

GLOBAL GA



Welcome to HFW's Global GA, a Bulletin that is dedicated solely to General Aviation.

In this fourth edition of our Bulletin [Nick Hughes](#) examines aviation issues in the offshore energy sector following the controlled ditching of two Super Puma helicopters in the North Sea. [Charles Cockrell](#) examines new regulations for light aircraft in UAE and the easing of permit requirements for foreign registered aircraft in India. In our regular Country Focus briefing [Peter Coles](#) examines the triumphs, pitfalls and challenges in the emerging Indonesian aviation sector. [James Jordan](#) then examines ground handling incidents and the critical need for contractual protection. Finally, [Jonathan Russell](#) considers the expected shift in private banking credit to Export Credit Agency (ECA) backed financing.

This Bulletin also includes details of some upcoming events in the GA sector, plus contact information for a number of our Global GA team. For further information about any of these articles, or aviation in general, please contact any of the contributors to this Bulletin, members of the team listed, or your usual contact at HFW.

[Giles Kavanagh](#), Partner and Head of Aerospace.



Aviation issues in the offshore energy sector

The controlled landing of a CHC Eurocopter EC225 helicopter that occurred approximately 23nm south west of Sumburgh, Shetland Islands on 22 October 2012, again puts the focus on rotor wing support operations for the offshore energy sector.

The incident did not cause any casualties and no physical injuries to flight occupants were reported to the operator at the time. The flotation devices aboard the helicopter both enabled the safe evacuation of the flight occupants and allowed for the recovery of the helicopter by a vessel chartered for the purpose.

Whenever such an event occurs, it is subject to comprehensive technical investigation according to procedures derived from international conventions and given effect under EU regulations and statute law in the UK. The Air Accidents Investigation Branch (AAIB) has powers to compel evidence and take charge of the helicopter. They have already published special bulletins and a full report will follow. This is a process designed to ensure the safety of operations and airworthiness of the helicopter on a global basis.

Meanwhile, the EC225 type is affected by severe operating limitations effectively amounting in some cases to a grounding, with consequent disruption to operations. This has led to some relaxation of legal provisions to allow for use of vessels to transport persons to offshore installations.

The event concerning the CHC helicopter is unusual in that the precipitating technical cause appears

to be almost the same if not identical to that affecting a Bond Helicopter EC225 only five months beforehand. Obviously the investigation techniques are designed to prevent any reoccurrence of a given cause. The technical investigation of the two incidents has now been co-joined by the AAIB. The origin appears to rest in the airworthiness of the main gearbox. Although the EC225 type involved in the incidents appeared to include a technical defect in the gearbox triggering the operation of an emergency system, it was perverse that in each case the pilots were required to execute a controlled landing when given a false warning of a failure.

Whenever an event occurs involving aviation in offshore energy support, there may be compensation issues. The rules applicable to the relationship as between the helicopter operator and the passengers are those derived from aviation law. Other aspects will be regulated by the terms of the contract between the operator and its customers.

Nevertheless, and notwithstanding other technical issues, the improving safety record for such rotor wing operations globally is testament to the very considerable investment made by both the offshore energy sector and the helicopter industry in developing offshore performance standards, safety management systems, flight data monitoring and an ever-enhancing safety culture to ensure safety and in extremis survivability in offshore events.

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UAE develops new regulations for light aircraft

The UAE General Civil Aviation Authority (GCAA) published a new Regulation on 11 March 2013 governing the licensing and operation of Light Sports Aircraft (LSA).

LSA's are defined as single engine (if powered), non-pressurised aircraft with a maximum takeoff weight of not more than 600kg (or 650kg for a float plane), maximum level flight airspeed of not more than 145 knots, maximum seating capacity of no more than two persons (including the pilot) and with a fixed undercarriage (except for amphibious aircraft which may have retractable gear). LSA' include airships, balloons, sailplanes and light rotorcraft.

The Regulation covers the training and licensing of LSA pilots (including student pilots), flight instructors and examiners and also sets out criteria for the safe operation of LSA's. Under Article 9 of the Regulation, all LSA certified pilots must be registered and hold active membership with a GCAA Approved Flying Club (AFC). AFC's must meet various minimum requirements, including a requirement to have sufficient approved maintenance personnel to ensure LSA's meet the maintenance specifications of their manufacturer. Any unauthorised or illegal activity (including a pilot flying an LSA they are not specifically endorsed to fly) must be reported by the AFC to the GCAA within 24 hours of the incident occurring.

The Regulation has been published as a Notice of Proposed Amendment



to the UAE Civil Aviation Regulations and is expected to enter into force in March 2014 following the completion of a 12 month consultation period. The GCAA's decision to regulate in this area is in response to the rapid growth in light aircraft operations in the UAE in recent years.

India to ease rules on permits for foreign registered aircraft

The Directorate General of Civil Aviation (DGCA) is expected to finalise amendments to domestic legislation within the next two months that will result in significant changes to the current rules on entry permits for foreign registered aircraft.

