

# Corporate aviation – a review of 2012

On 20 December 2012 Gulfstream Aerospace delivered the first G650 to a customer. By the end of the month a further three of the company's flagship corporate jet had been handed over to new owners. The initial deliveries of the aircraft, billed as "the gold standard in business aviation", could easily stand as a metaphor for the corporate aviation sector in 2012.

## ■ BY BRIAN T. RICHARDS

Gulfstream had anticipated that 17 examples would be in service by year-end but the project had been beset by challenges, such that even the fact that the first aircraft entered service was some cause for celebration. 2012 was certainly a difficult year but by the end, manufacturers, registries and operators could all at least look to the future with some optimism.

### Aircraft registration

It remains the case that the vast majority of private/corporate aircraft are registered in the home jurisdiction of the owner or operator. There is however a sizeable demand for registration under flags that offer political neutrality as well as a number of potential advantages – increased confidentiality, more favourable taxation, enhanced asset protection, lower costs, higher customer service, better security of recovery for financial institutions and, of course, operational and technical flexibility.

On 1 July 2012, the Isle of Man announced that it had registered its 500th aircraft since commencing operations on 1 May 2007. By any yardstick, the Manx registry has been

astonishingly successful, particularly as it limits its potential client base by only accepting private aircraft not available for commercial use.

During the course of the year, other jurisdictions announced their intention to emulate that success. The tiny Republic of San Marino, the Italian enclave, formally unveiled its own private registry during the MEBA trade show in Dubai in December. The day to day running of this registry has been outsourced to a US company that has experience of doing the same job for the government of Aruba.

2013 should also see the launch of a Channel Islands register based in Guernsey. It was Guernsey that led the running and Jersey's involvement was in doubt right up to the last minute. The new registry, another public-private partnership, has been promoted since the idea was first mooted as offering a tangible boost to the local financial and corporate service community. The Channel Islands register claims it will accept aircraft based anywhere in the world. It also claims that it will register craft of any size – a departure from the usual lower limit of 5,700kg imposed by other jurisdictions.



### ABOUT THE AUTHOR

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To succeed, new registries have to clearly demonstrate a unique selling point to a comparatively small market and it will be interesting to see what impact this new competition has. The emergence of these new registries demonstrates that there is no “one size fits all” jurisdiction and clients should always seek professional advice before deciding which will be the best fit for them.

Malta passed its Aircraft Registration Act, which was designed to facilitate the commercial operation of corporate jets from the island by simplifying the registration process and offering competitive tax treatment within the context of a full EU member state, in 2010. The government has also attempted to recognise security of assets by establishing a mortgage registry and becoming one of three EU signatories to the 2001 Cape Town Convention on International Interests in Mobile Equipment.

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Over the course of 2012 a number of commercial charter operators have established on Malta and have been granted AOCs (Air Operator Certificates). In mid-2012 the Maltese government announced a simplification of the VAT treatment of privately-operated aircraft that are owned by a Maltese entity and leased to a third party. As a result, at the end of a given lease period a VAT-paid certificate will be issued permitting free circulation within the EU.

#### Basel III and corporate aviation

Basel III, the third set of global recommendations on banking oversight and supervision, will start to be applied from the beginning of 2013. The impact on corporate aviation finance could be substantial, as banks look to tighten lending requirements further. The ability of purchasers to arrange finance may become more difficult and expensive. As I have found over the last year, finding a positive appetite from lenders for corporate aviation transactions is difficult, with many lenders limiting further the aircraft types they will consider along with a more restricted list of acceptable jurisdictions of registration. The outlook is not completely negative however because other institutions and lessors have begun to enter the market, particularly in what might be described as “emerging markets”.

#### Emerging markets

2012 saw a dilution in the mind-boggling predictions for corporate

aircraft sales in the Brazil, China, Russia and India that had been issued by manufacturers in the preceding three years. In the case of China, there is no doubt of huge market potential but the ability of Western financial institutions, operators and registries to tap into the market remains open to question. Operating restrictions for foreign-registered aircraft remain draconian and expensive and the very concept of private aviation within airspace that continues to be controlled by the military makes sustained and secure market growth a questionable phenomenon. 2012 did however see some interesting developments that may give a clue to the progress of the sector. Agreements between manufacturers Embraer and Cessna with local entities to establish manufacturing and marketing joint ventures will serve to reach customers more easily. The ultimately unsuccessful negotiations between troubled Hawker Beechcraft and a potential Chinese buyer also suggested a strong appetite for Chinese investment in the sector.

In March 2012 a major Indian corporation was heavily fined for failing to pay customs duties on a foreign-registered aircraft, which it had allegedly made available for charter without importing. Three months later, nine foreign flagged corporate jets were seized by the Brazilian authorities, which claimed that they were owned by Brazilians and being operated domestically again without importation beyond



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the permitted time limit. At the end of April, the Italian government introduced a "Super Tax" which levied an additional fee on foreign registered aircraft remaining in the country beyond 45 days, along with a passenger tax covering private charter flights.

These three examples illustrate the challenges facing owners and operators of corporate jets and jurisdictions marketing “offshore” aircraft registries in emerging and emerged markets. Tax and duty liabilities at a time of financial rigour come under added scrutiny. Despite the well-publicised cases in both Brazil and India, the appetite for corporate aircraft shows little sign of diminishing. In India in particular, the challenge for authorities is to ease the domestic registration process and make necessary improvements in infrastructure if they are to cope with expansion.

### The US election

During the 2012 election campaign President Barack Obama, referring to depreciation on business aircraft, asked: “Why wouldn’t we eliminate tax breaks for corporate jets? My attitude is if you got a corporate jet, you can probably afford to pay full freight, not get a special break for it.” These comments generated a swift rebuke from the heavyweights of the industry. They were widely viewed as perpetuating a negative official perception of the market and a lack of comprehension of the value of

aircraft as a business tool rather than as a status symbol. In 2008 executives of the automobile industry flew into Washington on their corporate jets to ask for taxpayer money. The negative and enduring press coverage that followed illustrates the continuing challenges facing the market in terms of perception.

### Record breaking orders

On a brighter note, in a year where commentators pointed to the weakness of the new and resale markets for corporate aircraft, the accolade of “the largest order in corporate aviation history” was actually awarded twice. In June, fractional ownership operator NetJets confirmed the purchase (including

options) of 425 aircraft – split between Bombardier and Cessna. In late November, Austrian block charter company Vistajet signed a contract with Bombardier for 142 Global Express aircraft, again including options. At \$7.8 billion this single contract was the largest with any manufacturer and points to the confidence and strength of the operators and manufacturers in the charter market. With the challenges continuing to face outright purchasers of new or used airframes, chartering an aircraft, particularly in Russia, the Middle East and Asia has never been more popular. Both NetJets and Vistajet have recently announced plans to establish subsidiaries in Russia and China to exploit this market.

2012 saw manufacturers of corporate jets, turboprops and helicopters unveil a whole raft of new designs and enhanced versions of existing marques. The industry showcases – EBACE in Geneva, ABACE in Shanghai, LABACE in Sao Paulo, MEBA in Dubai and the annual meeting of the NBAA in the US – continued to see healthy visitor numbers and willing exhibitors. The corporate aviation industry faces a difficult 2013 with a host of financial, political, fiscal and logistical challenges. There are however the proverbial “green shoots” – the launch of new registries and strong demand from emerging markets and charterers. There may indeed be light at the end of the tunnel.

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