

COELUM

COELUM Pronunciation: 'che-läm, 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.

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Mexico Joins The Cape Town Clan | Carlos Sierra

The long and winding road for the adherence of Mexico to the very controversial Convention on International Interests in Mobile Equipment signed at Cape Town on 16 November 2001 and to the Protocol on Matters Specific to Aircraft Equipment of the same date came to an end on July 31 of this year when the Mexican Ministry of Foreign Affairs finally deposited these instruments at UNIDROIT causing these to become effective in Mexico on November 1st of 2007.

Much debate preceded the approval of these instruments by the Mexican Senate and much shall remain to discuss in respect to the Declarations with which these have been finally adopted. In prior issues of Coelum we have analyzed some of the positive and negative aspects of these conventions and the impact that such will have in the Mexican legal system. An urgent call needs to be made now to the Mexican aviation authorities that need to be promptly up to the task of modernizing their procedures to facilitate a smooth access of the users to the International Registry. It is no secret that the Mexican Registry has not even started to review what it needs to do to become the access point to the IR and has done nothing to implement any procedures. This is a cause of major concern given the very painful implementation process that much better prepared countries have experienced. The lack of preparedness of our Registry is likely to result in a nightmarish experience for its users.

We shall see on due course if Mexico will really benefit from Cape Town, we shall see if this increases the confidence of lessors and financiers of aircraft from around the world and if it adds certainty and flexibility to the very deteriorated reputation of Mexico as a safe legal environment for the placing of high value aircraft and equipment.

It is now time to put all hands to work on the sound implementation of procedures if we want to achieve a smooth adoption of these instruments.

It is now time to put all hands to work on the sound implementation of procedures if we want to achieve a smooth adoption of these instruments. The devil is in the details and Cape Town will amount to nothing if the Mexican Registry first and the Mexican judicial system thereafter are not up to the plate on these issues.

We shall see and of course we will write about it...

Renegotiating The Bilateral Air Service Agreements of the European Union | Adriana Padilla

International air services between individual countries are ruled by bilateral agreements which are generally negotiated by governments who protect their own interests by restricting designations only to their national carriers, while imposing restrictions in areas such as capacity, frequency and fare levels.

These bilateral air transport agreements find their origin in The Chicago Convention.¹ This Convention induced States to exchange air traffic rights between their territories on the basis of bilateral air transport agreements. In the case of the European Union (EU), the European Court of Justice has ruled that these bilateral Air Service Agreements (ASAs) are discriminatory and contrary to Community law.²

As a result of this decision the European Commission has required to ensure legal certainty to the bilateral agreements signed by Member States and then to gradually replace these bilateral agreements on an equal basis by proposing amendments to the existing ASAs by two possible methods:³

a) Conducting individual bilateral negotiations by a partner State with each EU Member State concerned, so as to amend each ASA separately to provide the insertion into the agreement of standard clauses reflecting Community competence and legislation.

b) Negotiating Horizontal Agreements which are agreements negotiated by the European Commission on behalf of the Member States, in order to bring all existing bilateral air services agreements between Member States and a given third country in line with Community law. These Horizontal Agreements permit the insertion of the necessary standard clauses in the whole range of agreements concluded between the Member States and a given third country.

Third countries not being part of the EU have found problems in renegotiating their respective bilateral air service agreements arguing that they have already signed their respective "bilateral" air service agreement with an individual country and not with a block of countries.

Such is the case of Mexico, which is reluctant to renegotiate its respective bilateral agreements with European countries. This position has to be analyzed and promptly resolved by Mexico because, among other important reasons, its geographical situation is strategic for the air transport business. If Mexico takes an open and convenient position to this issue, this would prevent Mexico from being in disadvantage with respect to other countries from Latin America that have already renegotiated their bilateral air service agreements with the EU, such as Chile.

¹ Civil International Aviation Convention signed on December 7th, 1944 in Chicago, Ill.