At present, seven business day's advance notice is required for a landing permit application and three business day's advance notice is required for an over-flight permit application. The legislative amendments will reduce these periods to three business days and one business day respectively. Once implemented, the new rules will be trialled for a six month period but, if found to be successful, further reductions (and possibly abolition of the notice requirements) may be expected.

The easing of the restrictions (which were first introduced in 1995 after a low-flying private aircraft dropped illegal weapons in West Bengal) has been widely welcomed by private aircraft operators and, in particular, India's Business Aviation Operators Association (BAOA) which has lobbied the government hard for changes to what is generally perceived to be an overly bureaucratic regulatory system that

stifles growth in the thriving GA sector.

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Country Focus: Indonesia - GA hotspot

Spanning 5,253 kilometers from East to West, and 182,977 square kilometres, Indonesia covers 1/8th of the world's equator.

As an archipelagic nation with a total of 17,508 islands inhabited by over 238 million people connectivity is critical. This cannot be accomplished by road, rail or sea due to distances and time. The immediate and logical answer is aviation and a significant portion of this involves domestic airlines operating aircraft with less than 100 seats and the general aviation and private sector.

Millions of people are now entering the middle class and airline passenger numbers are growing at around 10% a year. According to IATA Indonesia will rise from the 16th to the 9th largest air travel market by 2014.

The rules and regulations for safety, security and service of the aviation sector are administered by the Directorate General of Civil Aviation (DGCA).

Indonesia has over 148 airports with an ICAO code. Twenty-five airports are managed by two separate state owned enterprises (SOEs). These are Angkasa Pura I (AP I) and - Angkasa Pura II (AP II). The former manages the services of 13 airports within the central and eastern areas of Indonesia. AP I's biggest and busiest hubs are: Ngurah Rai International Airport in Bali and Juanda International Airport in Surabaya. The latter manages the services of 12 airports within the western areas of Indonesia. AP II is responsible for what some consider to-be the "flag-ship" airport of Indonesia, Jakarta Soekarno-Hatta International Airport. The SOEs not only manage the services of the airports. They also provide joint navigation support and Air Traffic Control for all Indonesian air space. The DGCA has oversight of the remaining airfields.

Indonesia's airlines have been busy, particularly in the battle to command domestic routes. Domestic travel has already exceeded that of Australia and is expected to double within five years.

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Progress in improving flight safety operations has allowed Garuda Indonesia, Batavia Air and AirAsia Indonesia to be removed from the EU “blacklist”. It is too early to determine if the recent Lion Air accident represents a set back in aviation safety. It has recently purchased over 230 Boeing 737’s. Garuda Indonesia, Batavia, Merpati Nusantara and others have also recently announced new orders.

However, it is the business aviation sector that is growing the fastest. Lion Air has also ordered two Hawker Beechcraft Hawker 900XP jets. According to the *Financial Times* roughly US\$250 million worth of orders for private aircraft were placed over the past 12 months, including products from Cessna, Hawker Beechcraft, Bombardier, Boeing Business Jets, Embraer and Gulfstream. Also, the type and size of products is changing from piston- and turboprop-powered aircraft to jets. Dassault, Airbus Corporate Jets and Embraer have all pointed to the rise in high net worth individuals in Indonesia and its dispersed geography.

Various GA aircraft are built by Indonesia Aerospace (formerly known as IPTN), mainly under license. These include NAS 300 series helicopters (Super Puma’s), Eurocopter’s Fennec and Ecureuil helicopters, the NB 412 (Bell) and the CASA 212 Aviocar. Indonesia Aerospace is also seeking to build the N250 a prototype commercial turboprop aircraft.

Aircraft owners are pressing Indonesia’s Directorate General of Civil Aviation (DGCA) to boost market conditions with more user-friendly regulation, including the

certification regime. While this is welcome the relatively poor infrastructure and safety preoccupies the minds of many industry observers. Sadly, unpredictable weather and challenging terrain make total losses with multiple loss of life all too common. Since the start of 2011 there have been 11 accidents involving fixed wing commercial air transport operations which resulted in 107 fatalities. Over half of them occurred on general aviation aircraft including Cessna Caravans, MA60s and CASA Nurtanio Aviocars. Rotor-wing losses are another story. While statistics are harder to come by we estimate that there have been at least 15 fatalities since 2011, almost all of them arising in mining or offshore energy support operations.

The inaccessibility of crash sites can also create challenges – in one case the wreckage was simply too remote to reclaim and so (after a cursory official accident investigation) remains on the mountainside to this day. In another case a specialist heavy lift helicopter had to fly from Malaysia to a remote part of Papua to lift a helicopter from a crash site.

This all comes at a time of rising consumerism, expectations and an increasing propensity for Indonesians to litigate. There are a number of cases against operators and manufacturers now before the courts concerning major aircraft accidents. With higher levels of compensation now payable in Indonesia due to a change in the aviation liability regime and socio/economic standards, pressure is mounting on owners and operators to improve risk management and purchase additional insurance cover.

With a GDP growth rate of 6.2%, Indonesia’s economy continues to outpace much of South East Asia and most other emerging markets save for China’s. Good news but many challenges lie ahead for the air transport sector.

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Business jet owners/ managers beware: ignore ground handling arrangements at your peril!

