

coelum.

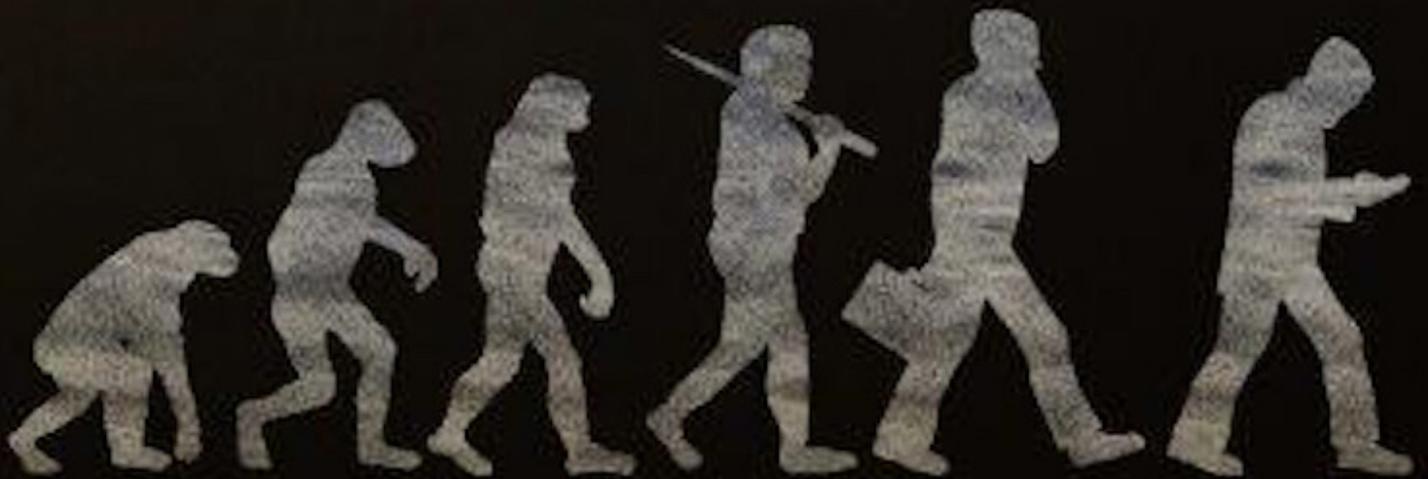
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The Evolution of the Industry:
Legislation that must be
Constantly Patched. New
Amendments to the Civil
Aviation Law.

by Misael Arellano

JULY NEWS on
Mexican Aviation



COELUM: Pronunciation: 'che-l&m, is Latin for airspace 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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The Evolution of the Industry: Legislation that must be Constantly Patched. New Amendments to the Civil Aviation Law.

by Misael Arellano.

All around the world and particularly in civil law countries, the legislation must be “updated” because several factors; however, the evolution and development of the aviation industry occurs on an exorbitant way, generating a permanent necessity of amendments to the civil aviation legislations. Mexico is not the exception, and during the last years, the activity on the amendments to the Civil Aviation Law has increased. This edition makes the review of the routine amendments to the Mexican Civil Aviation Law dated on June 18, 2018; but not without first reviewing the historical precedents of such legislation.

PRECEDENTS.

The first figure on the regulation of civil aviation in Mexico was the establishment of a Technical Section of Air Navigation, depending from the Railways Directorate of the Secretariat of Communications and Public Works, on September 20, 1920. Later, this Section was restructured to create the Civil Aviation Department by a presidential decree published on the Official Gazette on July 1, 1928. As of 1930, the air transport services in Mexico started growing through the consolidation of domestic and international routes, increasing the required services on aviation matters provided by the referred Department and because the operation of aircraft with higher levels of range and speed.

“Such added sections make references to the definitions of unmanned aircraft, autonomous aircraft, model aircraft, unmanned free balloons and remote piloted aircraft systems, respectively.”

