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COELUM is Latin for air space or sky. The Romans began questioning the rights they had in the space above the land they owned and to how high above did that right extended to. Ad coelum et ad inferos, they discussed meaning that their right of property would extend as high up to the heavens and down to hell.

International measures against civil aviation terrorist attacks Adolfo Samaniego

August 2006: Millions of passengers around the world suffered the sequels of 9/11 when the British Government advised details about the discovery and frustration of an extensive terrorist attack plot to bomb American airliners departing from Heathrow Airport. Remembrances came back, panic and rigorous airport security measures were imposed at the main airports around the globe provoking delays and flight cancellations, not to mention the long lines of passengers who patiently waited to have harmless items taken away and then ordered to check in their hand luggage. Definitively the results of the September 11, 2001 terrorist attacks had left an indelible scar which has affected politics, international law, national law, security policies and economics all around the world. I wonder however if the international community has cooperated shoulder to shoulder to obtain any real results in its fight against international terrorism. Are governments ready to sacrifice their autonomy over security matters? As I have mentioned in my previous article¹ said meddling can be understood as an infringement of foreign countries sovereignty or as a legal measure based on International Law, well-founded and acceptable in accordance with the legal system of the participating countries. Situations may arise when two or more nations have different interests when it comes to increasing counter-terrorism measures, due to their worldwide political situation.

1 "Extraterritoriality or Security Safeguard?" COELUM No. 3 July, 2006.



Since the late 60`s, and as a result of the terrorist attacks against civil aviation, the international community has been obliged to subscribe to three main conventions with the principal purpose to report, prevent, categorize and punish said acts. Therefore, ICAO² has relied on the following international conventions:

1) Convention on Offences and certain other Acts Committed on Board Aircraft (Tokyo 1963).

Relevant issues:

- The Convention applies to offences committed or acts done by a person on board any aircraft while that aircraft is in flight (aircraft is considered to be in flight from the moment when power is applied for take-off until the moment when the landing run ends)
- The State of Registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board;

- Aircraft Commander is entitled to impose coercive measures in order to protect the safety of the aircraft or of persons or property therein.
- The convention does not define what is "an unlawful seizure of aircraft".



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Sierra Y Vazques specialists are very doubtful that the market, as it currently exists has the ability to absorb this enormous expansion of air lift in the short to medium term.

² International Civil Aviation Organization, entity created on November 1944 which main purpose is to secure international cooperation in order to implement a highest degree of uniformity in regulation's standards and procedures related to civil aviation matters.





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2) Convention for the Suppression of Unlawful Seizure of Aircraft (Hague 1970)

Relevant issues:

- Defines unlawful seizure of aircraft as: Any person who on board an aircraft in flight unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of that aircraft or attempts to perform any such act, or is in accomplice of a person who performs or attempts to perform any such acts commits an offence;
- Contracting states are obligated to make the unlawful seizure of aircraft punishable by severe penalties. However the convention never defines what has to be understood by "severe" penalty.
- Unlawful seizure of aircraft is an extraditable offence in any extradition treaty between the contracting parties.

3) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal 1971)

Relevant issues:

- In accordance with Convention unlawful acts against civil aviation are described as follows:
 - a. Acts of violence against a person on board an aircraft in flight that may endanger the safety of that aircraft;
 - b. Destruction of an aircraft in service or damage to such aircraft which it renders it incapable of flight;



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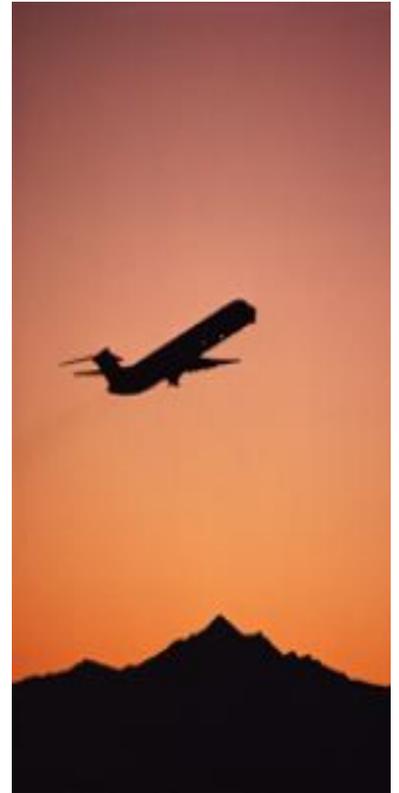
c. Destruction of navigation facilities or interference of flight operation;

d. Placing a device or substance which is likely to destroy an aircraft.

- Contracting states shall endeavor to take all practicable measure for the purpose of preventing unlawful acts against civil aviation. However said practicable measures are not described in the convention.

