

COELUM. ●

Welcome aboard: The President's quest to militarize Mexico's seaports and airports.
by Miguel Ruelas.



SEPTEMBER 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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Welcome aboard: The President's quest to militarize Mexico's seaports and airports.

by Miguel Ruelas.

“The military and the Mexican armed forces, are permanent armed institutions that have the following general missions: (i) defend the integrity, independence and sovereignty of the nation; (ii) guarantee homeland security; (iii) aid the civil population in case of public need; (iv) perform civil actions and social acts that attend to the nation's progress; and (v) in case of disaster, aid in keeping the order, help people and its property, and reconstruct the affected zones”¹ Well, . . . according to the Mexican president, the Mexican armed forces should now also be in charge of the control, policy-determination, and general direction of airports and seaports.

Since the current administration took office, one recurrent theme amongst the government's policies is the inclusion of the military and Mexican armed forces in realms not particularly keen of military intervention. The president designated the military to construct its controversial project of Santa Lucia Airport, and gave ample participation in the construction of the Dos Bocas refinery, and the Mayan train to the armed forces. However, this was still not enough for President Lopez Obrador. In 19 March 2020, the Federal Administration announced that the Secretary of National Defense (SEDENA for its initials in Spanish), became the only stakeholder of a newly constituted company AIFA –created for the sole purpose to administer the construction and future operation of the Santa Lucia Airport–. The president

of this state-owned company, General Trujillo, announced that the company obtained the concession to operate and perform airport services.² Let us not forget, that the Federal administration, still unhappy of mingling private and public sector, bought 49% of the Toluca International Airport stock, granting the Federal Government with 75% total control over the airport's management and operation.³

In July 2020 the Head of the Secretary of Communications and Transportation resigned unexpectedly. The then-secretary's resignation letter expressed that one of the reasons of his resignation was his opposition to the president's mandate that the military be in charge of the nation's airport and seaports – control originally managed by, and still bestowed to the Secretary of Communications and Transportation.⁴ During the course of September 2020, the Mexican president through the new Secretary of Communications and Transportation has named five high-ranking military generals in charge of Mexico's five largest commercial seaports, and is now openly seducing with the idea to further bestow management and control functions to the military – particularly in airports.⁵ The dots are now connected, and they clearly spell out: militarization of seaports and airports.

The federal government expedited granting the control of the seaports to military authorities on the political basis of “homeland security and protection”.

1.-Ley Organica del Ejercito y Fuerza Area Mexicanos (Organic Law of the Army and Mexican Aerial Forces) published in the Official Federal Gazette on 26 December 1986. Translation provied by the author.

2.- Information released by El Financiero Mexico a Bloomberg publication available at: <https://www.elfinanciero.com.mx/nacional/sedena-crea-empresa-de-participacion-estatal-mayoritaria-para-operar-aeropuerto-de-santa-lucia> and <https://www.angulo7.com.mx/2020/03/19/sedena-crea-empresa-aifa-para-administrar-aeropuerto-en-santa-lucia/>

3.- Information released by El Financiero Mexico a Bloomberg publication available at: <https://www.elfinanciero.com.mx/empresas/gobierno-de-amlo-acuerda-la-toma-del-control-accionario-del-aeropuerto-de-toluca#:~:text=Puedes%20desuscribirte%20en%20cualquier%20momento,propiedad%20de%20la%20firma%20Ale%C3%A1tica>

4.- Information released by Bloomberg Quint, publication available at: <https://www.bloombergquint.com/business/mexico-minister-resigns-in-protest-over-militarization-of-ports>

5.- The ports are: Manzanillo, Lázaro Cárdenas, Veracruz, Dos Bocas and Mazatlán. Information provided by Milenio News (<https://www.milenio.com/negocios/sct-nombra-5-militares-directores-generales-puertos>)

However, the Federal Rules of Seaports⁶ establish that it is the Secretary of Communications and Transportation who shall determine and name the directors of Mexico's seaports.⁷ Alarming, and just off the press, President Andrés Manuel Lopez Obrador announced on 28 September 2020, that the Federal government made the decision to provide the Secretary of the Navy with full authority and control over seaports – apparently, Mr. Lopez Obrador wants to avoid future resignations from the Secretary of Communications and Transport –and has sent to Mexico's Congress an initiative for this law reform.⁸

“The then-secretary’s resignation letter expressed that one of the reasons of his resignation was his opposition to the president’s mandate that the military be in charge of the nation’s airport and seaports – control originally managed by, and still bestowed to the Secretary of Communications and Transportation.”

