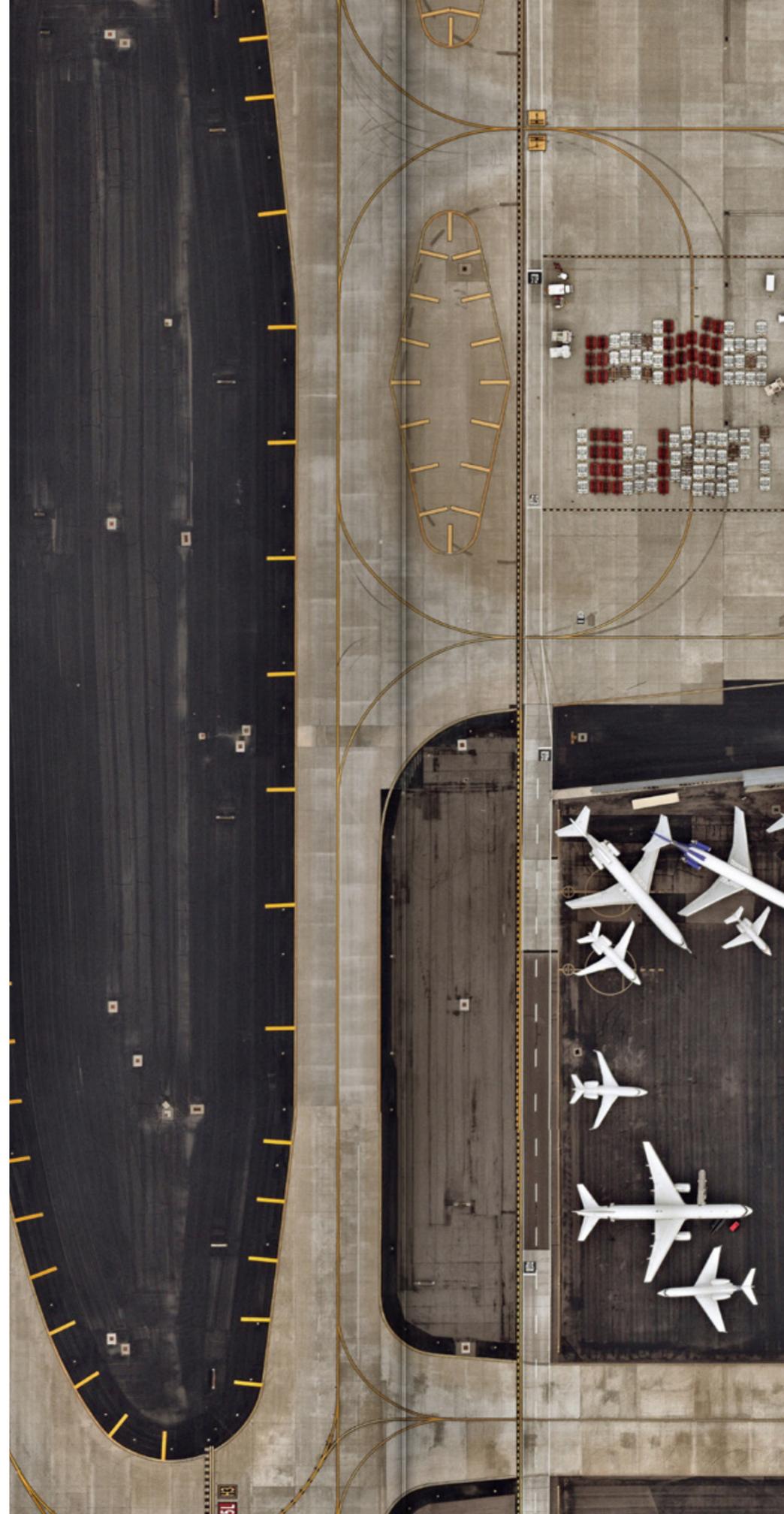
For more information, see the [EU’s executive summary](#) and [Q&A on sustainable transport, infrastructure and fuels](#).

