



<b>CAMEROON CIVIL AVIATION AUTHORITY – DIRECTION OF AVIATION SAFETY</b>		
MANUAL	REF	DSA_AOC_MAN_001
AIR OPERATOR CERTIFICATION AND SURVEILLANCE MANUAL	ED	02 DU 01/04/2015
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## CHAPTER 10 LEASING

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### 10.1 GENERAL

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**DEFINITIONS:**

Lessee: The party to which the aircraft is leased.

Lessor: The party from which the aircraft is leased.

Dry lease: The lease of an aircraft without its crew, operated under the AOC of the lessee (custody and the operational and commercial control of the lessee) using the lessee’s airline designator code and traffic rights.

Wet lease: A lease of an aircraft crew, operated under the AOC of the lessor, with commercial control of the lessee and using the lessee’s airline designator code and traffic rights.

Damp lease: A wet lease of an aircraft where the aircraft is operated under the AOC of the lessor, with the flight crew and possibly part of the cabin crew being provided by the lessor, and part or all of the cabin crew provided by the lessee.

**10.1.1** While Cameroon permits the lease of foreign registered aircraft by Cameroon air operators, there are a number of legal and practical operational problems, which will be considered in the certification of an operator proposing to utilize leased aircraft, or when an operator, in possession of an AOC, proposes to act as a lessor or lessee or otherwise cooperate with another operator. These practices are economically driven and advantageous to operators. However, CCAA staff is responsible to ensure that safety takes precedence over any economic issues presented by the operator.

**10.1.2** In recent years the practice of leasing aircraft has come into wide usage. Many leases involve aircraft owned by individuals or companies that are registered in one State and leased to operators from another State.



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**10.1.3** Unless suitable arrangements are made between the States involved, a lease may create complex legal, safety, enforcement and practical problems for either the State of Registry of the aircraft or the State of the Operator, or both of these States. These problems arise because of possible uncertainty concerning which party is responsible for the safe operation and airworthiness of the aircraft, and uncertainty concerning the regulations of which State are applicable. The relevant authorities are responsible for resolving such uncertainties before a lease takes effect. The determination of responsibilities is a factual issue that depends upon the terms of the lease or other agreements. Determining which party to a lease is responsible for the operational control and airworthiness will in turn clarify the regulations of which State will apply, and what oversight responsibilities a particular State has for the operation of a leased aircraft. In some instances, the oversight responsibilities of the State of Registry and the State of the Operator may overlap. Some leases run for a long term while others are for short periods to cover temporary requirements.

**10.1.4** In addition to the problems presented to CCAA, questions also arise concerning what steps can be taken to protect the financial interests and the assets of the lessor. This relates primarily to whether the laws and regulations of the State of Registry and its surveillance capabilities are adequate to cover the interests of the lessor in situations where the lessee, the operator of the aircraft, is from another State. Where the State of Registry and the State of the Operator are adequately carrying out their responsibilities for safety oversight, these actions should tend to protect the lessor's interests in a leased aircraft.

**10.1.5** In Cameroon, CCAA is responsible for ensuring that every aircraft on Cameroon registry comply with the detailed technical and safety regulations promulgated by Cameroon, wherever such aircraft may be operated. However, where Cameroon registered aircraft are operated under a lease arrangement outside of Cameroon it will be difficult for CCAA to properly carry out safety oversight, particularly in international commercial air transport. These responsibilities in turn create serious surveillance and enforcement problems for the Cameroon because these leased aircraft are frequently operated in distant areas where CCAA personnel from Cameroon would find it difficult to conduct safety inspections. Compliance with the pertinent safety standards and regulations of Cameroon may therefore diminish. Violations of regulations may occur by design or from ignorance and be unknown to the Cameroon. As a result, it is unlikely that enforcement action would be taken with respect to such leased aircraft.



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**10.1.6** Article 83 bis of the Convention on International Civil Aviation permits the transfer of certain responsibilities (those of Articles 12, 30, 31, 32 (a)) from the State of Registry to the State of the Operator in case of a lease to more effectively deal with this matter.

**10.1.7** The primary purpose of the transfer of certain functions under an Article 83 bis agreement should be to enhance safety oversight capabilities by delegating responsibility for oversight to the State of the Operator, recognizing that this State is in a better position to carry out these responsibilities. For States to enter into an Article 83 bis agreement both will have had to ratify Article 83 bis.

