

COELUM.

Revised limits of liability under convention for the unification of certain rules for International Carriage by Air (*Montréal, 28 May 1999*). (Montreal Convention of 1999).
by Julio Vargas



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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Revised limits of liability under convention for the unification of certain rules for International Carriage by Air (Montréal, 28 May 1999) (Montreal Convention Of 1999).

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As this new decade begins, along come certain changes or modifications to the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention of 1999), which regulate airlines liability in several cases referred in the following paragraphs.

Important modifications come into effect this new year related to the liability between air carriers and passengers and cargo limits.

According to article 24 of the Convention, the limits of liabilities prescribed in several articles of the Convention and related to Compensation in case of death or injury of passengers, and in cases related to damages in passengers, baggage and cargo caused by delay, shall be reviewed by the Depositary, currently The International Civil Aviation Organization (ICAO), who must review them within five year intervals following the date of entry into force of the Convention. The amounts are established in "Special Drawing Rights (SDRs)" as defined by the International Monetary Fund. This SDR's are an account unit.

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According to the Fund official internet page, www.imf.org the SDRs value is based on a basket of key international currencies -the euro, Japanese yen, U.S dollar, Chinese renminbi and the British sterling pound-. The U.S. dollar value of the SDR is posted daily on the IMF's website.

In general terms, the Convention provides that the carrier is liable:

- i) for damages sustained in case of death or bodily injury of a passenger with the condition that the accident that caused the death or injury takes place on board the aircraft or during embark or disembark operations;
- ii) for damage suffered in case of destruction, damage or loss of checked baggage that takes place on board the aircraft or in any period within the checked baggage was in the carriers possession or supervision, and in the case of unchecked baggage only if it is the carriers fault or that of its employees or agents;
- iii) for damage suffered in case of destruction or loss of or damage to cargo subject to the condition that the event which caused the damage took place during the carriage by air;
- iv) for damage caused by delay in the carriage by air of passengers, baggage or cargo unless they prove that the carrier or

its personnel took all measures that could reasonably be required to avoid the damage or if it was impossible to take such measures.

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Originally, the Convention established that for damages derived from death and injury of passengers, not exceeding 100,000 SDR’s for each passenger, the carrier should not be able to exclude or limit its liability; noted that it shall not be liable to the extent that the damages exceed for each passenger 100,000 SDRs in certain specific cases stated thereto; in the case of damage caused by delay as specified in the precedent paragraph, in the carriage of passengers, the liability of the carrier for each passenger was limited to 4,150 SDRs. In the carriage of baggage, the liability of the carrier in case of destruction, loss, damage or delay was limited to 1,000 SDR’s for each passenger with certain previously agreements or arrangements with carrier. Finally in the carriage of cargo, the liability of the carrier in case of destruction, loss, damage or delay was limited to a sum of 17 SDR’s per kilogram with certain exceptions.

Interestingly, the Convention provides that in cases where the liability to a carrier is derived from court proceedings, the limits referred hereto shall not prevent the court

from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest. There are also, certain exceptions to this general provision.

Pursuant to the official web page www.icao.int it is published that during its 2019 review of the limits of liability of the Convention referred to in this paper, the revised limits of liability established under articles 21 and 22 of said Convention, in SDR’s, effective as of 28 December, 2019, are as set out in the following table taken from said official webpage.

According to ICAO, it proposed a 13.9% increase to the liability limits due to the accumulated rate of inflation (weighted by reference to the average Consumer Price Index of the United States, Japan, China, European Union and the United Kingdom) since the last adjustment was made.

Montreal Convention of 1999	Original limit (SDRs)	Revised limit (SDRs) as of 30 December 2009	Revised limit (SDRs) as of 28 December 2019
Article 21	100 000	113 100	128 821
Article 22, paragraph 1	4 150	4 694	5 346
Article 22, paragraph 2	1 000	1 131	1 288
Article 22, paragraph 3	17	19	22

Finally, Signatory Countries are entitled to make provisions as necessary in accordance with their domestic legal requirements to give full effect as of 28 December 2019 to the revised limits.

110 years after the beginning of aviation in Mexico.

On January 8, 1910, the Mexican pilot Alberto Braniff, set a precedent in the history of Mexican and Latin American aviation: for the first time an aircraft was flying in Mexico City to more than 2 thousand 240 meters above the sea level. The feat was made in the plains of Balbuena, east of the city, not so far from the site where the Benito Juárez International Airport is located today. www.eluniversal.com.mx/opinion/mochilazo-en-el-tiempo/110-anos-de-los-inicios-de-la-aviacion-en-mexico January 10, 2020.

Davos Pushes “Greener” Fuel for Private Jets Leaving World Economic Forum.

The World Economic Forum this year has taken measures to push a green agenda and to make the conference more sustainable. This year’s jet fuel initiative comes with a plan; the hundreds of private jets expected to flight out Davos will be able to fill their tanks with fuel designed to lower carbon emissions. Furthermore, the so- called sustainable aviation fuel will be available at Zurich airport and will be constituted by 30% blend with conventional jet fuel that will be able to lower CO2 emissions by about 18% according to the coalition of groups that represent jet operators and that will be the manufacturers and fuel suppliers. www.bloomberg.com/news/articles/2020-01-20/davos-pushes-greener-fuel-for-private-jets-heading-to-forum January 20, 2020.