Allegedly, the reform for which little to no information has been released, refers only to military seaport control. However, the president's actions foreshadow military control and operation in Mexico's civil airports as well. The task has already begun, not only with the creation of a Military company to administer Santa Lucia's airport operations, but also with the flooding presence of SEDENA in Mexican airports. In April 2020, and according to SEDENA's own website, the military branch of the Mexican government took control of security checkpoints in Mexico's five largest airports: Tijuana, Monterrey, Guadalajara, Cancun and Mexico City.⁹ The past acts and facts

have sparked a worried curiosity regarding the applicable legal framework for the management of airports in Mexico by military authorities.

The Law of Airports¹⁰ defines an airport as a civil aerodrome of public service for the reception and clearance of aircraft, passengers, freight, and courier services in regular and irregular air transport.¹¹ The law also provides the Secretary of Communications and Transportation with the authority to: operate, exploit, service and grant concessions through public tender to a party for operation of the airport. Importantly, the Law of Airports contemplates a distinction between civil airports and military use within an airport:

Article 32 of this law established that: “the civil aerodromes in which service is rendered to military aircraft, shall be subject to this law [Law of Airports], without prejudice to the coordination that exists with the Secretary of National Defense and the Secretary of the Navy”.

Furthermore, under article 62 of the Law of Airports the distinction between military and civil authority of an airport is further cut out:

Article 62 establishes the recommendations that the airport's committee of operations and schedules must issue. This committee is to issue recommendations on:

- I.- the functioning, operation and schedule of the airport;
- II.- the master plan for the development of the airport and its modifications;
- III.- the assignation of time for the operation, remote and contact position, itineraries and spaces within the airport;

6.- Reglamento de la Ley de Puertos (Regulations of the Law of Ports) published in the Official Federal Gazette on 21 November 1994. Translation provided by the author.

7.- Id. at Art. 27.

8.- The reform that Mr. Lopez Obrador has just recently announced has not been publicized, and is not yet available at the Mexican Congress law initiative's website.

9.- Information provided by SEDENA's official website, available at: <https://seguridadydefensa.mx/nacionales/sedena-toma-control-de-aeropuertos-internacionales-en-mexico/>

10.- Ley de Aeropuertos (Law of Airports) published in the Official Federal Gazette on 22 December 1994. Translation provided by the author.

11.- Id. at Article 2. Translation provided by the author.

- IV.- the conditions for rendering airport services and those complimentary;
- V.- tariffs and prices;
- VI.- rules of operation;
- VII.- the required measures for the efficient operation of the airport;
- VIII.- the solution of conflicts between the airport administration and the service providers; and
- IX.- user complaints.”¹²

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Under the third paragraph of this article, the law issues a distinction of how this committee is to function when the civil aerodrome also houses military bases:

“In civil aerodromes where military or aeronaval bases are located, the commander of such [the aerodrome] and that of the military installation, shall coordinate [ONLY] sections I-IV and VI. A subtle but big distinction, one in which the law presupposes a coordination between two separate authorities: the military and the civil airport administration operation authority.

However, there is a caveat as to whom the civil airport administration and operation authority may be bestowed to. The law foresees the manner in which the Secretary of Communications and Transports is to grant concessions for the administration and operation of the airport. The law provides that these concessions are to be issued solely to Mexican companies, notwithstanding that the Secretary of Communications and Transportation may, without

public tender, grant the administration of the airport to the Federal public body.¹³ Therefore, and in a broad understanding of the legal provision, there is the unfortunate opportunity for any member of the Public Federal Administration to be granted with the authority to operate civil airports –prior authorization by the Secretary of Communications and Transport–. The Public Federal Administration is a defined term in Mexican law that encompasses the Federal government’s secretariats and the office of the presidency. Amongst them is SEDENA, which has already increased its presence in Mexican airports and is now the equity owner of a company granted with the permit to operate and administer airports. It seems the Federal Government was very clever in assuring that the military had viable options to secure their control in the main hubs of transportation.

It is still unclear if Mexicans should be worried about the implications of the federal government’s actions, particularly, because of the way they were performed. However, they could also be, like most of the current administration’s policies, a political positivism move from an outdated leader.

“A subtle but big distinction, one in which the law presupposes a coordination between two separate authorities: the military and the civil airport administration operation authority.”

12.- Supra Art. 62. Translation provided by the author.

13.- Supra. Art. 14. Translation provided by the author.

First Mexican air surveillance radar developed.

