



**ECAC RECOMMENDATION ON
LEASING OF AIRCRAFT**

RECOMMENDATION ECAC/21-1

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RECOGNIZING

that the leasing of aircraft is a common practice in the airline industry;

that a flexible approach to leasing can bring economic benefits to air carriers and consumers and help air carriers to meet market needs better;

that the maintenance of satisfactory safety standards is the main priority;

that all Member States are bound by the provisions of the Chicago Convention and its relevant annexes, that some Member States are also bound by EC Council Regulation 2407/92 on the licensing of air carriers which contains provisions on leasing and that the conditions which Member States apply with regard to leases must be consistent with their national and international legal obligations;

that Member States have imposed various conditions and limitations on the use of leased aircraft;

that Member States consider that there is a need to harmonise policy on leasing to the highest possible degree;

that the regulations and practices of Member States concerning leases should be transparent and objective and contribute to an orderly development of civil aviation;

that, in the case of a wet lease, passengers and other users are entitled to expect an equivalent standard of safety and service from the lessor to that which the lessee would provide, and to be informed of the identity of the actual air carrier which is operating the flight;

that, in the case of a dry lease, safety functions and duties of the State of Registry that can more adequately be discharged by the State of the Operator should normally be transferred to the authorities in the State of the lessee, and notes that Article 83 bis of the Convention, which provides for a transfer where a lease exists, has not yet entered into force;

that leases should not be used as a means to circumvent applicable laws, regulations or international agreements;

that exchange of information between Member States in matters concerning leasing is important, in particular in developing a common approach with regard to safety and in the context of the work of the JAA in developing a data base within the framework of the ECAC Action Programme for the Safety Assessment of Foreign Aircraft (SAFA);

that work in progress in Europe is expected to lead to common rules applied in many Member States, which could form the basis for a uniform and more liberal leasing regime for airlines of these countries,

THE CONFERENCE HAS ADOPTED THE FOLLOWING RECOMMENDATION concerning leases of aircraft between air carriers:

For the purposes of this recommendation a lease is understood to be a contractual arrangement whereby a properly licensed air carrier gains commercial control of an entire aircraft without transfer of ownership. Member States may apply different rules to leases between air carriers licensed by them of aircraft on their national register or of aircraft registered within the European Economic Area.

A dry lease is understood to be a lease of an aircraft where the aircraft is operated under the AOC of the lessee. It is normally a lease of an aircraft without crew, operated under the commercial control of the lessee and using the lessee's airline designator code and traffic rights.

A wet lease is understood to be a lease of an aircraft where the aircraft is operated under the AOC of the lessor. It is normally a lease of an aircraft with crew, operated under the commercial control of the lessee and using the lessee's airline designator code and traffic rights. The provisions applying to wet leases are also intended to apply to leases with a partial crew (sometimes known as damp leases) and short notice wet leases (sometimes known as sub-charters).

1. For the purpose of ensuring safety and liability standards and compliance with any applicable economic conditions, all leasing arrangements entered into by air carriers should receive prior approval from the appropriate authorities.
2. Before granting approval, authorities should obtain the following information:
 - type of lease
 - names of the parties to the agreement
 - start date and duration of lease

- number and type of aircraft, registration mark(s) and country of registration, noise certificate(s) where appropriate
- evidence of passenger and third party insurance
- name of air carrier under whose AOC the aircraft will be operated and maintained;
- name of air carrier with commercial control of the aircraft.

Member States may also require additional information, for example concerning the reason for the lease and the planned operations, to the extent that such information is necessary to ensure compliance with their national rules and international obligations.

3. In the case of a dry lease, all or part of the functions and duties in respect of the leased aircraft under Articles 12, 30, 31 and 32 (a) of the Chicago Convention should normally be transferred to the authorities of the lessee in accordance with Article 83 bis. For this purpose it is recommended that all Member States ratify this Article as soon as possible to enable it to enter into force.
4. In the case of a wet lease, in addition to paragraphs 1 and 2 :
 - a) Before granting approval to an air carrier to lease in an aircraft, an aeronautical authority shall be satisfied, if necessary by means of an audit, that the lessor meets safety standards equivalent to those which its own airlines are required to meet under their AOC.
 - b) Furthermore, an air carrier shall only be permitted to wet lease in an aircraft of a type not included in its own AOC if the authority considers that this will not affect the maintenance of safety standards equivalent to those which the lessee is required to meet under its own AOC.
 - c) A lessor may not fulfil its obligations towards the lessee with capacity wet leased in from a third carrier unless this has been approved by the aeronautical authority of the lessee.
 - d) Approval for the use of wet-leased aircraft should not be given for an unlimited period of time.
 - e) The information listed in paragraph 2 should also be obtained before approval is granted for short notice leases. However, alternative arrangements for the prior approval of such leases may be implemented by the appropriate aeronautical authorities. Such alternative arrangements might include, for example, the

establishment of a list of air carriers approved by its national aeronautical authorities from whom an air carrier may lease an aircraft at short notice to meet an unforeseen need for a short period.

- f) The use of wet-leased aircraft should not be used as a means to circumvent applicable laws, regulations or international agreements.
 - g) Aeronautical authorities should respond promptly to requests from their counterparts in other Member States for information about leases.
 - h) Consumers should be informed, as soon as practicable and in any event prior to boarding, of the actual operator if a flight is to be operated with a wet-leased aircraft.
 - i) Member States may also, for safety and/or economic reasons, and where this is compatible with national and international regulations, choose to ensure that air carriers are not excessively dependent on wet leased aircraft registered in another State.
5. Member States are also urged to co-operate in the provision of information concerning leases, in particular in connection with the ECAC Action Programme for the Safety Assessment of Foreign Aircraft (SAFA).
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