In sum, the main purpose of the afore mentioned conventions is to facilitate and promote cooperation in preventing and fighting back terrorism acts against civil aviation, therefore the ratifying countries must implement the stipulated prohibitions using their own laws and resources, however none of the conventions possesses an enforcement mechanism. This is a situation that may cause inadequate responses such as the non implementation of the obligations imposed by the treaty or that an specific country may take the lead in regards to the imposition of security measures around the world, penalizing those countries, in any sense, that do not live up to the imposed standards.

Therefore are governments ready to sacrifice their autonomy over security matters?



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Mexico changes the requirements for Emergency Locator Transmitters.

Andrea Valencia

In the field of aviation regulation there are several operational specifications that have been established by Aviation Laws that an Operator must comply with in order to fulfill worldwide requirements. In this article we will discuss one of the many operational details that starting 2007 will be an indispensable requirement for an aircraft operator to continue operating in Mexico.



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The Emergency Locator Transmitter (ELT) is equipment that all aircraft must have on board in order to be duly authorized by worldwide Aviation Authorities to carry out their operations. The ELT equipment is regulated by several norms and specifications. There are some international organizations that have actively participated in the approval of the requirements that aviation ELT equipment must comply with, such as International Civil Aviation Organization (ICAO), The European Organization for Civil Aviation Equipment (EUROCAE), Radio Technical Commission for Aeronautics (RTCA), Joint Aviation Authorities (JAA), Federal Aviation Administration (FAA) and Cospas- Sarsat (International Satellite System for Search and Rescue).

Every aircraft that operates in Mexico must have ELT equipment, properly installed in their aircraft, that is be able to operate simultaneously in a frequency of 12.5 and 406 MHz or else no authorizations will be granted by the DGAC and they would not be able to operate in Mexican territory.

On the Anex 6 (Aircraft Operation) and Anex 10 (Aviation Telecommunications), the ICAO has determined a series of characteristics the ELT equipment must currently have. Specifically the ICAO determined on January 1st, 2000 that all ELT equipment must have necessary technical improvements, which had to be achieved by January 1st 2005, in that every ELT installed after 2000 must be able to operate simultaneously at a frequency of 12.5 and 406 MHz.

Additionally the ICAO has established that all ELT must be able to communicate with the Cospas-Sarsat system and also comply with the additional internal regulations that each country issues in accordance with these specific Anexes.



In 2002, Mexico issued the norm NOM-008-SCT3-2002 in which the Ministry of Transport and Communication established, among other requirements, the obligation of every operator to have ELT equipment on board their aircraft, thus adopting the Annex 6 (Aircraft Operation) issued by the ICAO, that required operators to comply not only with the obligation of having an ELT equipment on board but also to comply with the characteristics of technical improvement determined by the said Anex.

In spite of the ELT equipment obligation imposed on the NOM-008-SCT3-2002, the General Directorate of Civil Aviation (DGAC), in the same year, 2002, issued an additional internal regulation that granted the airlines that operated in Mexican territory an extended period to comply and permission to operate with the ELT equipment they had already installed in their aircraft, providing that they gave the DGAC a written commitment to acquire the ELT equipment required by Law or to undertake the necessary upgrades or improvements in order for that equipment to be able to operate simultaneously in a frequency of 12.5 and 406 MHz.

On January 2006, the Ministry of Transport and Communication created an Amendment to the NOM-008-SCT3-2002, in which among other modifications, they determined that all ELT equipment, established on the Anex 6 (Aircraft Operation) issued by the ICAO, must be fully complied with by all the airlines and the aircraft operators by January 12, 2007.



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This means that the extended period granted by the DGAC so that the airlines could operate with the ELT that only has the frequency capacity of 12.5 MHz will be officially over by January 12, 2007, and every aircraft that operates in Mexico must have ELT equipment, properly installed in their aircraft, that is be able to operate simultaneously in a frequency of 12.5 and 406 MHz or else no authorizations will be granted by the DGAC and they would not be able to operate in Mexican territory.



SURVEY:

What will aviation be like in the next ten years?

Alec McNish

In this and in the following four issues of Coelum, we will take a look at the future of aviation from the point of view of diverse participants in this vibrant industry. The intention of this exercise is for various experts in the field from different backgrounds and perspectives to respond to the same questions as seen from the particular side of the industry from which each of them has developed his or her own personal experience.

In this issue we will cover the end user perspective which is kindly provided by Alec McNish.



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Mr. McNish is an aviation consultant who recently retired from Apple Vacations where he served for many years as Vice President Air Contracting and Operations. Apple Vacations is considered by the Mexican Ministry of Tourism to be the premier provider of tourists to Mexico. Mr. McNish has wide experience of both scheduled service and charters from N. America to Mexico from the viewpoint of the user. McNish was recently awarded special recognition by President Fox for his work in the development of tourism to Mexico over the past 25 tears.



