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KENYA CIVIL AVIATION AUTHORITY HOLDS "KCAR SENSITIZATION WORKSHOPS"

Kenya Civil Aviation Authority has succeeded in implementing its proposed revision of the Air Navigation Act and in anticipation has held a "Sensitization Workshop" on 26 and 27 June. At the workshop, Director-General Chris Kuto spoke of the "harmonious partnership of the Regulator and the Stakeholders" and of the "absolute necessity to meet ICAO Standards". The Kenya Association of Air Operators, the Aero Club of East Africa and the Aeronautical Society of Kenya boycotted the Workshop and 'walked out' in protest, after Executive Director Col. E.K. Waithaka read out and distributed a Press Statement. Col. Waithaka also cautioned KCAA not to use the recent Narok accident as an excuse to rush through the KCARS. He said: "We realize that due to recent events, aviation in Kenya is presently in particular focus, but we caution from hastily enacting imperfect Regulations that are injurious to our industry in the present emotionally-driven groundswell of concern by the public and by politicians. The industry is in the forefront to work with KCAA to facilitate economic growth of the aviation industry and its operations, under reasonable and well thought out Regulations."

If KCAA has its way, and bearing in mind that the matter is now officially in the High Court, the new Kenya Civil Aviation Regulations will become effective on 5 August 2008. They contain some 1400 + pages of rules, definitions and a myriad of prescriptive laws. Aircraft operators and pilots maintain that the new regulations are replete with injurious content that will increase the cost of flying and make all aviation much more difficult and inconvenient. They fear that the huge increase in "red tape", the dozens of new permits, exemptions, letters of no objection, and certificates, will become a Machiavellian nightmare. "Someone has to pay for all the KCAA inspectors and enforcers, and it most likely will be us who have to foot the bill" quips one worried operator.

The Kenya Association of Air Operators and the Aero Club have, for four years, fought a 'rearguard action' against the New Regulations, maintaining that they are 'Fundamentally flawed', "Badly written", "Repetitive", "Unnecessarily Convuluted", and "Over-the-top". The aircraft owners and pilots maintain that KCAA, in its poodle-like desire to please its masters at ICAO and the East African Community, is sacrificing the majority of Kenyan aviation, 80% of which is composed of "General Aviation". Whilst the Regulations won't affect Kenya Airways or other large carriers, they will drag down the 'little guys' as KCAA has forgotten that the smaller planes have completely different requirements than airliners. KCAA uses a 'one-size-fits-all' approach in which virtually all rules apply to a small Cessna in the same way as to a large Jet, and to an airport like Jomo Kenyatta as much as an unattended 'Bushstrip' in North-eastern Province. "The KCARS are a mess", states one operator. "Balloons are mixed up with aircraft or confused with parachutes. Microlights are not even recognized, let alone regulated separately, and 'aircraft security' is imposed on small aircraft in the same way as on a Boeing 777. It just does not make sense". Nevertheless, the KCAA Director of Safety and Standards, Eng. Ochieng, is quoted in Friday's East African Standard: "Those who do not comply can pack up and leave" - a particularly unfortunate statement, if indeed true. It does show a peculiar insensitivity to the needs and requirements of the stakeholders whose opinions are supposed to matter and who were (according to the ICAO and the FAA who funded and pushed this project) to have been consulted. Surprisingly, the KCAA also does not seem able to make a connection between its own health and that of the aviation industry. "If there is no flying, KCAA will self-destruct" states a well-placed aircraft owner who attended the workshop.

In an effort to at least prevent the complete "shut-down" of air charters and "Scheduled Services" to "out-of-the-way" bush landing strips in National Parks, Missions, Camps and villages, the stakeholders held dozens of meetings with KCAA at various levels. Finally, on 19 March 2008, an agreement was reached with the PS-Transport that any injurious regulations would be looked at again by KCAA, but in the meantime the offending regulation would be subject to a blanket dispensation by the Minister of Transport BEFORE THE NEW REGULATIONS ARE IMPLEMENTED. KCAA reneged on that and simply announced the implementation date of 5 August 2008. The Ministers exemptions have not been given, at least not up to now. As a result, the Kenya Association of Air Operators has gone to Court over the issue, attempting to prove that some of the Regulations, if implemented as written, will literally stop some categories of aircraft and some operators from doing business legally after 5 August 2008. KCAA Drafters of the Regulations so far do not seem to understand that some Regulations, such as the requirement to have "adequate ground personnel at an airport of destination", "adequate weather reporting", or 100% security, is not possible to meet at unmanned airstrips in remote areas or game parks. Therefore, such regulations would make it impossible for them to fly there. If they did fly to such places, the aircraft insurance would be null and void. So, basically, as of 5 August 2008, many (if not all) air operators who fly to unmanned airstrips, will be operating illegally. That is not the sort of thing that the ICAO wants to hear.