The ever-increasing appetite for business jets and helicopters in Asia, demands for apron space at busy hubs, flights to 2nd and 3rd tier airports with ill prepared infrastructure and quick turnarounds is leading to an increased number of property (including aircraft) damage incidents. The most significant risk factors are towing, other ramp movements, ground support equipment and hangar movements.

The business aviation sector handles more than 31,000 aircraft worldwide (EBAA). However, all too often, business jet owners/managers have not sought to manage their risks properly through contracts with ground handlers. This is understandable given the bespoke services many operators of such aircraft offer their clients and because the sectors and routing can often be uncertain with some airports visited less frequently. The rationale used to justify the time and expense of negotiating a ground handling agreement is more obvious in the public air transport sector where airlines perform multiple flights to the same airport on a daily basis and where the cost of aircraft and insurance deductibles are significant.

The most common and easy solution is to have in place one of the International Air Transport Association (IATA) Standard Ground Handling Agreements (SGHA). This is in widespread use at major airports and many 2nd and 3rd tier airports in developed countries. It is therefore internationally recognized.

The SGHA originated in 1983 and has developed primarily for use by commercial airlines. It comprises a number of key contracting documents. The Main Agreement states the standard contracting terms including the key indemnity and liability provisions (Art. 8) and the arbitration provisions (Art.9). Appendix A lists a coded menu of services and sub services. In Appendix B parties agree on the sub-services subject to the contract (based on the coding in Appendix A), state the prices per handling event for each aircraft type, fix deviations from the standard contracting terms, and include custom clauses. The Service Level Agreement is usually attached to Appendix B and describes the contracted quality level for services and sub-services. In addition, a description of measurement processes, a quantification of penalty payments, or an outline of local procedures might also be included.

The most recent edition was published by IATA in January 2013.

The scope for tailoring the SGHA to business aviation requirements and the individual operator's needs are

great and whilst being a model contract still allows significant flexibility. It also has the benefit of being a model contract widely accepted by aviation Insurers as the best practice to allocate risks between an operator and a ground handler.

That said, the agreement is of little to no use where ad-hoc services are being performed or where the ground handler is based at an airport that is not familiar with its language. Therefore, consideration should be given to carrying a shortened agreement for ad-hoc services and self-handling some of the functions performed by ground handlers. If you prize your Louis Vuitton trunk bring your butler.

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Export credit financing: An opportunity not to be missed

Whilst we all wait with growing interest, trying to predict what the legacy of general aviation will be in Asia, from the financiers' perspective, many commentators have predicted the creation of a growing market for Export Credit Agency (ECA) backed financing, which, to date, has been more associated with commercial aviation. If this is the case, are we to expect a shift from the current, more established, financiers of private aircraft, often using their Private Banking relationships as their entree, to a more diverse pool of lenders offering ECA backed finance?

The first issue of note in considering this proposition is why haven't the major players who finance business jets, already got a significant foothold in the Asian market? The answer to this is that they would probably say that they already have! Clearly, financiers will have financed assets physically located in the region, albeit the subject aircraft are often unlikely to be registered on local, Asian, registers. The question therefore changes and the focus is then to address the question of what obstacles need to be overcome before western lenders finance Asian registered aircraft. Many articles have been written on the topic of infrastructure and regulation and these are clearly relevant issues, but is it also the case that western financiers are not willing to step out of their comfort zone and test the water? Typically the 'major players' are relationship lenders and we would hazard a guess that, if asked, they would certainly consider financing Asian registered aircraft but their acceptance would be

largely based around the financial covenants contained in the finance documents, the amount of assets under management and the proposed manager/operator of the aircraft.

And so the argument for the increase in ECA backed financing comes to the fore. Lesser known financiers may be able to plug the gap between what the current pack of financiers are willing to offer and what their potential clients can afford and/or are willing to put under management with their chosen financier. When supported with ECA loans and/or ECA guaranteed loans, aircraft financing may be more freely available than one supposes.

Who then is the key to releasing this? One simple answer is the owners and/or their representatives. They need to make their current, local, financiers aware of ECA financing and urge them get involved. The key to stimulating this interest, one might argue, lies with manufacturers who need to either be more aware, or more effective at making their clients aware of the availability of ECA financing – a view supported by Bob Morin (Vice President of Export-Import (Ex-Im) Bank of the United States): "It's hard for business jet customers to know about Ex-Im when some of the manufacturers don't even know what it is".

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Conferences & Events

EBACE 2013

Geneva, Switzerland
(21-23 May 2013)
Attending: Adam Shire

CBAA 2013

Toronto, Canada
(12-13 June 2013)

Corporate Jet and Helicopter Finance Conference

Hong Kong
(25-26 June 2013)
Presenting: Peter Coles and Ashleigh Williamson

School of Corporate Jet and Helicopter Finance

Betchworth, UK
(9-11 July 2013)
Presenting: Zohar Zik

LABACE 2013

São Paulo, Brazil
(14-16 August 2013)
Attending: Fernando Albino

NBAA Annual Convention (NBAA 2013)

Las Vegas, NV
(22-24 October 2013)



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