EU and UK toast truce with the US in 17 year trade dispute over aircraft subsidies

The longest-running dispute in the history of the World Trade Organisation (WTO) started in 2004, when the US filed a case against the EU, arguing that it was illegally subsidising Airbus. The EU retaliated in May 2005 with a complaint against the US, for its unlawful support to Boeing. Each side imposed punitive tariffs on the other’s exports, affecting in total a value of 11.5 billion dollars of trade between the two sides. A 25% tariff on Single Malt Scotch Whisky is said to have cost Scotland over £600m in exports.

When the UK exited the EU, its government took the decision to de-escalate the dispute. At the same time the EU and the Biden administration entered into negotiations. The results are two similar agreements which cease hostilities by agreeing to suspend punitive tariffs for five years and work constructively towards making sure that the funding of aircraft manufacturers will not cause negative effects to the other side. The deals include a pledge to collaborate on tackling “non-market practices of third parties”, reported to be a reference to the emerging Chinese airframe industry.

The Single Malt crisis has been averted but the Bourbon bounceback will have to wait - imports of American whisky remain subject to tariffs on entry into the UK and EU as a result of a separate dispute relating to steel and aluminium.



European court ruling against airline may reduce scope for settling discrimination claims

A judgment handed down earlier this year by the CJEU against Swedish regional airline Braathens¹ suggests that settling discrimination claims on a non-admission of liability basis may be more difficult than previously thought. A passenger of Chilean origin claimed that Braathens had discriminated against him by subjecting him to an enhanced security check. The airline agreed to pay the sum claimed without admitting the existence of any discrimination. However the Equality Ombudsman sought to go further by making a claim seeking a declaratory judgment in relation to the existence of discrimination. The first instance court ordered payment of the compensation but declared the declaratory action inadmissible. It cited Swedish procedural law which provided that it was bound by Braathens’ acquiescence and was thus required to dispose of the litigation without examining whether there had been any discrimination.

This went to the Swedish Supreme Court, which sought a reference from the CJEU. The CJEU held that EU law (specifically Directive 2000/43 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union) guarantees every person the right to an effective judicial remedy and therefore requires that the citizen should be able to seek a declaration that discrimination occurred, independently of any financial settlement concluded. Any domestic law operating to bar that right is in conflict with EU law and should not be applied.

British Airways settles group action following data breach

British Airways has reached an agreement with law firm PGMBM representing 16,000 claimants in a group action arising out of its 2018 data breach which affected 420,000 customers and staff and included the leaking of names, addresses, and payment card details. The airline was fined £20 million by the UK data regulator in its largest fine to date (although the original fine was threatened at £183 million, reduced following an appeal that took into account financial difficulties caused by the COVID-19 pandemic).

No liability was admitted and the terms of the settlement are confidential. Reports suggested claimants were hoping to receive up to £2,000 each. They are likely to have received less than that, but the overall settlement is nonetheless speculated to be of similar magnitude to the regulator’s fine.

The same firm is representing a growing number of claimants in a case against easyJet arising out of a similar breach.

For airlines and other data breach victims, this heralds renewed public interest in speculative data breach claims, encouraged by a newly confident claimant legal body with experience under their belt. Group actions such as this are here to stay. However it may be some small comfort to know that the High Court, in an interim hearing in February this year, definitively rejected the suggestion that the costs of advertising for potential claimants to come forward should be recovered from BA if the claim succeeded.

¹ C-30/19 Diskrimineringsombudsmannen v Braathens Regional Aviation AB

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Rachel Barrie

Group Chief Underwriting
Officer, Global Aerospace



How is Global Aerospace supporting the aviation industry to develop sustainable and green technology?

Global Aerospace supports the development of new technology within the industry; green and sustainable technology is no exception. Over the last decade we have seen a rapid introduction of new technology that is designed to improve emissions, fuel burn and noise footprint. The Boeing 787 and Airbus 350 offer around 25% less fuel burn and CO2 emissions compared to previous models. Engine manufacturers have developed new power sources that deliver up to 20% less fuel burn and 50% reduction in noise compared with the engines they replace. The industry has accelerated the development of new technology at ground-breaking pace, and Global is excited to be able to offer innovative insurance solutions to support new technologies. As with the development of any new technology there is a high level of risk involved and, whilst demonstrating our adaptability, we have also incurred significant claims as these new technologies came online.