**10.1.8** However, before agreeing to transfer any functions, Cameroon shall determine that the State of the Operator is fully capable of carrying out the functions to be transferred. This determination can be accomplished by various means, including a safety oversight audit (SOA) conducted by the Cameroon or through review of reports of SOAs conducted either by ICAO, under the Universal Safety Oversight Audit Programme (USOAP), or by another Contracting State. Full information on USOAP audit results can be found on the ICAO SOA secure site which is accessible to all States. There may be circumstances where States are unable to reach agreement on the delegation and acceptance of responsibilities as provided for in Article 83 bis or where delegation is not an alternative that is acceptable to the parties involved. In such circumstances Cameroon would retain responsibility for maintaining proper surveillance of aircraft on its registry when operated under lease arrangements under the authority of another State.

**10.1.9** A model agreement was developed on the basis of agreements registered with ICAO and taking into account other related information. This model agreement is provided in the Manual for Procedures for Operations Inspection, Certification and Continued Surveillance (Doc 8335), Attachment B to Part V. CCAA inspectors will use this format for development of such an agreement with inclusion of only the referenced functions and duties of the State of Registry that may be subject to such a transfer to the State of the Operator.

**10.1.10** Agreements or arrangements for the transfer of responsibilities under the terms of Article 83bis are required to be registered with ICAO. Such agreements registered with ICAO can be found on the ICAO public website (<http://cfapp.icao.int/dagmar/main.cfm>) by searching for "All Signatories" and "Article 83 bis"



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**10.1.11** Where delegation of responsibility is not a viable solution, CCAA will ensure that it has in place technical staffing and funding to maintain acceptable surveillance over the operation of aircraft on its registry that are leased to operators from other States.

**10.1.12** This general summary concerning leased aircraft is intended primarily to acquaint Cameroon staff and operators with problems that may arise where an operator, using leased aircraft registered in another State, may have to comply with a confusing combination of:

- a) regulations of the State of Registry;
- b) regulations of the State of the Operator; and
- c) the operating regulations and rules of a third State over whose territory operations may be conducted.

## 10.2 DRY LEASE

**10.2.1** Under most dry lease agreements the lessee, who provides the crew, is the accountable party who exercises operational control over the aircraft with all the attendant responsibilities. If the lessee does not have operational control of the leased aircraft under the lease agreement, the responsible authority needs to carefully evaluate the arrangements to ensure that the operation can be conducted with an adequate level of safety in accordance with the applicable regulations.

**10.2.2** When an applicant for an AOC, or an existing operator, wishes to use dry leased aircraft, the applicant or operator shall provide CCAA with the following information:

- a) the aircraft type, model and serial number;
- b) the name and address of the registered owner;
- c) state of Registry, nationality and registration marks;
- d) certificate of airworthiness and statement from the registered owner that the aircraft fully complies with the airworthiness requirements of the State of Registry;
- e) name, address and signature of lessee or person responsible for operational control of the aircraft under the lease agreement, including a statement that such individual and the parties to the lease agreement fully understand their respective responsibilities under the applicable regulations;
- f) copy of the lease agreement or description of lease provisions;
- g) duration of the lease; and
- h) areas of operation.



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**10.2.3** CCAA staff will review the application, and contact other competent authorities as necessary to verify accuracy and completeness. CCAA will make the determination as to which party to the lease agreement is in fact responsible for the conduct of the operation. In making this determination, CCAA staff will consider the responsibilities of the parties under the lease agreement for:

- a) flight crew member licensing and training;
- b) cabin crew member training;
- c) airworthiness of the aircraft and the performance of maintenance;
- d) operational control, including dispatch and flight following;
- e) scheduling of flight crew and cabin crew members; and
- f) signing the maintenance release.

#### **DRY LEASE OF AIRCRAFT REGISTERED IN Cameroon**

**10.2.4** This is a lease arrangement determined to be a dry lease to an operator of Cameroon, involving an aircraft registered in Cameroon that possesses a valid certificate of airworthiness issued by Cameroon, which is also the State of Registry. If the dry lease arrangement is acceptable to CCAA, the operations specifications and the operations manual of the lessee shall be amended to provide at least the following data:

- a) names of the parties to the lease agreement and the duration thereof;
- b) nationality and registration marks of each aircraft involved in the agreement;
- c) type of aircraft to be used;
- d) areas of operation; and
- e) regulations applicable to the operation.