ASPA asks for aeronautical policy.

In the framework of the gala dinner for the Emancipation Day of the Mexican Aviator Pilot, the captain Rafael Díaz Covarrubias, general secretary of the Mexican Association of Aviator Pilots (ASPA) called for an aeronautical policy to be promoted by part of the government in Mexico. Similarly, the head of the Mexican pilots union said the country does not need open skies. “We need fair and equitable skies”, in reference to the entry, in December 2019, of the Emirates. www.a21.com.mx/organismos/2020/01/26/pide-aspa-politica-aeronautica January 26, 2020.

European Aviation Safety Agency, will certify the re-design of the Mexican Air Space.

If we are referring ourselves to security matters, it will be the European Aviation Safety Agency (EASA), who will be in charge of the certification of the re-design of the Mexican Airspace and Navblue, a French company hired for its execution; not only in Santa Lucia, Toluca and Mexico City, but in the hole country. Furthermore, the Federal Agency of Civil Aviation (AFAC) will not be involved in the process from the beginning along with EASA it will be until the final re-design when this Agency will grant the validation. www.a21.com.mx/index.php/aeronautica/2020/01/27/certificara-easa-redisen-de-espacio-aereo-mexicano January 27, 2020.

Passenger air transport between Mexico and the US falls for the first time in 8 years.

According to figures from the Federal Civil Aviation Agency (AFAC) the movement of users by plane between these nations showed a gradual growth from 2010 to 2018, which generated one of the best times in the sector. However, last year the transportation of passengers from Mexico to the United States registered a figure of 30 million 716 thousand, which had a 0.8 percent drop compared to the previous period. www.milenio.com/negocios/aviacion-mexico-eu-cae-en-2019-por-primera-vez-en-ocho-anos January 28, 2020.

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

Amenities during flights are being limited or restricted because of the Coronavirus.

Different airlines operating to and from China have implemented measures to protect the crew and their travelers, in an attempt to combat the spread of the coronavirus. Companies are restricting the use of blankets, pillows, among other things to try and stop the Coronavirus from spreading. Among the measures being taken, the flights to Honk Kong and other regions in China are either being Limited or fully canceled. www.a21.com.mx/index.php/aerolineas/2020/01/29/limitan-amenidades-en-vuelo-por-coronavirus January 29, 2020.

China regulator approves charter flights to bring home Wuhan tourists.

China's aviation authority has approved chartered flights in order to bring home from overseas trips some residents of the city of Wuhan, the site of an epidemic caused by a new virus called "Coronavirus". Domestic and international airlines have cancelled flights between Wuhan and overseas cities since Jan. 23, in an attempt to prevent the spread of the virus. Moreover, the aviation authority has requested the airlines not to stop healthy Wuhan residents from boarding flights. www.reuters.com/article/china-health-aviation/china-regulator-approves-charter-flights-to-bring-home-wuhan-tourists-idUSL4N29Z1O2 January 29, 2020.

IATA recommendations against coronavirus.

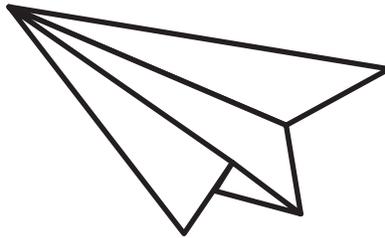
The International Air Transport Association (IATA), published some recommendations for travelers who plan an upcoming flight and are concerned about the cause of the coronavirus outbreak, originating in Wuhan, China. Among these measures, IATA urges users not to travel if they have a fever or cough, avoid contact with people who have these symptoms, clean their hands frequently and do not touch areas such as eyes, nose and mouth. Also, cover yourself when you cough or sneeze and, if you feel sick, inform the crew, in addition to going to the doctor. www.a21.com.mx/aeropuertos/2020/01/30/conoce-las-recomendaciones-de-iata-contra-coronavirus-0 January 30, 2020.

IATA signs intermodal travel MoU with the International Union of Railways.

The International Air Transport Association (IATA) has signed a Memorandum of Understanding (MoU) with the International Union of Railways (UIC). The agreement outlines each party will work to strengthen their cooperation in standard setting and interoperability initiatives, with a focus on data exchange standards supporting intermodal travel. IATA and UIC will explore collaboration opportunities from the dual perspectives of existing distribution processes and standards, as well as transformative retail-based 'offer-order' processes and standards, under the MoU agreement. These efforts will offer significant opportunity for value-creation within intermodal partnerships. www.internationalairportreview.com/news/111219/iata-signs-mou-international-union-of-railways January 30, 2020.

Government and Interpol must cooperate to identify threats: ICAO.

The International Civil Aviation Organization (ICAO) constantly asks its Member States and INTERPOL to work together to identify possible threats. According to the operations of the international police agency, fugitives, terrorists and other known criminals frequently cross the air, land and sea borders without detection, because some countries do not systematically register their travelers in databases. For this, they must routinely use the Advanced Passenger Information (API) and Passenger Name Registration (PNR) systems, in a systematic way for all incoming and outgoing travelers to be on national and international watch lists. www.a21.com.mx/organismos/2020/01/30/deben-gobierno-e-interpol-cooperar-para-identificar-amenazas-oaci January 30, 2020.



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