Aviation will continue to develop environmentally friendly and sustainable technologies. We are working with manufacturers of Advanced Air Mobility vehicles that utilise electricity as their power source. Additionally, our clients

are developing new technologies such as electric powered aircraft, hypersonic jet engines, bio-fuels, and hydrogen engines. Global will continue to develop risk management solutions as these technologies enter service.

Given aviation's historical reliance on fossil fuels, will the industry be slower in adopting green initiatives? What are you hearing from your clients?

Aside from covid, the subject we have talked most about with our clients this year has been environmental issues. Clients have described their own environmental policies and how future-proofing their businesses for the long term will mean dramatic changes to how they conduct business. Many of our clients are telling us about the green technology they are developing and adopting, and how their Environmental, Social & Governance (ESG) standards have become a real focal point for all stakeholders, be it customers, suppliers, employees, or shareholders. This will inevitably mean that all parts of the industry will be impacted, and that its heavy reliance on fossil fuels will have to change. The speed of this change is yet to be determined.

The aviation industry has continually developed and evolved, so the challenge will be to ensure that all parts of the industry keep pace. There is little benefit in a manufacturer

developing an airliner that can operate on 100% green fuel if the airport refuellers cannot purchase or supply that type of fuel. Ultimately, our clients will respond to green initiatives as there are tangible benefits as well as increased governmental and public pressure to do so.

Given the scale of technological advancement, could one of the industry's biggest challenges be improving its messaging and public relations on the issue?

Definitely! It is widely reported that estimates for human-made carbon emissions for the aviation sector hover around the 2% range, but typically the general public quote a much higher number. The pandemic has given a short-term hiatus in passenger carriage, but in the preceding years there was about 5% year-on-year growth. In 2018, IATA estimated that air transport numbers could double by 2038. Many industry experts believe that there will be a pent-up demand in air travel post pandemic, so it is essential that the aviation industry communicates the green initiatives that have been implemented and how the business will further improve.

The aviation industry has taken great steps forward to become cleaner, quieter, and smarter. The travelling public and government regulations

have demanded this of all sectors, be it manufacturers, suppliers, operators, or infrastructure. If you look around our industry, you can see the steps being taken to comply with regulations, but this needs to be communicated. The major players in the field have green policies in place and can encourage all parts of the supply chain to keep pace with these initiatives.

The roadmap to 2050 aims for the industry to reduce aviation-related carbon emissions by 50% compared to 2005. Technology, sustainable fuels, more efficient flight operations and carbon neutral growth all have parts to play. But perhaps the most important part is the communication of green initiatives.

We have seen a reduction in passenger carriage since March 2020 due to the Covid-19 pandemic. What impact have the ongoing challenges associated with pandemic had on the industry's longer-term green credentials?

Aside from the obvious reduction in air travel since the pandemic took hold, there has been some longer-term positive impact on the green credentials of the industry. The acceleration of the retirement of older, less fuel-efficient aircraft - which are now unlikely to return to service - is a prime example. Those more environmentally friendly aircraft that have greater fuel efficiencies have been kept in service, and will become the foundation of most major airline operators going forward.

On the other hand, aircraft are now being flown at very limited passenger capacity, which has an obvious environmental impact. There has also been an uptick in cargo transportation by air, with large numbers of older,

less fuel-efficient passenger aircraft being redeployed to service the growth in this area. Lastly, the airline industry continues to attract new start-ups who may opt for cheaper but less efficient aircraft types.

How does Global Aerospace approach sustainability?

