

coelum.

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Effects of the Mexico City New Airport Cancelation.

by José Manuel Muñoz

JANUARY 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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Effects of the Mexico City New Airport Cancellation.

by José Manuel Muñoz.

In previous editions, we mentioned the rejection made by the Federal Government of the proposal regarding the repurchase of the bonds that were issued abroad through the Mexico City Airport Trust Fund ("MEXCAT"), as well as the cost of this decision by the current administration that rises to more than 10 billion dollars. However, on December 3, a new offer was made by the Federal Government, and according to official sources of the Federal Government, about 70% of foreign bond holders have accepted the offer submitted.

The acceptance of this offer is an important step for current president, Andres Manuel Lopez Obrador, to come through with one of his main campaign proposals, the cancellation of the New Mexico City Airport ("NAIM").

After a controversial popular consultation, the Federal Government will be seeking to start with the refurbishment of the current Mexico City Airport ("AICM"), and the adaptation of two or three new runways in what is now the military base of Santa Lucia, as well as an increase in the capacity of the International Airport of Toluca. Furthermore, derived from the acceptance of the offer by the Mexican Government to repurchase the MEXCAT bonds, the Secretary of Communications and Transportation, Javier Jimenez Espriú, announced the definitive cancellation of the construction works in the NAIM on December 27, despite the fact that construction works still continue on the NAIM premises.

Derived from the acceptance of the proposal by the bond holders, the Ministry of Finance and Public Credit ("SCHP") made the payment of about 1.8 billion dollars, and it announced that the plan the Federal Government has is to pay for this repurchase at around 200 million dollars annually. This payment obligations would be guaranteed to the bond holders with the rates of passenger's charges ("TUA")¹ collected at the AICM, and the payments would be amortized over a period of 21 years. The interest generated by the payment of this bonds would be around 4.3 billion dollars².

However, analyzing the offer that was presented and accepted by the bond holders, we found some legal conditions that would preclude the Federal Public Administration to achieve its mission of carrying out its alternative project in Santa Lucia and the growth of the Toluca International Airport.

According to the proposal published by the Federal Government, there are several conditions that seek to protect the holders, among which, at least two make it merely impossible to carry out the Santa Lucia project and the strengthening of the Toluca airport.

The transcript of such conditions is the following:

"Protection from Alternative Airport. We propose to add an event of default in case (i) (A) any airport commences commercial operations within a 70-kilometer radius of the Benito Juárez Airport (as defined herein), or (B) the Toluca Airport general passenger traffic increases above five million passengers per year"³

In relation to the non-compliance citation in which it is established that no airport will be able to start commercial operations in less than a 70 km radius, we find that Santa Lucia is located at a distance of 35 km radius from the AICM, if Santa Lucia starts operations as it is proposed by the Mexican president, this will constitute a default by the Federal Government to the agreement celebrated with the bond holders. Considering the President

1.- <https://www.excelsior.com.mx/nacional/obras-del-naim-en-texcoco-suspendidas-desde-diciembre-sct/1288137>

2.- <http://www.elfinanciero.com.mx/empresas/4-razones-por-las-que-aun-sigue-la-obra-del-naim>

3.- <http://gbsc-usa.com/MEXCAT/>

mentioned that the construction of the first runway would start in March 2019, and that this construction would be finished in a period of three years⁴, it will be extremely important to determine with precision how and in which way this is not a breach of the same offer presented by the current administration.

Regarding the operation of the Toluca International Airport, it is not clear how it would be helpful if this airport, according to the accepted proposal, should not have more than 5 million passengers per year, otherwise this would cause an event of default to bondholders. It is worth mentioning that last year, 2018, the Toluca International Airport presented a 6%⁵ increase of passengers using this airport, which represents 2 million passengers more than those served in 2017, thus demonstrating the exponential problem that the increasing flow of passengers in this airport represents.

“On 27 December, AICM received authorization by the SHCP for an increase in passenger charges fees for international flights of 24.7% and 2% for domestic flights. This means it will be charging passengers the amount of \$ 44.07 dollars on international flights and 23.20 dollars on domestic flights, becoming the third most expensive airport fare in the world.”

Furthermore, the constant insistence by the Federal Government regarding the cancellation of the NAIM has already brought some negative economic effects to the country, yet, these negative effects have been quantified differently by the Government and other sectors of the population.