In that sense, the first precedent of legislation in aviation matters in Mexico was the Law of General Means of Communication (LGMC), published on February 19, 1940 in the Official Gazette¹. The legislation about civil aviation was stated in the Book Fourth of the LGMC, with nine chapters and 68 articles (from Article 306 to Article 373), under the title “Aeronautical Communications”.

It was until May 12, 1995 when the Civil Aviation Law was published in the Official Gazette, derogating the Book Fourth of the Law of General Means of Communication almost in its entirety. The law published on 1995 consisted of 92 Articles divided in 19 Chapters. The Regulation of the Civil Aviation Law was published on December 7, 1998, regulating the law, without prejudice of the international treaties signed by Mexico, through 198 Articles divided in 7 Titles².

AMENDMENTS TO THE CIVIL AVIATION LAW.

After one of the most relevant amendments to the Civil Aviation Law made on June 26, 2017 regarding the rights of air transport passengers; on June 18th, 2017, additional amendments were published in the Official Gazette; but this time with regards to the different matters that will be described below.

Going from the broader to the specific aspects; we must start saying that all references previously made to the official daily minimum wage used for the calculation of economic sanctions, were changed to UMAs. The acronym UMA provides from Unit of Measure and Update, which in Spanish is “Unidad de Medida y Actualización”. The UMA is the economic

1.- www.diputados.gob.mx/LeyesBiblio/ref/lvgc/LVGC_orig_19feb40_ima.pdf

2.- www.diputados.gob.mx/LeyesBiblio/regley/Reg_LAC.pdf

reference in Mexican pesos to determine the amount for the payment of obligations stated in any federal or local law, as well as in any regulation derived from such laws. The Law to Determine the Value of the Unit of Measure and Update was published in the Official Gazette, by a presidential decree, on December 30, 2016.

In the same line, these amendments include the change to all references made to the Federal District Civil Code as well as to the Federal District Criminal Code, as the supplementary applicability laws, stating now the applicability of the Federal Civil Code and Federal Criminal Code, respectively³.

“...all certificates or equivalent documents issued by foreign workshops and training centers will be validated by the Secretariat of Communications and Transport, as long as such workshops or training centers have been authorized by the civil aviation authority of its State and such State observe the standards of the International Civil Aviation Organization.”

On the other hand, Section I of Article 2 of the Civil Aviation Law was amended by the inclusion of Sections I Bis, I Ter, I Quarter, I Quintus and I Sixes. Such added sections make references to the definitions of unmanned aircraft, autonomous aircraft, model aircraft, unmanned free balloons and remote piloted aircraft systems, respectively. Section III of the same Article was amended to extend the original airport definition to include beyond the operations of aircraft; aircraft operations for passengers, mail, and cargo in the scheduled, non-scheduled, private commercial and non-commercial air transport services.

With regards to the substantial amendments, these were made to the following Articles:

- Article 6.- addition of Sections XV, XVI, XVII, XVIII and XIX.

This Sections included expressly the faculties of the Secretariat of Communications and Transports about: XV) the electronic way authorization of flight plans; XVI) the granting of workshops and training centers permits; certificates for the establishment of aircraft and components manufactures, which may be granted to Mexican and foreign natural or legal persons; XVII) the issuance of regulations and official norms about operational security and their observance; XVIII) the issuance of regulations and official norms about the certification, operation and manufacturing of unmanned aircraft, except for military; and XIX) any other referred in the law or in any other applicable regulation.

- Article 11.- addition of paragraphs 4th, 5th and 6th.

Added paragraph 4th states that workshop and training permits, as well as the production certificate, will be required for the establishment of aircraft and components manufactures, which may be granted to Mexican and foreign natural or legal persons.

Paragraph 5th states that all certificates or equivalent documents issued by foreign workshops and training centers will be validated by the Secretariat of Communications and Transport, as long as such workshops or training centers have been authorized by the civil aviation authority of its State and such State observe the standards of the International Civil Aviation Organization.