Commercial flights into bush strips at lodges, fishing camps or lumber camps in Alaska or Canada are normal and take place daily, but Canada and USA "filed a difference" with ICAO as a way around civil aviation regulations that obviously are meaningless in such unmanned airstrips. "Kenya is reluctant to file differences with ICAO and would rather 'sacrifice' its aviation industry than to be seen to be a non-compliant banana republic that tolerates sub-standard aviation" stated Chairman Harro Trempenau. "That decision, together with the downturn of the tourist sector after the chaos caused by the post-election violence, will not encourage foreign investment and cause unemployment".

KENYAN AVIATION UNDER MICROSCOPE AFTER NAROK CRASH

It is, of course, not helpful that the debate over the new Kenya Civil Aviation Regulations is now fuelled by emotionally-driven concerns over the recent crash of two Government Ministers in a Cessna 210 near the Mau Escarpment. The hysteria has been whipped up to a crescendo of press hype by sudden "aviation experts" that include Ministers, Speakers, MP's and even Priests. Although their 'aviation expertise' is usually limited to having been a passenger on Kenya Airways, they feel that they can pontificate about 'over-age airplanes', the 'immigration status of the pilot', the 'low standards', the 'technical weaknesses', the 'failure of the KCAA', 'the greedy air operators', etc. They demand in all seriousness that all aircraft (even the smallest ones) should have two pilots, because it is "suicidal" to fly with only one. One must chuckle to think that these same people are perfectly happy to entrust their lives to only one lowly paid driver who zooms along at a hundred miles an hour on our "perfect" roads. The thought that a car can have a crash just as easily as an airplane has never occurred to them, yet it was our own President who was severely injured in a car accident near Machakos a few years back.

In a bout of the "Tabloid Journalism" found usually only in "The Sun" or the "National Enquirer", The Standard took full advantage of this nonsense, quoting 'anonymous experts' and other phantom sources. Yet, with a little bit of homework, it would have been clear to most reporters that 'human error' may have been at play in the Narok accident and that possibly the pilot 'pushed his luck' by flying too low in rising terrain (what is called "scud running" by pilots who try to stay below the clouds). It might even have been the case that the pilot was "egged on" to get to his destination as soon as possible, so that the passengers could be in time for an important meeting.

A quick check of the web site of the National Transportation Safety Board of the USA (www.nts.gov), the agency that investigates all transportation accidents in the USA, reveals reports on 140,000 (!) aircraft accidents since 1961. There are several pages of spreadsheets full of accidents similar to the Narok crash. "Controlled Flight into Terrain" is not uncommon, even in the "safe skies" of the USA. The law that no aircraft shall fly below 500 feet above ground has been in place for over 50 years. What can one do when a pilot ignores what he was taught or what the law already prescribes? More "Regulations" will not prevent "human error". Better training will reduce it, but the roads, the sky, the lakes or the sea will ever be completely "accident-free".

TANZANIAN AIR OPERATORS CRY "FOUL"

A heated debate has ensued amongst the Tanzanian air operators over the "unfair" decision by the Air Licencing Board of the KCAA to limit "Air Operator Certificates" for Tanzanian air operators who want to fly into Kenya, to only three months. Tanzanian operators had flown into Kenya with impunity and little red tape for many years, whilst their Kenyan counterparts who wanted to fly into Tanzania, were subjected to many forms of harassment, mostly at the hands of the Tanzania Civil Aviation Authority (TCAA) and Tanzania National Parks (TANAPA). In particular, the TCAA demanded that all foreign aircraft who fly to Tanzania, must obtain a "Temporary Air Service Licence". This piece of paper costs \$ 300 per flight - obviously unaffordable for small aircraft, especially private Cessnas and Pipers.