*[Note.— The operations specifications would provide the data requested in c) and d). Information in a), b) and e) can be provided in the operations manual.]*

#### **DRY LEASE OF AIRCRAFT REGISTERED IN OTHER STATES**

**10.2.5** In cases where the dry lease involves an aircraft of a nationality different from Cameroon, the regulatory and compliance problems become more acute. As with other applications for the use of dry leased aircraft, CCAA require that the operator, who is the lessee, provide CCAA with the information required by 10.2.2 above.

**10.2.6** When the State of Registry is not Cameroon, it may be beneficial for the State of Registry and the State to enter into an agreement regarding the transfer of all or part of the functions, duties or responsibilities of the State of Registry under the Convention, to



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Cameroon. Where transfer of functions, duties or responsibilities cannot be achieved then CCAA will make a determination as to whether the State of Registry can reasonably meet its oversight responsibilities. When the determination is made that State of Registry cannot carry out its oversight functions in accordance with the Convention, and it cannot reach a satisfactory agreement with Cameroon on the transfer of its oversight functions pursuant to Article 83 bis, the use of aircraft under dry lease arrangements will not be permitted under these conditions.

**10.2.7** Before CCAA agrees to accept the functions, duties or responsibilities of the State of Registry, it must determine that it has the resources and expertise to fulfill these obligations.

**10.2.8** Where a dry lease has been agreed, but no delegation of responsibility has been agreed to between the States concerned, the lessee will be required to show that:

- a) the flight crew hold current valid and appropriate certificates or licences issued or validated by the State of Registry;
- b) the aircraft will be maintained in accordance with the airworthiness requirements of the State of Registry; and
- c) the aircraft will be operated in compliance with the applicable regulations of the State of Registry and the Cameroon, the operator's AOC, the associated operations specifications and the operations manual and MCM.



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**10.2.9** Several practical problems confront an operator who arranges a dry lease for an aircraft registered in another State. In order to satisfy the requirements of Article 32 (a) of the Convention and continuing airworthiness requirements, the operator is required to use flight crew and maintenance personnel who possess current certificates or licences issued or rendered valid by the State of Registry.

This may be accomplished by employing persons who already possess such certificates or licences.

Alternatively, if this is not feasible or desirable, the operator needs to arrange for personnel already employed to take the necessary written and flight tests or practical examinations in order to obtain appropriate certificates or licences from the State of Registry. This may involve sending flight crew and maintenance personnel to the State of Registry for the requisite written examinations. Upon successful completion of these tests, arrangements need to be made for these individuals to take the required flight tests or practical examinations leading to appropriate certification or licensing by the State of Registry of the leased aircraft. In this context the operator may have to pre-position personnel with the aircraft to be leased in the State of Registry and make appropriate arrangements for the conduct of written and practical tests and the issue of certificates and licences.



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**10.2.10** Another option to overcoming the problem mentioned in 10.2.9 above, is to arrange for the State of Registry to validate licences or certificates issued by Cameroon, or by another State, to the operator’s personnel. Such validations would be subject to requirements established by the State of Registry.

**10.2.11** Once the necessary certification, licensing or validation of certificates and licences has been accomplished, CCAA is responsible for ensuring that these individuals satisfy recent experience requirements and maintain their licence qualifications required under the regulations of the State of Registry.

**10.2.12** The question of compliance with the airworthiness requirements of the State of Registry is another serious problem inherent in a dry lease arrangement.

**10.2.13** CCAA staff need to carefully evaluate all aspects of a dry lease arrangement before authorizing the use of such aircraft by an operator under its jurisdiction. Once authorized, it is especially important for CCAA to carefully monitor the operations and maintenance of the leased aircraft. Should CCAA have reason to believe that an operator is not complying with the regulations of the State of Registry, the competent authority of the State of Registry shall be advised and a request made that the matter be investigated.

**10.2.14** Where Cameroon has accepted a delegation of responsibility from the State of Registry, CCAA needs to ensure that the operator is complying fully with its regulations with respect to the dry leased aircraft.

### **10.3 WET LEASE**

#### **10.3.1 General**

**10.3.1.1** In wet leases the lessor normally exercises operational control of the aircraft. A wet lease situation therefore means that an aircraft will be operated under an AOC issued by the State of the lessor. In this case the State of the Operator may also be the State of Registry of the leased aircraft.

**10.3.1.2** The terms of a wet lease agreement are important since they may obscure the true relationship between, and the obligations of, the parties to the agreement. Additional information may be needed by the authorities concerned. The actual lease arrangements and other relevant information need to be examined by the respective authorities responsible for monitoring the operation of the wet leased aircraft. The final determination of responsibility



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for the exercise of operational control will depend upon a careful examination of all the factors in the particular situation.