At Global we believe in positively impacting the communities we serve, and environmental initiatives are a cornerstone of our approach. We look to minimise our carbon footprint wherever possible and run our operation in the most efficient manner. Our US home office will be relocating in the Autumn of this year to a LEED (Leadership in Energy & Environmental Design) Gold certified property, featuring a green roof and solar panels. This promises meaningful savings in energy and water use, waste and maintenance when compared with our old premises. As we return to business travel post-pandemic, we will be carbon offsetting our business travel flights.

We have an environmental underwriting policy which supports and advocates the use of green technology. Additionally, older generation aircraft equipped with less efficient engine types are placed into a referral process which requires authorisation from underwriting management. We also review the underlying business of our operators, with particular emphasis on certain industries where additional checks are undertaken and corporate sustainability policies reviewed.

Our clients have invested substantially in sustainability policies and we are completely aligned to this vision.



Since 1924 Global Aerospace have been insuring the latest aviation technologies. We have learnt to expect the unexpected and support our clients to realise their ambitions. Focusing solely on aviation insurance gives us an intimate understanding of the risks involved and we can offer solutions tailored to these evolving risks.

Some of the most innovative companies in the industry have benefited from our open-minded approach to underwriting the latest technologies. This is an inherently risky business but partnering on these new projects will bring advances in performance, reliability and safety which in time also benefits insurers.

There is no one size fits all answer for insuring new technologies. Our clients have insured prototypes, experimental aircraft, specialist test equipment, reusable rockets, hybrid aircraft and many more technologies that are helping to make this a more efficient and sustainable industry. Flexible policy solutions can be provided where the contract term, coverage and premium aligns with a project from development through to delivery. Our clients can also benefit from tailor made aviation professional liability solutions including during the research, design and development process.

We are committed to being a collaborative and highly responsive partner to the aviation industry.

Hydrogen powered aircraft

The future of regional air travel?



“The need to develop supporting infrastructure has been recognised by industry and government.”

Electric-powered flight has been much in the news. Only this month, US operator JetBlue Airways announced a partnership to develop an electric vertical take-off and landing (eVTOL) aircraft capable of transporting four passengers up to 150 miles. This initiative reinforces JetBlue’s impressive green credentials as the first U.S. airline to achieve carbon neutrality for all of its domestic flights.

But what of hydrogen? It has been more than 64 years since the first flight using hydrogen took to the air. Although airborne for only 20 minutes, the Martin B-57B of the NACA made history by using hydrogen rather than jet fuel to power one of its two engines. 64 years on, a variety of projects are anticipating hydrogen as a near-term green aviation power source for short haul and regional travel.

How does it work?

In an aviation context, hydrogen is a power source that offers several innovative possibilities: it can be burned in an internal combustion or jet engine. It can also be used to power a fuel cell to generate electricity to drive propellers. With hydrogen used as a primary power source, it could become a viable alternative to kerosene, thereby helping to reduce aviation’s carbon footprint.

Promising projects

In recent years, the aviation industry has experienced a significant increase in hydrogen-focused projects. The European market is particularly in the limelight, with established industry players driving key developments.

Airbus is currently developing ZEROe – three concepts of hybrid-hydrogen aircraft. The three aircraft (Turbofan, Turboprop and Blended-Wing Body) will be powered by hydrogen combustion, through modified gas turbine engines. Airbus plans

to use liquid hydrogen as fuel for combustion with oxygen. For the Turbofan aircraft, the liquid hydrogen storage and distribution system is located behind the rear pressure bulkhead. Thrust is provided by two hybrid-hydrogen turbofan. With the Turboprop, the liquid hydrogen storage and distribution system is located behind the rear pressure bulkhead, just like the Turboprop. However, thrust is provided by two hybrid-hydrogen turboprop engines which drive eight-bladed propellers. In the Blended-Wing Body, thrust is provided by two hybrid hydrogen turbofan and the liquid hydrogen storage tanks are stored underneath the wings. The Blended-Wing Body can rely on a great wide interior, offering multiple options for hydrogen storage and distribution. As the Turboprop design is designed for short-haul flights, Turbofan can fly for more than 2,000 nautical miles.