When the suggestion was made by some Tanzanians to take Kenya to High Court of the East African Community for 'discrimination', the Kenyans clarified the matter. In a round-robin message to Tanzanian Air Operators, Chairman Trempenau of the Aero Club of East Africa explained:

1. For over ten years now, the Aero Club of East Africa and the Kenya Association of Air Operators have written, cajoled, lobbied and made waves about the 'hostile' aviation environment in Tanzania, where it had become a policy to discourage flights into the country by 'foreign' aircraft (not just Kenyan). We have written to TCAA, ICAO, the Tanzania Tourist Board, various other ministries, etc. No luck.
2. Specifically, for 8 years the ACEA has objected to the TCAA and its predecessor, as well as the above-named agencies that:
 - The 'clearances' into Tanzania for Kenya are difficult to obtain, cumbersome, and full of red tape. It is not just a matter of picking up the phone. It is a time-consuming process of writing faxes and making an international bank transfer to a bank in Dar of \$ 25 before the flight. It is also a process hampered by bad telephone lines in TZ, of faxes that cannot get through, sweating as the travel date approaches, etc. etc. Meanwhile, Tanzanian operators can get clearances into Kenya, virtually on the phone, and any fees can be paid upon arrival. Who is being fair?
 - It is pathetic that a tourist who wants to fly from Keekorok in the Mara to, say, Klein's Camp in Tanzania (a distance of 5 km), has to fly: Keekorok-Nairobi-Kilimanjaro -Klein's Camp. We cannot even begin to calculate the cost of that in time and money. Which tourist is going to pay for that? Where are the Open Skies and the East African Community.
 - The "Short Term Licence" fee of several hundred dollars is being charged by TCAA not only for commercial flights, but also for private foreign aircraft that, by definition, do not require an "Air Service Licence" because they are not "Commercial". Tanzanian operators who fly to Kenya, for example to Wilson to get their aircraft maintained, do not have to pay a "Temporary Licence Fee". Meanwhile, Kenyan aircraft flying to TZ do, although the ICAO convention guarantees the free-movement of "private" category aircraft. TZ simply ignores that.
 - To fly beyond a "Customs Port of Entry" such as Kili or Dar, is virtually impossible for any Kenyan operator, whether 'Public Transport' or "Private", because it is totally uneconomical to do so, in view of the "usurious" Temporary Licence requirement.
 - To fly with a foreign aircraft into a TZ National Park is virtually impossible. TCAA requires that one first obtains a permission from TANAPA, before they approve the routing. Of course, Tanapa also requires a \$100 landing fee for one landing at their "well-maintained" airstrip at Ngorongoro, Seronera, etc. or other park strips. Do TAAO members have to part with a hundred bucks on landing there? Do Kenyans charge Tanzanian aircraft a hundred bucks for landing at Maasai Mara airstrips?
 - In Kenya, a private foreign aircraft is permitted at no cost, to fly around for two weeks - no questions asked. Last year I wanted to fly with my personal aircraft to visit your country and fly to your parks. I was ready to use your lodges, ground transport, food and drink, but alas, it was not possible. I choose to fly to Queen Elizabeth and Murchison's Parks instead, after my clearance request was turned down by TCAA. The Ugandans approved my request over the phone, in two minutes! So, I spent my money there. I could go on, but you get the drift? When we (ACEA and KAAO) complained about the above issues to your D-G of TCAA, the reply was words to the effect: "we have a smaller

aviation scene in TZ than you do, and we need the money. When we have as much traffic as Kenya, we'll be able to lower our rates for foreigners". What an amazing logic. I have saved that letter in my "Classic Collection" file.

Bottom line - folks- is that the East African Community with free cross-border travel like in Europe is an illusion.. a fantasy. It is easier to fly into Malawi, South Africa, Mozambique, Uganda and other places. Until that changes, and you genuinely want "open skies", please do not "cry foul" when the Kenyan operators fight back after years of Tanzanian "Temporary Licences", high fees, red tape and blocked clearances.

Meanwhile, the Vice-Chairman of the Kenya Association of Air Operators has written to his counterpart at the TAOA to call for a joint meeting and come to grips with the issues and find solutions fair to all parties.