According to the Federal Government, the cancellation of the NAIM will cost approximately 120 billion pesos, and will represent the loss of around 70,000 jobs, added to the 100 billion pesos that were already spent on the project⁶.

The Grupo Aeroportuario de la Ciudad de México (“GACM”), unlike the Federal Government, estimates that the cost of canceling the NAIM will be around 120 billion pesos while the expenses that have been incurred so far by the project add up to a total of 60 billion pesos, and a total of 170 billion pesos already designated on contracts that represent 60% of the construction workers⁷.

The Consejo Coordinador Empresarial (“CCE”), which is an autonomous body that represents the business sector, estimates that the cost of canceling the airport is between 100 billion pesos and 120 billion pesos, as well as a total of 46 thousand jobs only in terms of NAIM construction works⁸.

Likewise, the International Air Transport Association (“IATA”), estimates that the loss generated by the cancellation of the NAIM will be around 20 billion dollars and around 200 thousand jobs, since this analysis carried out by IATA is considering the future expectations for income and future jobs that would be generated

4.- <https://www.eluniversal.com.mx/nacion/politica/construccion-de-aeropuerto-en-santa-lucia-iniciara-en-enero>

5.- <http://www.elfinanciero.com.mx/nacional/aeropuerto-de-toluca-levanta-la-mano-para-cubrir-necesidades-del-aicm>

6.- <https://adnpolitico.com/mexico/2018/10/31/millones-multas-y-empleos-cual-es-el-verdadero-costo-de-cancelar-el-naim>

7.- <https://adnpolitico.com/mexico/2018/10/31/millones-multas-y-empleos-cual-es-el-verdadero-costo-de-cancelar-el-naim>

8.- <https://www.forbes.com.mx/asi-fueron-las-reacciones-a-la-cancelacion-del-naim-en-texcoco/>

with the construction of the NAIM⁹.

As we can see, there is still no concrete determined cost of canceling this project, however, the effects related to it have already had an impact on citizens and the business sector.

On 27 December, AICM received authorization by the SHCP for an increase in passenger charges fees for international flights of 24.7% and 2% for domestic flights. This means it will be charging passengers the amount of \$44.07 dollars on international flights and \$23.20 dollars on domestic flights, becoming the third most expensive airport fare in the world¹⁰. This increase is a consequence derived from the new proposal presented to the foreign bond holders The Federal Government agreed to make this increase to guarantee the fulfillment of their obligations.

The transcript of the proposal in which this increase was agreed upon reads as follows:

“Rate of Passenger Charges. The current terms of the Notes that are provided that are an event of default if the rates of passenger charges at the Benito Juarez Airport are (i) determined in any currency other than US dollars or (ii) are reduced below US \$34.72 for international flights and US \$ 22.33 for domestic flights causing our projected debt service coverage ratio to fall below to specified level. We propose to increase these amounts to adjust to the current rates of US \$44.07 for international flights and US \$23.20 for domestic flights¹¹.”

This increase has both direct and indirect implications that affect the aeronautic industry. Since the TUA is a tariff that is paid directly by the consumer seeking the air transportation service, by increasing this rate, the price of the tickets offered by the airlines will increase, so that segment of the population that consumes such services, will be forced to pay a larger amount for their transportation. This will make the airlines have to make a choice between accepting a lower demand for the services due to the increase in the TUA rate or trying to keep their current prices by reducing their profits for each ticket sold in order to compensate for the charge of the TUA.

In addition to the above, another of the problems that arise with the cancellation of the NAIM has to do with contractors that had already been awarded a contract for this project. The president has stated that in order to avoid any damage to the contractors, he will seek to transfer the NAIM contracts to the Santa Lucia project, however, business groups have already stated that this would be totally incorrect, as new bidding processes should be carried out in accordance with the Federal Law of Public Works¹², which, in its 15 and 27 articles, establishes that all procurements have to be done in one of three ways i) public tender, ii) invitation to at least three persons or iii) direct award, and that all contracts should be performed in accordance with what is established in such law or otherwise the contracts will be null. This means that the Federal Government cannot move a contract from one work to another as this leaves the door open to litigation that may be filed by third parties against such contracts, giving no legal certainty to the NAIM contractors.