3.- Article 3, about acts occurred onboard in Mexican and foreign aircraft operated in Mexican airspace; Article 4, about the air navigation in Mexican airspace; and the Articles 62, 64, 68, about the responsibility for damages to the passengers.

Paragraph 6th states that domestic non-scheduled, international non-scheduled and private commercial permits will be granted with permanent validity; and the international scheduled permits will be granted with permanent validity just if a reciprocal international agreement has been executed, on the contrary, these permits will be granted for one year.

- Article 15.- modification of Section X, by the inclusion of the infringement of the operation security as a cause for the cancellation of granted concessions or permits:

“Article 15. Concessions or Permits can be cancelled for:

...

X. Infringing the safety conditions regarding airworthiness and operational safety;

...”

- Article 23.- increasing of the authorized capacity of passengers for the operation of air taxi services.

The number of maximum passengers authorized to be transported on air taxi services was increased from 15 to 19, maintaining the restriction to 3,500 kilograms of weight.

- Article 26.- the obligation for the filing of any cooperative or commercial agreement executed each other or with foreign carriers has been addressed expressly just to concessionaries or permit holders for the operation of scheduled services.

- Article 46.- addition of Section VI.

“Article 47. The Mexican Aviation Registry is public, will be in charge of the Secretariat, and in it must be recorded:

...

VI. The documents by which it is acquired, transmitted, modified, seizure or cancelled the property, possession and all other right in rem about civil unmanned aircraft as specified in the corresponding Mexican Official Norm.”

As a conclusion, these amendments to the Civil Aviation Law attend to the modification or derogation of other related laws; but mainly by the evolution of the aviation industry with regards to the safety operational and the recent development of the manufacturing and operation of unmanned aerial vehicles (UAVs) and remotely piloted aircraft systems (RPAS).

“Article 47. The Mexican Aviation Registry is public, will be in charge of the Secretariat, and in it must be recorded:

...

VI. The documents by which it is acquired, transmitted, modified, seized or extinguished the property, possession and all other right in rem about remotely piloted civil aircraft as specified in the corresponding Mexican Official Norm.”

Government of the State of Queretaro announce their intention on aeronautic investment projects.

As their official visit to Europe, authorities from the government of the Mexican state Queretaro announced they are looking to expand and bring to Queretaro more aviation industry projects, these projects would represent investments for 25 million euros. www.elfinanciero.com.mx/bajio/queretaro-pone-la-mira-en-proyectos-aeronauticos-de-25-millones-de-euros July 18, 2018.

A new helicopter maintenance center will be open in Queretaro.

The government of the Mexican state Queretaro announced the 240 million pesos investments in Queretaro in order to open a helicopter maintenance center, it was mention by Queretaro authorities that this investment would allow the development of helicopter maintenance activity in the state. www.elfinanciero.com.mx/bajio/anuncia-airbus-nueva-inversion-en-queretaro-por-240-mdp July 18, 2018.

Baja California governor announces a 288 million pesos investment in Tijuana related to aviation industry.

During the Farnborough Airshow governor Francisco Vega announce the investment of 288 million pesos investment for the fabrication of aerospace systems, this investment would generate among 400 new employments. www.elfinanciero.com.mx/empresas/esterline-invertira-mas-de-288-mdp-en-expandir-operacion-en-tijuana July 18, 2018.

EU Strengthens Civil Aviation Ties with Latin America and the Caribbean.

A four-year project has been celebrated by the European Union and Latin American states to enhance their ties in civil aviation managed by the European Aviation Safety Agency (EASA), aiming aviation safety and promoting the political, economic and environmental partnership between the EU and Latin America in the domain of civil aviation, particularly focusing on Argentina, Brazil, Chile, Colombia, Mexico and the Regional Safety oversight Organizations (RSOOs) in the region. www.aviationvoice.com/eu-strengthens-civil-aviation-ties-with-latin-america-and-the-caribbean-2-201807191136/ July 19, 2018.