AERO CLUB MAKES RECOMMENDATIONS

In view of the recent Narok plane crash, in which two prominent Government Ministers tragically perished together with a bodyguard and the pilot, many organizations and Government offices requested ideas from the Aero Club as to "what could be done". More Regulations? Tighter enforcement by KCAA Inspectors? No, there are already over a thousand pages of regulations, and none of them will do any good if a pilot breaks them, either on purpose or unwittingly. However, some things could be improved, for sure. Since the investigations into the accident are in progress, one should not pre-empt the outcome. However, in an effort to address basic weaknesses in the Kenyan aviation system right away, some obvious recommendations were put forward:

1. Increased emphasis on bad weather flight training in the flying schools, including some basic instrument flight training. That is being taught already at the PPL level in the USA, but not in Kenya.
 2. Complete revamping of the Kenya Meteorological Department to provide much more accurate weather forecasts and briefings at main airports. Right now, at the MET office at Wilson, the weather briefing consists of a hand-drawn A-4 piece of paper showing the whole country of Kenya, with some indications of clouds and where it is likely to rain. There is no indication of winds at different altitudes, hazy or foggy conditions, no time line, etc. The METARS and TAFS for JKIA, Mombasa and Eldoret are generally not available to pilots either, unless they go to the FAA website or a European-based weather web site. If one wants a weather forecast or a view of what is going on, one actually has to download a NASA satellite photo of Kenya and draw ones own conclusions.
 3. KCAA and the Kenya Met Department should make much greater use of the Internet in providing the AVIATION WEATHER, for all pilots to see and print out. That's how it is in most of the rest of the world. In Kenya, once an aircraft leaves Nairobi, it is on its own unless it has an expensive Stormscope. One must remember that the Marsabit helicopter crash, the fixed wing crash at Marsabit two years ago, and the recent Narok crash were all weather-related. Maybe, if the pilots had had a better weather-briefing by a properly equipped weather office, they might have re-routed and gone around the storms or clouds?
 4. Encourage Kenyan flying schools with tax breaks, cheaper to operate aircraft, and fuel subsidies. Learning to fly is much cheaper overseas, but pilots should be trained in Kenya rather than overseas, because Kenyan conditions are very different from those in USA or South Africa. Kenya is a country with many high altitude airfields and rough 'bush strips' that are short and narrow. More emphasis should be placed on high density altitude flying training, short field take offs and similar techniques.
 5. Pilot examinations must be computerized. The manual examinations are prone to bribery and corruption, and they take a lot of time. Aero Club has been asking KCAA for 'computerized exams' for over ten years now, to no avail.
 6. The KCAA web site is absolutely antiquated. Stakeholders have been asking for it to be upgraded, so that many services, from weather reports to flight planning, from obtaining clearances to getting licencing services and forms, could be provided over the Internet. So far KCAA refuses to do that.
- There are many other reforms that will likely have to await the "Changing of the Guard" at KCAA. The solutions are there and most could be implemented very quickly and economically,

given the will and assuming that some day soon, KCAA will have the willingness to listen to its customers and users.

KCAA IMPOSES ENGLISH TESTS ON PILOTS

KCAA has recently announced that all pilots (PPL, CPL and ATPL) must pass a Test of Proficiency in the English Language if they wish to retain their licences. This can be traced back to an ICAO mandate that all signatories of the Chicago Convention must comply with this by 5 March 2008. The test is presently given by appointment at the East African School of Aviation and consists of a written part, a verbal interview by the examiner, plus listening to sample ATC instructions (in different 'accents') and having to decipher these. The test can be booked at the Licencing Section of KCAA (5 kilometres away from the test site) and costs Shs. 3000 (\$ US 50). The endorsement "English Proficient", in any of 6 levels, costs another 1000 shillings - a tidy little income for KCAA. Proficiency to a minimum of "Level 4 will eventually be necessary for everybody.

As we have become accustomed with all matters pertaining to ICAO, KCAA has implemented this scheme with gusto and the axe has fallen mercilessly and quickly. After all, "it is an ICAO requirement". Reportedly some pilots have already been pulled out of circulation due to lack of proficiency. KCAA did not mention that ICAO has actually intended the English proficiency requirement to apply only to "international operations", and also has extended the grace period to 5 March 2011. By contrast, in the USA, all pilots can obtain the Level 4 Proficiency Level by applying to the FAA on the Internet and getting their Licence automatically endorsed to Level 4. The fee is \$ 2. FAA takes VISA, Mastercard and AMEX. No hassle, no fuss. Pilots ask why KCAA could not do what the FAA has done? The Aero Club and the Kenya Association of Air Operators have already lodged a protest and requested that the KCAA test be abolished and that the Radiotelephony Licence that all pilots have to have, should be counted as "Level 4 Proficiency". KCAA replied that our concerns "have been noted".