Airbus is also part of a Memorandum of Understanding (MoU) signed in June 2021 with Air Liquide and Aéroports de Paris (ADP) Group. The MoU aims at bringing key industry figures together to study means of production, as well as hydrogen distribution at airports. The goal is to have an effective hydrogen industry for aviation, to enable net zero emission short-haul flights by the end of the decade. Separately, Icelandair has signed a letter of intent (LOI) with Universal Hydrogen to acquire aftermarket hydrogen conversion kits for its De Havilland of Canada Dash 8 fleet. The company aims to accelerate the use of hydrogen for its smaller regional aircraft by 2025.

Several aviation start-ups are also placing hydrogen at the heart of their plans for the future. This year, German start-up H2FLY has signed a MoU with plane manufacturer Deutsche Aircraft in order to develop commercial hydrogen aircraft for regional flights. Having already demonstrated

innovation in hydrogen fuel technology, the start-up now aims to convert the Dornier 328 plane to hydrogen, in order to offer climate-neutral regional air travel with as many as 40 seats.

Beyond Aerospace, a French start-up, also plans to manufacture a business airplane fuelled by hydrogen. Even though the design of the aircraft has not yet been revealed, Beyond Aerospace can rely on a successful fundraising round in June 2021, and is supported by the Blast program. The latter aims at developing companies specialized in aviation, space and defence in France. In the UK, the Project Fresson consortium plans to develop a retrofit powertrain solution for a Britten-Norman Islander aircraft, exploiting hydrogen fuel cell technology.

The role of infrastructure and regulation

The need to develop supporting infrastructure has been recognised by industry and government, and by Lufthansa Technik, which is planning early testing of maintenance and ground processes, using an aircraft from the Airbus A320 family converted into a stationary laboratory in Hamburg. In association with the Center for Applied Aeronautical Research (ZAL) and the German Aerospace Center (DRL), Lufthansa Technik will investigate the effects of using liquid hydrogen in order to jointly develop a demonstrator and, hopefully, to commence operation as soon as next year.

In relation to government-backed initiatives, the UK government has just launched a Zero Emission Flight Infrastructure (ZEFI) competition, under which with £3 million available for UK businesses and universities to pioneer research into hydrogen infrastructure. This forms part of the journey towards the goal of net

zero emissions by 2050, through the development of zero emission aircraft and infrastructure, combined with sustainable aviation fuel (SAF).

With regard to regulation, the European Union Aviation Safety Agency (EASA) has recently illustrated the role that regulation has to play in facilitating change. In May 2021, EASA granted the Airbus A330Neo a green certification for CO2 emissions. This is the first time a commercial aircraft has passed the certification for CO2 emissions set by International Civil Aviation Organization (ICAO). By 2028, every new aircraft will have to comply with this regulation.

France also enacted the “Climat et Résilience” law in July 2021, in which article 36 deals with aviation and climate change (as discussed in more detail in our Legal Updates section). Article 36 implements a change to article L.6412-3 of the French Transportation Code, banning the use of aviation services for domestic journeys within national territory, if a rail alternative is available that emits less CO2 and takes under 2.5 hours. The ban will be effective as of March 2022.

These various projects and initiatives, involving established industry players, innovative start-ups, governments and regulators tend to suggest that hydrogen will play an important role in aviation’s green future. At HFW, we are ready for this new era of aviation, thanks to a worldwide broad legal expertise and a deep sector experience. We support our clients to comply with and adapt to sustainability challenges implemented by international, regional and national regulatory bodies. Our experience in the aviation industry puts us in pole position to provide advice on every aspect of hydrogen aircraft, in order to make the green industrial revolution a reality.

Immigration advice to support US aviation

As restrictions related to the COVID-19 pandemic continue to be lifted, tourism demand in the U.S is surging. While this signals a welcome boost to the economy, it may prove a challenge for the commercial aviation industry, which faces severe staff shortages across the board. These shortages, seen amongst many U.S airlines and elsewhere in the industry, have been exacerbated by the pandemic and threaten airline schedules over the coming months.