Airbus will collaborate with the delivery of medical supplies with drones.

Airbus, the European aeronautical manufacturer, together with International SOS, a leading company in medical services, signed a Memorandum of Understanding (MoU) to study the feasibility of using aircraft or drones for the delivery of medical goods and supplies to get secure, protected and corporate deliveries. www.a21.com.mx/aeronautica/2018/07/20/airbus-colaborara-para-entregar-suministros-medicos-con-drones July 20, 2018.

Drone drug flights surge along U.S.-Mexico border as smugglers hunt for soft spots.

Smugglers are using video cameras and small drones to spot vulnerabilities along the U.S. Mexico border, more than three dozen sightings since October from the past year have been detected by the border patrol, border patrol officials are concern that criminal groups are using aircraft for surveillance while seeking paths to traffic drugs. www.nationalpost.com/news/world/secret-drone-flights-surge-along-u-s-mexico-border-as-smugglers-hunt-for-soft-spots July 20, 2018.

Mexico's aerospace exports grow 11.2% per year.

According with the Mexican Government in the framework of the Farnborough Aeronautical Fair, between 2007 and 2017, the exports of the Mexican aerospace industry grew at an average annual rate of 11.2%, which in the last year reached more than 7 billion dollars, positioning Mexico as the most competitive country for the aerospace industry in America with Baja California, Chihuahua, Querétaro and Nuevo León as the main exporters. www.a21.com.mx/aeronautica/2018/07/23/exportaciones-aeroespaciales-de-mexico-crecen-112-anual July 23, 2018.

The future of the new airport will be decided in citizen consultation, confirms AMLO.

Andres Manuel Lopez Obrador, virtual president-elect, informed that the destination of the New International Airport of Mexico (NAIM) will be decided through a citizen consultation that will be held at the end of October. "A citizen consultation will be held at the end of October, so that Mexicans can decide what we should do. It is not any program, it means making decisions that claim billions of pesos from the budget," Lopez Obrador said at a press conference on Monday. The virtual president-elect indicated that he analyzes which organism can organize and carry out the consultation. www.elfinanciero.com.mx/economia/el-futuro-del-nuevo-aeropuerto-se-decidira-en-consulta-ciudadana-confirma-amlo July 23, 2018.

ASA and CONACYT will develop airport maintenance system.

Aeropuertos y Servicios Auxiliares (ASA) in cooperation with Consejo Nacional de Ciencia y Tecnología (CONACYT) will develop an integral system of airport maintenance system with Mexican technology that would allow to cover a wide range of functions for maintenances airport services. www.a21.com.mx/aeropuertos/2018/07/23/asa-y-conacyt-desarrollan-sistema-de-mantenimiento-aeroportuario July 23, 2018.

SCT suspends four tenders of the new airport.

The Airport Group of Mexico City (GACM) announced the suspension of four tenders that were under way as part of the construction process of the New International Airport of Mexico (NAIM), two of which should already should been adjudicated (the economic proposals of both go from 5,000 to 8,500 million pesos) and followed the review of the information. www.eleconomista.com.mx/empresas/SCT-suspende-cuatro-licitaciones-del-nuevo-aeropuerto-20180725-0022.html July 25, 2018.

Plane crashes in Mexico.

Aeromexico Flight 2431 went down not long after departing from the General Guadalupe Victoria International Airport in Mexico's northwest state of Durango. The operating aircraft was lifting off when it tried to abort the takeoff due to bad weather. The plane's manufacturer said in a statement that technicians were sent to the crash site and that it was ready to support the investigating authorities. abcnews.go.com/International/aeromexico-plane-involved-accident-mexico-airline/story?id=56949011 July 31, 2018.

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LANGUAGES: Spanish and English.

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