"Flight International" reported in its March 25 issue that 71 nations have not yet submitted to ICAO a date by which they intend to be compliant. 80 states have promised to do so by next year. Canada, New Zealand, UK and USA have submitted nothing. The UK Civil Aviation Authority simply assumes that the existing "Radio-Telephony Licences" are the same as "Level 4" and that Level 6 will only be required by airline pilots. That's what was, after all, the original intent of ICAO. Meanwhile, Kenya can proudly claim that it is at the leading edge of ICAO compliance and it is making money in the process. More brownie points at the upcoming ICAO audit.

SOMEN AND SZLAPAK BAG AERO CLUB NAVEX

The Navex Air Rally 2008, organised by the Aero Club of East Africa and sponsored by Heritage Insurance, Airkenya, and Kuehne & Nagel, was won by Jonathan Somen and Daniel Szlapak in a Piper Dakota. The crew of Trempenau/Linck (Cessna 206) was runner-up by a slight margin. The aim of the event was to fly along a predetermined route where competitors were supposed to navigate and stay on track and on time throughout the route based on a speed that is predetermined for each team. This was done using maps and without the use of any GPS. The organizers placed "marshals" (observers) at points along the route and aircrews lost points if they were "off-track" or late based upon the speed at which they were supposed to fly.

Starting at Orly Airport just outside Nairobi on Friday morning, the seven crews flew into the Rift Valley across Lake Magadi and landed in Bissel for a short stop. They then flew east past Kibini (near Sultan Hamud) towards the Yatta Plateau, then south-west into Tsavo West National Park, before ending the first half of the Navex at Sarova Taita Hills Lodge near Voi.

The "marshals" that were placed in "secret" locations along the route had to identify and log the time at which the competing aircraft flew overhead. Penalty points were incurred if aircrews were either "off track", "late" or "early" above the check points.

After a restful day in Taita where the participants were treated to some aerobatics as well as parachute jumping, the pilots again took to the skies for some "Practice Forced Landings" which is

excellent training for all pilots. On Sunday, the competitors flew back to Nairobi, routing to the West of the Chyulu Hills through Bissel to Wilson Airport. At the prize giving ceremony at Wilson Airport on Sunday night, Chairman Trempenau noted that "It is encouraging to see participating crews not only from Nairobi but also from as far away as Taveta, Naivasha, Kericho and Sotik. Seeing a new team entering for the first time and winning the event will give encouragement to other pilots to participate next year."

WILSON APRON CONGESTION BEING TACKLED

After several years of lobbying the Kenya Airports Authority, the Kenya Association of Air Operators and the Aero Club of East Africa appear to be close to a partial resolution of the requirement that all aircraft must taxi to the Wilson Airport Terminal before and after each cross-country flight, to undergo a 'Security Check'. Whilst not yet finalized in its detail, and as the modalities are still being hammered out, it appears that the KAA will, as a first step, relax the unpopular mandate at least for PRIVATE flights. Watch this space as discussions continue about where to board private aircraft, who is eligible, 100% compliance with the requirement to pay the Passenger Tax, etc. Until then, please continue to present your aircraft at the Terminal. Relief is in sight.

AERO CLUB SIMULATOR NEWS

Greg Love has passed exams to be instructor on the Elite Simulator, located at the Aero Club's Aviation Centre. KCAA has indicated imminent approval so that "sim" time can be legally logged. Meanwhile, all pilots would benefit from some instrument re-currency training or some practice as they go for their IR. Please contact Greg Love at the Aero Club (Isis Limited) to book your slots. Cost is Shs. 3000 per hour.

Aero-News is published as a service to Members of the Aero Club of East Africa, to keep them informed about aviation in East Africa. Contributions are welcome. If you have some comments or suggestions, do not wish to receive this newsletter, or if you want to be added to the mailing list, please send a message to Harro V. Trempenau, Chairman, Aero Club of East Africa,
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