**10.3.1.3** Where both parties to a wet lease agreement hold AOCs, serious factual questions arise concerning which party, the lessor or the lessee, is actually responsible for the operation and compliance with the applicable safety regulations. The responsible authority or authorities, if the lessor and lessee are from different States, need to resolve such questions before operations involving use of the wet leased aircraft can be commenced.

### **10.3.2 Determination of responsibility for operational control and safety**

**10.3.2.1** The decision as to whether the lessor or the lessee is responsible for the safety of the operation will be made by CCAA. Consultation and coordination with counterparts from the State of the Operator of the lessor of the aircraft, who are assigned to work with the lessor, are most important in this decision process. The decision to be made is whether the aircraft should be operated under the lessor's AOC and associated operations specifications, or whether it should be operated under the authority of the lessee.

**10.3.2.2** In Cameroon, if a party, the lessor, leases an aircraft to another and also provides the flight crew, maintenance and fuel for the aircraft, the lessor of the aircraft is regarded as the operator. If the lessor makes a charge for the use of the aircraft and related service, the operation of the aircraft will be subject to the applicable regulations of the State of the Operator of the lessor. Operational control of the aircraft may be the responsibility of the lessor even though the lease may be characterized in terms similar to those of a dry lease, expressly stating that services such as flight following, communications and weather information, are to be performed by the lessee.

**10.3.2.3** In the rare event that there is a determination that the lessee will be the operator of a wet leased aircraft under a wet lease agreement, CCAA needs to determine whether the lessee can effectively maintain operational control of the aircraft. In such cases, the training and supervision of the flight crew, including how they are to be integrated into the lessee's operations, become critical considerations. If it is apparent that the lessee will not be able to maintain effective operational control under the terms of the agreement, CCAA will require that those terms be modified, otherwise CCAA will not approve the proposed wet lease.



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**10.3.2.4** Additional complications may arise when an aircraft, dry leased to an operator, is registered in a State (State of Registry) different from the State (State of the Operator) responsible for the operator currently using that aircraft under the dry lease, and this operator is proposing to further lease the aircraft, as a wet lease, to another operator, possibly in a third State. In such cases there may be an agreement under Article 83 bis between the State of Registry of the aircraft and the State of the Operator, or the State of Registry may seek such an agreement because of a proposed wet lease to an operator from a third State. For example, an authority may conclude that although it can effectively carry out the State of Registry responsibilities when the aircraft is dry leased to an operator in another State, it cannot effectively execute those same responsibilities when that operator decides to wet lease the aircraft to a lessee in a third State.

**10.3.2.5** In such cascading subleases, operational control resides with the operator holding the AOC under which the aircraft is operated. The State of the Operator is responsible for safety oversight of the operation.

**10.3.2.6** Practical safety problems develop in wet lease operations when the lessor provides only the flight crew while the lessee provides the cabin crew. In such cases, the cabin crew members, employed by the lessee, will not be familiar with the aircraft, associated emergency equipment, communications and the emergency procedures used by the flight crew. In these circumstances the lessee's cabin crew members will need to receive additional training, under the approved training programme of the lessor, with respect to their emergency duties on the particular aircraft. In addition, they may have no knowledge of the requirements of the lessor's State of the Operator with respect to flight and duty time limitations and the provision of rest periods, and to the performance of their duties and responsibilities aboard the wet leased aircraft. These aspects need also to be taken into account.

### **10.3.3 Short-term wet lease, charter or sub-charter**

**10.3.3.1** Some wet leasing operations, charters or sub-charters are organized for short terms at very short notice, for example, where an operator wishes to replace an unserviceable aircraft on a particular service and is forced to contract with another operator for that service to be operated.

**10.3.3.2** In order to facilitate operations and such leases, information on the need for this type of arrangement and the possible lessors should be sought by CCAA from its operators



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such that appropriate arrangements could be put in place to enable approval for an actual short-term wet lease or charter to be given very quickly.

**10.3.3.3** In the case of a short-term wet lease, charter or sub-charter, the lessor will retain all responsibilities and operational control.

*[Note. – Further information is available in the ICAO Manual on the Regulation of Air Transport Doc 9626) and in the ICAO circulars Guidance on the Implementation of Article 83 bis of the Convention on International Civil Aviation (Cir 295) and Implications of Airline Code sharing (Cir 269).]*