² ECJ Ruling of 5 November 2002 in cases C-466/98, C467/98, C468/98, C-469/98, C-471/98, C472/98, C475/98 and C476/98,

³ Air Transport Portal of the European Commission: http://ec.europa.eu/transport/air_portal/international/pillars/doc/2005_10_12_info_note_faq_en.pdf

An Approach to Mexican Immigration Policy | Mario Molina

In the last year of the previous administration, the Federal Government stated that all US citizens would be required to have a passport in order to enter Mexico.

This year, the new administration issued a press release to advise that US citizens would not, for the time being, require a passport to enter Mexico.

None the less, the webpage of the National Immigration Institute still states that US tourists must present their passport when entering Mexico.

Far from being an innovative measure in tune with the "support" of the tourism industry, the policy announced by the new President, indicates an erratic immigration policy that hasn't been exactly a priority in our country over the last few years.

The Immigration Authority in Mexico charges two main duties to foreign tourists arriving to the country: DSM¹ and DNI². These duties are collected by the airline directly from the passenger and the airline is obliged to report those amounts when the authority issues charge for these services, which in the case of DNI is every 15 days save for carriers members of CANAERO³ which are allowed a period of three months.

According to article 21 of the Federal Population Law, every airline transporting foreign passengers to Mexican territory is obliged to review the passenger documentation to enter the country, this under the penalty of a fine that will be determined once the passenger arrives to Mexico.

Every airline transporting foreign passengers to Mexican territory is obliged to review the passenger documentation to enter the country.

Other than by this law originally published in 1974, Mexico hasn't developed a serious immigration regulation or a consistent policy to regulate the transit of tourism between the United States and Mexico, or any other country.

Even though North America is one of the most important areas dealing with international passenger transit, NAFTA countries have failed to develop a common immigration policy reflected in clear regulations in each nation.

¹ DSM is a duty that must be paid for the cost of the immigration agents at the airport.

² DNI is a duty that covers the cost of the immigration permit of every tourist entering Mexican territory.

³ National Chamber of Air Transport

The European Union once again is taking the lead in the area and has established a consistent trend directed to provide legal certainty in a region where the movement of people is a natural phenomenon that is increasing systematically over time. This trend is founded on some basic principles, such as:

- The economic and demographic development of the Union;
- The capacity of reception of each Member State along with their historical and cultural links with the countries of origin;
- The situation in the countries of origin and the impact of immigration policy on them (brain drain);
- The need to develop specific integration policies (based on fair treatment of third-country nationals residing legally in the Union, the prevention of social exclusion, racism and xenophobia and the respect for diversity.⁴

In this context, measures like the one mentioned above implemented in Mexico must be reduced as soon as possible and be replaced by a specific law that at least shall lay out exact requirements for the transit of tourism. Far from this, the National Immigration Institute recently informed CANAERO⁴ of their intention to modify the agreement referred above signed with chamber members that will require them to make their DNI payments every month, instead of every three months as is the current standard.

It is necessary for this administration to announce a formal and uniform immigration policy for tourism.

It is very important to remember that airlines agreed to cooperate with the Federal government in order to reduce the processing time for passengers arriving to Mexico.

Since 1998, airlines have collected the DNI and DSM duties directly from the passenger for further payment of this to the immigration authority. In this context, it is necessary for this administration to announce a formal and uniform immigration policy for tourism and a more consistent approach to airlines which have helped the immigration authority to collect these duties in a way that improves the experience of the traveler visiting Mexico.

⁴ Communication COM(2000) 757 sent by the Commission of the European Communities to the European Parliament dated November 22, 2000.

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Extract of Mexican Aviation News

[ASA says Mexico City Airport's second runway will be operational in October](#)

The work to complete the second runway at Mexico City International Airport (AICM) is expected to be complete, and the runway operational for the last quarter of this year, starting in October, according to Aeropuertos y Servicios Auxiliares. This project has required investments of 8,5 million pesos but will reduce operating costs. It is expected to handle 43,2 per cent of landings.