When COVID-19 struck, travel restrictions forced airlines to drastically cut flight schedules, leaving a surplus of pilots. In response, airlines incentivized older pilots to retire by offering early severance packages and plans, while also placing thousands of other pilots on inactive status. This strategy has proved to be short-term, as 2021 travel numbers have skyrocketed past the 2020 figures¹, quickly turning what had been an employee surplus into a large deficit. The employment shortage is not limited to pilots, as the industry anticipates a shortage in mechanics, technicians, and others, for age-related reasons. Blue-collar jobs are also less sought-after by many younger people, adding to the problem.

U.S. Congressman and House Transportation and Infrastructure Chairman Peter DeFazio was quoted as saying that the airline industry anticipates a need for almost 200,000 mechanics and repairmen in North America within the next 20 years. The effects of the shortage are already being felt in 2021, with American Airlines recently cancelling hundreds of flights due to a shortage of staff. Experts and industry personnel estimate that this labour shortage will deteriorate further, with a significant impact evident by 2023, and an estimated pilot shortage of 34,000 globally by 2025.²

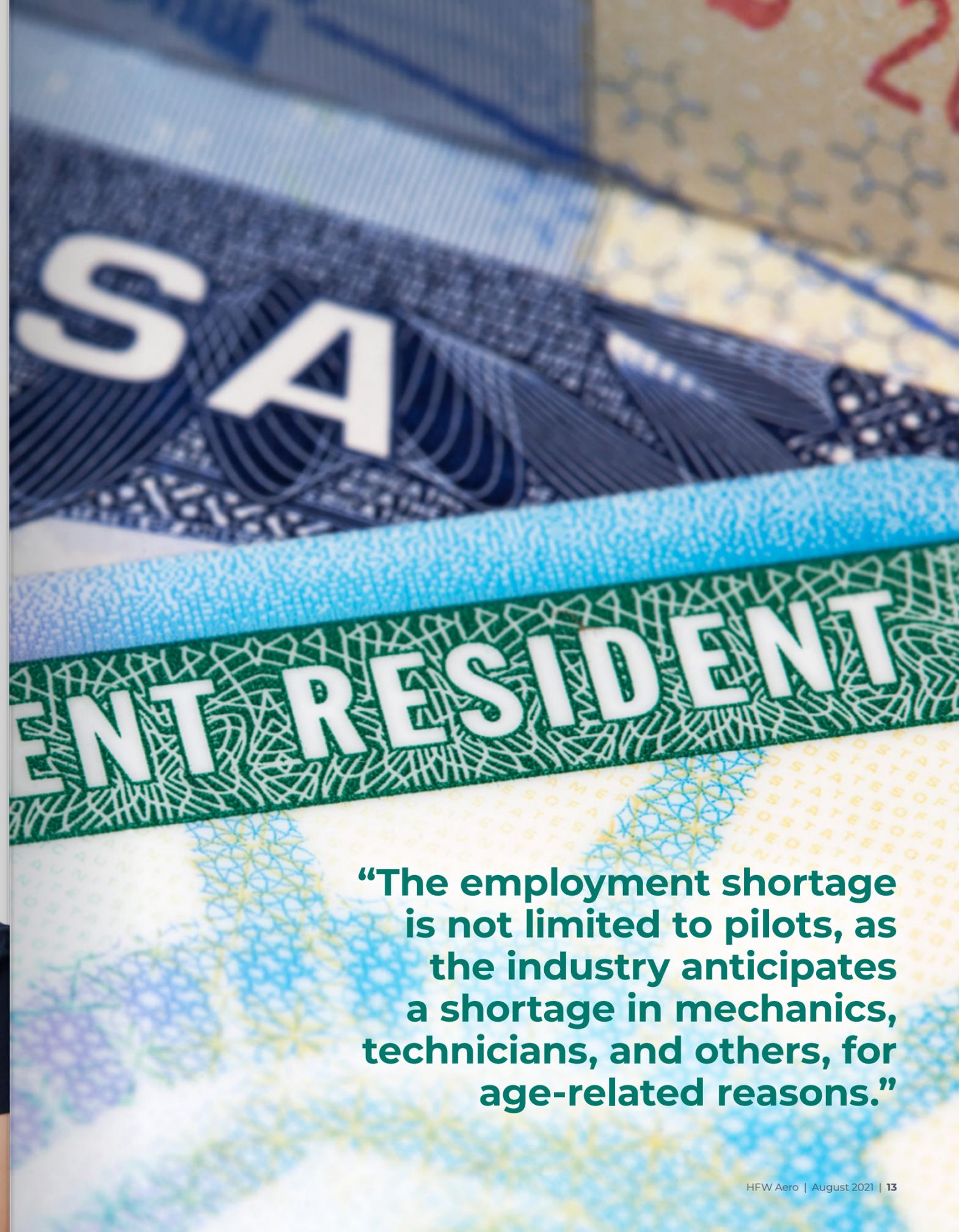
One potential response to the U.S. aviation industry's labour shortage is to seek advice from immigration counsel in relation to the hiring of non-U.S nationals to meet the demand for skilled technicians, mechanics, and pilots.

