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A large stack of colorful suitcases in various colors (red, blue, yellow, brown, white, pink, green) is piled high on a luggage cart. The cart is positioned in an airport terminal, with a check-in counter visible in the background. The scene is brightly lit, suggesting a modern airport environment.

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Mexican Consumer Protection
and Civil Aviation Law
Amendments.
by Julio Vargas.

June NEWS on
Mexican Commercial Law

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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”

Mexican Consumer Protection in Light and Civil Aviation Law Amendments.

by Julio Vargas.

During June of 2017, Mexican Congress approved certain new laws related to Mexican Consumer Protection Institute and the Civil Aviation Law related to passenger rights.

“Regarding international flights, airlines believe that such amendments may violate constitutional rights of airlines on one hand, but also provisions stated in Montreal Convention and bilateral international treaties which Mexico is a part of, and consider that passenger rights are already contemplated and fairly protected in such international conventions.”

In general terms, such legal reform, according to consumer authorities, is applicable both to domestic and international flights.

As a consequence, since that date several international airlines and carriers have filed legal proceedings against such legal amendments claiming constitutional violations as well as an excess of regulation beyond of passenger rights already protected by international conventions and bilateral agreements.

Regarding international flights, airlines believe that such amendments may violate constitutional rights of airlines on one hand, but also provisions stated in Montreal Convention and bilateral international treaties which Mexico is a part of, and consider that passenger rights are already contemplated and fairly protected in such international conventions.

After almost a year from the initial court filings, several cases have been ruled already in a first instance and judges have sustained their argument in the sense that the legal amendments do not violate airlines constitutional rights. They also consider that the amendments rather than exceeding or contradicting passenger rights already protected by international conventions, they complement such rights.

The airlines have been challenging such first instance rulings before a high court, and resolutions are still pending.

However, it is important to mention that in the process of ruling in the sense pointed out in upper paragraphs, the judges made considerations that were not challenged by authorities, and therefore eventually will prevail. Some of the newly amended passengers right are related to certain relevant topics, as follows:

- Baggage documentation; judges concede that the airline is entitled to offer preferential rates to passengers traveling without any baggage, practice that may benefit the passenger if it decides to travel without documenting baggage. This possibility must be stipulated in the ticket purchase agreement.
- Handbags; the judges consider and acknowledge that the carrier is entitled to limit the number of pieces to be placed in the cabin compartments depending mostly on the type of equipment and its overhead bins. Airlines must make these clarifications in the travel agreement with passengers, previously.

- The legal amendments state that the airline is obliged to pay any claim filed by a passenger in a period no longer than 10 days, which airlines consider violates its right to oppose or defend itself in case it considers to have no responsibility in the claim in case. They also considered that this law limits airlines right to select any alternate method to solve the conflict.

In this regard, the judge considered that this amendments by its mere publication and existence, does not necessarily grants an automatic and undisputable right of the passenger to claim and obtain monetary compensation. Furthermore, the ruling considers that airlines are entitled to exhaust all controversies through legal or alternate methods to solve the controversy prior to pay any compensation.

The judge considered also that this provision does not prohibit access to jurisdictional procedures or alternate conflict solving methods and does not impede, that in such conflicts, the parties may reach a settlement arrangement before the case is finally judged. Also, the parties may appear before the Consumers authority in order to settle their dispute.

"In this regard, the judge considered that this amendments by its mere publication and existence, does not necessarily grants an automatic and undisputable right of the passenger to claim and obtain monetary compensation."

Similar considerations have been made by different judges in different cases considering in first place that Congress does have authority to regulate international passenger air transportation in Mexico and that the Montreal Convention does not impede the Mexican state to regulate such international passenger transport.

Finally, the rulings also address the segment flights new provisions that state that the passenger has the right to cancel certain flight segment and the airline must respect the remaining segments.

"...different judges in different cases considering in first place that Congress does have authority to regulate international passenger air transportation in Mexico and that the Montreal Convention does not impede the Mexican state to regulate such international passenger transport."

Some rulings consider that this amendment is intended to limit the possibility of abuse on the airlines commercial freedom capacity. According to its reasoning the passenger has the right to cancel specific travel segments and use the remaining ones, however, judges say that the passenger must give previous notice to the carrier of the segment they will not use and confirm whether they will use the remaining ones.

Airlines will continue to defend its constitutional rights and in the future, we will write upon the final outcome of these cases before Mexican courts.

Mexico to start WTO dispute settlement over U.S. tariffs.

Mexico will start a dispute settlement process at the World Trade Organization over U.S. tariffs on steel and aluminum, as the economy ministry believes that the U.S. measures, which impose tariffs of 25 percent on steel and 10 percent on aluminum, violate WTO rules. Thus, joining the European Union in seeking WTO involvement against the new measures. <https://www.reuters.com/article/us-usa-trade-mexico/mexico-to-start-wto-dispute-settlement-over-u-s-tariffs-idUSKCN1J022L> 04/06/2018.

Mexico Turns Trade Attention to Japan With Nafta Talks at Risk.

Mexico's top trade official is traveling to Japan this week as the Latin American nation seeks to diversify exports and investment amid an impasse in Nafta talks. Japanese automakers including Nissan Motor Co., Honda Motor Co. and Toyota Motor Corp. have plants across Mexico, and the nation has received more than \$14 billion in foreign direct investment from Japan over the past two decades. That makes Japan the biggest Asian investor in Mexico, according to data from Mexico's economy ministry. <https://www.bloomberg.com/news/articles/2018-06-11/mexico-turns-attention-to-japan-as-nafta-trade-talks-at-risk> 11/06/2018.

Praxair-Linde Receive Antitrust Clearance In Mexico.

Linde plc announced that the proposed business combination between Praxair, Inc. (PX) and Linde AG received unconditional antitrust clearance in Mexico, satisfying a closing condition. The completion of the business combination remains subject to timely approval by requisite governmental regulators and authorities under applicable competition laws. Linde plc said the business combination is expected to be completed in the second half of 2018. <https://www.nasdaq.com/article/praxairlinde-receive-antitrust-clearance-in-mexico--quick-facts-20180622-00308> 22/06/2018.

Mexican Ports More Expensive Due to Amendments to the Customs Law.

The amendment to the Customs Law, published in the Official Gazette of the Federation (DOF) on June 25, will begin to make the Mexican Port System more expensive as the private undertaking currently operating the ports are not willing to absorb what they qualify as a double payment to the government, so they will transfer this impact to their customers. The mentioned amendment increases operational duties from 12 to 15 percent. <http://t21.com.mx/maritimo/2018/06/28/puertos-mexicanos-mas-caros-reforma-ley-aduanera> 28/06/2018.

Mexico-Saudi Arabia relations: Oil is the name of the game.

Oil is the name of the game in the relationship between Mexico and Saudi Arabia, especially in the current transition period marked by strategic shifts in the energy market and the global geopolitical outlook. Although the bilateral relationship dates back to its formal establishment in 1952, it is only in recent years that the Mexican government, eager to attract foreign investment and the export-orientated private sector showed a renewed interest in doing business with the world's largest oil producer and its wealthy Persian Gulf neighbors, aligning with their conservative positions in multilateral political issues. Accordingly Presidential visits are expected following Enrique Peña Nieto's visit to the Arabian Peninsula. . <http://t21.com.mx/maritimo/2018/06/28/puertos-mexicanos-mas-caros-reforma-ley-aduanera> 28/06/2018.

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