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- What do you think is the future of aviation, globalization or regionalism?

Aviation is already a global industry, but controlled regionally, for reasons indicated below. Until a few years ago, many major international carriers were operated as arms of their respective governments, and in their own national interest. Bilateral agreements still control growth in many areas, each country still have their own rules and requirements, and while most carriers now operate under private enterprise, they are still subject to the national interest of their own country of origin. Regionalism will occur in blocks of countries, like the changes occurring under the European Union. The impetus will come from political groupings, not from the carriers themselves.

- Do you think that the current bilateral system still has a future?

The bilateral system has a long way to go in its present form. It provides stability of service, although at times it still restricts service so as to protect the airlines of one the bilateral partners, as has been happening between the US and Mexico. The US wanted open skies, and Mexico only eased the restrictions for their resort areas to better protect Mexican carriers on the main business routes. In Europe however the European Union is bringing countries together to talk with one voice on bilateral agreements.

- What would you say is the effect of international alliances of airlines in the context of competition?

International alliances may not be the best thing for competition, but they are good for the consumer who travels internationally. Ease of booking, through fares, better connections to more destinations, and a commonality of both service and quality. Competition still remains within the various airline alliances, albeit at a lower level.

In the tour operator business, code sharing, and joint fares are essential to the development of a destination as they give the consumer much more choice of flights and add to the fare competition.

- Is national control an issue in your country? Is this about to change?

The US Department of Transportation has been advocating for a higher percentage in the amount of foreign ownership of U.S. carriers. They point out that in some cases the carrier's development is stifled by the restriction on the acquisition of foreign investment. The U.S. Congress however is most concerned about National Security and the ability to control a national fleet if more U.S. carrier ownership is vested overseas. In the present climate I do not see any changes to the current rules.



This month's extract of Mexican aviation news:

o Foreign airlines expansion into Mexico put pressure on Mexican airlines market share

Reforma. 3 / Aug / 2006

<http://busquedas.gruporeforma.com/utilerias/imdservicios3W.DLL?JSearchformatS&file=MEX/REFORM01/00762/00762786.htm&palabra=aerolineas%20&sitereforma>

o Azteca Airlines facing financial crisis

El Universal. 8 / Aug / 2006

http://www2.eluniversal.com.mx/pls/impreso/noticia.html?id_nota=53369&tabla=finanzas

o Low cost airlines gain market share.

Milenio. 10 / Aug / 2006

<http://www.milenio.com/mexico/milenio/busqueda.asp?p=Ganan+mercado+las+aerol%EDneas+de+bajo+costo&x=27&y=11>

o 2006: A crucial year for safety of Mexican airlines: SCT

Notimex. 10 / Aug / 2006

<http://www.reportedf985.com.mx/nota.php?id=3859&secc=finanzas>

o Monterey Airport asking for help for Click.

Vanguardia. 10 / Aug / 2006

<http://srv2.vanguardia.com.mx/hub.cfm/FuseAction.Detalle/Nota.556897/SecID.19/index.sal>

o Operating air-space efficiently to save aviation fuel.

Reforma. 22 / Aug / 2006

<http://busquedas.gruporeforma.com/utilerias/imdservicios3W.DLL?JSearchformatS&file=MEX/REFORM01/00768/00768876.htm&palabra=Eficientan%20espacio%20aéreo%20para%20ahorrar%20tu rbosina&sitereforma>

o Construction begins on a Mexican aerospace complex.

Caribe Preferente. 23 / Aug / 2006

http://www.caribepreferente.com/index.php?option=com_content&task=view&id=4980&Itemid=41

o Mexicana bankruptcy concerns

Reforma. 28 / Aug / 2006

<http://busquedas.gruporeforma.com/utilerias/imdservicios3W.DLL?JSearchformatS&file=MEX/REFORM01/00771/00771733.htm&palabra=%20Temen%20quiebra%20en%20Mexicana&sitereforma>

o Flight attendants and their union evaluate their Mexicana work contract

El Universal. 29 / Aug / 2006

<http://www.eluniversal.com.mx/notas/371480.html>

o Profeco warns consumers about dealing with Aerocalifornia

El Financiero. 31 / Aug / 2006

<http://impreso.elfinanciero.com.mx/pages/ResultadoBusqueda.aspx?txtNumeroPagina=1&txtTamanoPagina=10&blnBusquedaHistorica=yes&txtPalabraClave=Cautela+de+Profeco+con+Aerocalifornia&txtDesde=30%2F08%2F2006&txtHasta=01%2F09%2F2006&chkSeccion=3&chkSeccion=4&chkSeccion=6&chkSeccion=14>

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