Our concluding thought is that it looks that this issue, created by the new administration, is far from over. The decisions made by the current administration, regarding the cancellation of the NAIM, have brought a series of events that have harmed the country by creating debt, and opening the path for future possible litigation to arise. Most importantly, the fact that, as of today, we have no clue of the exact amount of damage caused to Mexico and all at the expense of an apparently irrational decision, wrongfully planned, is unacceptable.

9- <https://www.eleconomista.com.mx/empresas/Aviacion-mexicana-se-retrasara-hasta-10-anos-IATA-20181029-0077.html>

10- https://www.huffingtonpost.com.mx/2018/12/15/tarifa-por-usar-aicm-es-la-tercera-mas-cara-del-mundo_a_23618998/

11- <http://gbsc-usa.com/MEXCAT/>

12- http://www.diputados.gob.mx/LeyesBiblio/pdf/56_130116.pdf

Demands for an independent investigation agency for aerial accidents.

The Aviation Pilot College in Mexico (CPAM) have been discussing with sub secretary of the Ministry of Communications and Transportations, with the objective of creating an independent investigation agency for aerial accidents, due to the high rate of aerial incidents in the last six months which reaches to 70 serious events. Although such investigations correspond the General Administration of Civil Aviation (DGAC), the College assure that with support of Andrés Manuel López Obrador and other administrations, they're receiving positive responds. <https://a21.com.mx/index.php/normatividad/2019/01/07/avanza-agencia-de-investigacion-de-accidentes-aereos> January 07, 2019.

AMLO announces presidential fleet sale.

The federal government plans to hold a fair at the Santa Lucia Air Base, with the purpose of exhibiting and selling to international buyers a total of 80 government aircraft and helicopters. "We are thinking that there is going to be a fair at the Santa Lucía Airport to showcase these planes and summon the buyers of the world to acquire them," said President Andrés Manuel López Obrador at a morning conference. Although he did not give a date, the president explained that to address this issue he had a meeting with officials of the Treasury, as well as with the heads of the Secretariats of Communications and Transportation, Defense and Navy. <https://a21.com.mx/index.php/aeronautica/2019/01/11/anuncia-amlo-feria-de-flota-presidencial> January 11, 2019.

Central American pilots, may operate with the same license.

Towards the end of 2018, Central American aeronautical authorities approved regulations on the regional license; a project that seeks to standardize the requirements and tests that an aviation professional needs, in order to operate in any Central American country without any additional requirements. This standardization process will include pilots, cabin crew as well as technicians and personnel from the sector. And the countries that will be participating are the following: Honduras, Guatemala, El Salvador, Nicaragua and Costa Rica. Echoing the achievement, the Latin American and Caribbean Air Transport Association (ALTA), mentioned that this measure, will boost the growth of aviation in Central America, stimulate the development of airlines and will generate more sources of employment. <https://a21.com.mx/normatividad/2019/01/14/pilotos-centroamericanos-podran-operar-con-la-misma-licencia> January 14, 2019.

One Investigator for 100 accidents at DGAC.

In 2010, three specialists attended 155 investigations of accidents and air incidents; from 2011 to 2012, two people took care of 363; from 2013 to 2015, four people managed 879 events; in 2016, six people worked on 328 investigations, and from 2017 to date, five people worked on 509 events. That is, on average one researcher is coordinating the evaluation of 100 accidents or incidents. According to interviews conducted by A21 to current staff and former researchers, the plant "is totally exceeded" by the workload, of the 1950 inquiries that were opened between 2010 and 2017, only 361 of them could be concluded, that is, only 18 percent for a period of 7 years. <https://a21.com.mx/index.php/aeronautica/2019/01/20/en-dgac-un-investigador-para-100-accidentes> January 20, 2019.

This is the way airports will reduce their ecological footprint.

Currently, 259 airports worldwide are working to introduce the global standards for the management of the CO2 emissions, program also known as Airport Carbon Accreditation from the ACI. Out of the 259 airports, 197 terminals are reducing actively their emissions, 102 influenced other companies internally throughout their premises in order to reduce their emissions, and 49 are operating with neutral emissions, accordingly to the ACI. <http://a21.com.mx/index.php/aeropuertos/2019/01/22/asi-reduciran-los-aeropuertos-su-huella-ecologica-en-2019> January 22, 2019.

In this month extract was prepared by J. Estrada, J. Muñoz, J. Dorantes, A. De la Fuente, P. Arandia, R. Nerio, R. López.