Milenio, 02/ July / 2007

<http://www.milenio.com/mexico/milenio/nota.asp?id=524896&sec=5>

[Mexico City Internacional Airport leads Latin America](#)

The Mexico City International Airport (AICM) ranked number one in Latin America, based on its volume of air traffic in 2006. AICM's year-over-year flight total increased by 10% according the Latin American Air Transport Association.

Reforma, 04/ July / 2007

<http://www.reforma.com/negocios/articulo/394/786021/>

[Airlines Bankruptcy Insurance will be at the expense of passengers](#)

The Asociación Mexicana de Agencias de Viajes (Mexican Association of Travel Agencies), the Secretaría de Comunicaciones y Transportes (Transportation Ministry) and the Procuraduría Federal del Consumidor (PROFECO - Consumer Affairs Prosecutor) wants to complete an insurance strategy this year that will protect passengers and agencies against the closing or unexpected bankruptcy of airlines.

El Financiero, 06/ July / 2007

<http://www.elfinanciero.com.mx/ElFinanciero/Portal/cfpages/contentmgr.cfm?docId=67145&docTipo=1&orderBy=docid&sortby=ASC>

[Mexicana, 86 years, opens Aviation Museum](#)

Mexicana de Aviación celebrates 86 years of Aviation with the opening of the first Aviation Museum in Mexico; they also welcome Manuel Borja Chico as Chief Executive Officer. He has big challenges ahead with this new responsibility such as supporting the operating viability of the carrier in a difficult and competitive environment.

El Economista, 16/ July / 2007

<http://www.economista.com.mx/impreso/articulos/06256D5C000466298625731900730472>

[SCT announces 3 new airports](#)

The Mexican Government launched an infrastructure plan that includes investments of almost 38,000 million dollars in roads, railroads, ports and for the construction of three new airports over the next five years.

El Economista, 18/ July / 2007

<http://www.economista.com.mx/articulos/2007-07-18-40712>

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Extract of Mexican Aviation News

Aeroméxico's sale will be through the stock market: IPAB

Aeroméxico will be sold through the stock market. With this measure, the buyers will not pay taxes and the identity of the investors will be anonymous, according to information from the Instituto para la Protección al Ahorro Bancario Institute for the Protection of Bank Savings (IPAB)

El Universal, 23/ July / 2007

<http://www.eluniversal.com.mx/finanzas/59012.html>

Airlines improve in the second quarter

Companies begin to report their financial results for the first half of the year. The airlines are improving, but in Mexico, only the low-cost airlines are showing growth.

El Universal, 25/ July / 2007

<http://www.eluniversal.com.mx/columnas/66429.html>

SCT backs the airport project in Hidalgo

As a solution to the airport and the air traffic issues of the center of the country, Luis Téllez, the Transportation Minister supported the construction of a new airport in Tizayuca's Valley, which would be authorized at the beginning of 2008 and when complete, would be used mainly for all cargo operations.

El Economista, 26/ July / 2007

<http://www.economista.com.mx/articulos/2007-07-25-41183>

Delta grows in Latin America

The US airline, Delta Air Lines, increased its influx of passengers who travel to Latin American destinations by 22% per cent in June, producing a year-over-year growth of 14% per cent.

El Financiero, 26/ July / 2007

<http://www.elfinanciero.com.mx/ElFinanciero/Portal/cfpages/contentmgr.cfm?docId=70627&docTipo=1&orderBy=docid&sortby=ASC>

Increase in TUA concerns carriers

Aeropuertos y Servicios Auxiliares - ASA (Airports and Auxiliary Services), the Government's airport operation consortium decided to apply an increase in the Airport Use Tariff (TUA) every month commencing on March of this year, which generated concerned comments from the airlines because the increases are not reflected in any infrastructure improvements or other airport services that are needed by the carriers for their passengers.

Reforma, 30/ July / 2007

<http://www.reforma.com/negocios/articulo/397/793868/>

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