“Experts and industry personnel estimate that this labour shortage will deteriorate further.”

Immigration counsel can advise on various strategies, including the deployment of skilled overseas nationals into the U.S. aviation industry through use of special visas. There are, for example, visa options for pilots with enhanced security clearances developed through carriage of VIPs. The nationality of the desired aviation professionals and the ownership structures of the petitioning companies can also lead to visa options for attractive candidates. Options also exist for airlines to sponsor qualified foreign nationals for permanent residency in circumstances where a search for U.S nationals leaves the airline with a shortage.

Delta Air Lines Operations Chief John Laughter has recently stated that Delta is changing its hiring practices “to create more inclusive pathways to a pilot career while maintaining the highest standards from our applicants.” The greater diversity that this announcement signals does not need to be confined to U.S nationals.

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“The employment shortage is not limited to pilots, as the industry anticipates a shortage in mechanics, technicians, and others, for age-related reasons.”

¹ <https://www.tsa.gov/coronavirus/passenger-throughput>
² <https://www.oliverwyman.com/our-expertise/insights/2021/mar/after-covid-19-aviation-faces-a-pilot-shortage.html>



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News from the HFW team

A round-up of the latest articles and activities from our global aerospace team

Entry restrictions in Latin America

The slow vaccination roll-out has been the driving force behind the increased air travel demand in the region, with the United States being the preferred destination for Latin America based travellers eager to secure access to the vaccines. It is estimated that before Covid, 77% of trips outside the LatAm region were US-bound. In March 2021, trips to the US climbed to 87%, seemingly closely linked to vaccine availability in the United States.

Click [here](#) to read the full article.

UK Freeports: Can the aviation sector take advantage of the freeport scheme?

Freeports will typically benefit from increased through-trade, and associated increases in domestic and international investment, resulting from beneficial tax reliefs, customs and planning rules and increased government backing. In this article, we consider how the aviation sector has sought to take advantage of the new Freeport scheme and whether Freeport status might help an industry still reeling from the effects of COVID-19.

Click [here](#) to read the full article.

Time to open skies: ASEAN and the EU agree to historic agreement

On 2 June 2021, the Association of Southeast Asian Nations (ASEAN) and the European Union (EU) and its Member States concluded negotiations on the world's first bloc-to-bloc air transport agreement. In this briefing, we look at what the ASEAN-EU Comprehensive Air Transport Agreement (AE CATA) means for the two blocs as well as the potential impact on freedoms of the air for the carriers involved.

Click [here](#) to read the full article.

Airline economics growth frontiers Dublin, 13-16 September 2021

We are proud to be sponsoring the upcoming Airline Economics Growth Frontiers Dublin conference, covering key topics including Macro-Economic & Political Dynamics, Fuel Prices and the Environment for Fuel Hedging, and much more. The conference will focus on current developments and hot topics in the commercial aviation industry; with an emphasis on finance and leasing of aviation assets.

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