Despite Austerity, Government Seeks To Invest In Space Sector.

In accordance with the budget policies of Andrés Manuel López Obrador, the Mexican Space Agency (AEM) endorsed its commitment to the federal government to bring technological benefits to the population, under the concept "Space as a social good", as said by the Ministry of communications and transportations. Such benefits will have direct impact in sectors like agriculture, health, communication and education, which will contribute to national progress given the importance of the space subject. A mission for the near future will consist in making people aware of this essential investment. <https://a21.com.mx/aeroespacial/2019/01/24/pese-austeridad-gobierno-busca-impulsar-el-rubro-espacial> January 24, 2019.

More than the environmental impact, Santa Lucia requires aeronautical viability.

Before carrying out the environmental impact studies, in order to build and airport that the Santa Lucia military air base, the federal government must resolve whether this installation will be sufficient from an aeronautical point of view said Jesus, Enrique Pablo- Dorantes, president of the Mexican Academy of Environmental Impact. The executive explained that any decision on the airport's infrastructure should not be only regarding social, administrative or geographical issues, but about operational-economic criterions, and from there, measures can be designed to reduce, mitigate or remediate the impact on the environment. <http://a21.com.mx/aeropuertos/2019/01/25/mas-que-impacto-ambiental-santa-lucia-requiere-viabilidad-aeronautica> January 24, 2019.

Aviation emissions set to grow sevenfold over 30 years, experts warn.

International aviation carbon emission could grow seven-fold over the next 30 years despite climate change concerns, according to International Civil Aviation Organization (ICAO) figures. Aviation, particularly the role played by frequent fliers, is rarely mentioned in the climate debate, yet air travelers, particularly those flying business class, are among the world's worst carbon polluters. <https://www.irishtimes.com/news/environment/aviation-emissions-set-to-grow-sevenfold-over-30-years-experts-warn-1.3770923> January 26, 2019.

Concerns About The Future Of The Mexican Aerial Industry.

The International Air Transport Association (IATA) has launched invitations to different sectors from the aerial industry in Mexico to participate in the Aviation Summit Mexico, which will take place in February 28 of the current year in the Hyatt Regency hotel in Mexico City. Its goal is to boost the economic development of the industry and reunite experts from the different airlines, airports and related authorities, in order to raise awareness about the lack of infrastructure and capacity. <https://a21.com.mx/index.php/aerolineas/2019/01/28/convoca-iata-cumbre-en-cdmx><https://a21.com.mx/index.php/aerolineas/2019/01/28/convoca-iata-cumbre-en-cdmx> January 28, 2019.

Better infrastructure and politics, keys for development of Mexican aeronautics.

Given the growth of the sector in the country, a challenge is to maintain the supervision and regulation by the aeronautical authorities in air transport, says the vice president of the Association of Pilots Aviators of Mexico, Santiago López Cadena. He pointed out that in order to continue with the growth of aviation in the country, an immediate solution to the saturation problem at the Mexico City International Airport (AICM) is needed and the creation of the Federal Agency for Civil Aviation, a decentralized body of the Ministry of Communications and Transportation. In addition to a clear aeronautical policy, with rules of the game for the management of the industry and that of certainty to investors, airlines, investors and users, stressed López Cadena. It is worth mentioning that the Federal Commission for Regulatory Improvement (Cofemer) published on August 20, 2013, the Decree creating the Civil Aviation Agency, in order to exercise authority and issue resolutions, regarding its powers and in the framework of competition in civil aviation, within the national scope. <https://www.forbes.com.mx/una-mejor-infraestructura-y-politica-claves-para-el-desarrollo-del-sector-aeronautico-mexicano/> January 28, 2018.

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JOSÉ MANUEL MUÑOZ

Attorney at Law: Admitted to practice law in 2017. Mr. José Manuel Muñoz, of Mexican nationality obtained his law degree at Tecnológico de Monterrey, México.

LANGUAGES: Spanish and English.

PRACTICE AREAS: Corporate and Aviation law.

e-mail: jmunoz@asyv.com

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Prol. Reforma No. 1190 25th Floor,
Santa Fe México D.F. 05349
t. (52.55) 52.92.78.14
f. (52.55) 52.92.78.06
www.asyv.com / www.asyv.aero

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