The first aerial surveillance radar developed in Mexico, the Tzinacan project, was concluded by the Secretariat of the Navy (SEMAR, Secretaría de Marina) and the National Council of Science and Technology (CONACYT, Consejo Nacional de Ciencia y Tecnología). Its development took four years and has the objective of monitoring the country's borders and various strategic facilities distributed throughout the national territory. The radar is made up of 3D and 2D technology that will make it possible to obtain bearing, range and altitude data for the location of air targets up to 73 kilometers around. www.a21.com.mx/innovacion/2020/09/04/desarrollan-primer-radar-mexicano-de-vigilancia-aerea September 04, 2020.

The Air Pilots College Unaware of Mexico's New Airspace.

Navigation Services in the Mexican Airspace (SENEAM, Servicios a la Navegación en el Espacio Aéreo Mexicano) and the Secretariat of Communications and Transportation (SCT, Secretaría de Comunicaciones y Transportes) have been working together in the new design of Mexican airspace based on the use of satellites and aircraft performance. However, it will be complicated as the Valley of Mexico is not a horizontal terrain and the peaks of more than 10,000 feet of altitude would complicate the tactics of the flight controllers. The Air Pilots College noted that arrival or departure procedures have not been officially presented, so the capacity in terms of number of operations remain unknown. www.transponder1200.com/el-colegio-de-pilotos-aviadores-desconocen-el-nuevo-espacio-aereo-de-mexico/ September 09, 2020.

Budget reduction for the Federal Civil Aviation Agency in 2021: about 20% less.

The presentation of the Federation's Expenditure Budget Project, presented by the Secretary of Finance before the Chamber of Deputies, aroused criticism in the section destined for the reduction of resources for its air regulator; it's the deconcentrated organism of the entity that would receive less money. This would bring even more problems for the Mexican Aviation Industry since, due to the COVID-19 pandemic, the transportation of people and tourists caused airlines to face a tough scenario from which they have not yet been able to recover since transportation restrictions are still more or less active throughout the country. www.infobae.com/america/mexico/2020/09/13/advirtieron-riesgos-por-posible-reduccion-de-pre-supuesto-para-la-agencia-federal-de-aviacion-civil-en-2021-tendria-20-menos/ September 13, 2020.

Federal Civil Aviation Agency (AFAC) looks for adjustments in aeronautical regulations.

The Federal Civil Aviation Agency (AFAC) is working on a plan that will generate operational security conditions at a full level and better than the contemporary. These regulations seek to fix the incongruities in the Mexican aeronautical environment, as well as the air ecosystem, as a response to the current air needs. Nowadays, the AFAC has established 8 working committees with one representative each to identify the needs required by each segment of aviation, which will allow them to conduct a sufficiently and extensive analysis to standardize criteria. www.a21.com.mx/aeronautica/2020/09/20/va-afac-por-ajustes-en-normatividad-aeronautica September 20, 2020.

Airlines call for COVID-19 tests before all international flights.

Global airlines called on Tuesday for airport COVID-19 tests for all departing international passengers. For that reason, rapid and affordable antigen tests that can be administered by non-medical staff are expected to become available in the following weeks; and should be rolled out under globally agreed standards, the head of the International Air Transport Association (IATA) said during an online media briefing. www.reuters.com/article/health-coronavirus-airlines-iata-int/airlines-call-for-covid-19-tests-before-all-international-flights-idUSKCN26D1P9 September 22, 2020.

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IATA Calls for Systematic COVID-19 Testing Before Departure.

IATA seeks to re-establish global air connectivity, this through a systematic COVID-19 testing of all travelers before departure. “This alternative will give governments the confidence to open their borders without complicated risk models. Testing all passengers will give people back their freedom to travel with confidence. And will put millions of people back to work”, declared Alexandre de Juniac, IATA’s CEO. With border closures rising daily and a second-wave of infections, a need arises for the aviation industry to partner up with governments and medical testing providers to find a rapid, accurate, affordable, easy-to-operate, and scalable testing solution that will enable the world to safely re-connect. Otherwise, the global economic pain of the crisis will be prolonged if the aviation industry collapses before the pandemic ends. www.iata.org/en/pressroom/pr/2020-09-22-01/ September 22, 2020.

How Mexico is Leading the Aviation Recovery in Latin America.

Across the world, Mexico was one of the few countries that never imposed restrictions on travel due to COVID-19 pandemic. Anyone who wanted to visit Mexico could. First of all, The lack of restrictions allowed Mexican carriers to relaunch their flights more easily. Secondly, the low-cost carriers are poised to recover first in Latin America. In Mexico, 70% of the market share belongs to low-cost airlines. And last but not least, the US-Mexico market support, meaning that US citizens choose Mexico as their first travel destination. simpleflying.com/mexico-aviation-recovery/ September 24, 2020.

Sustainable tourism, the post-pandemic future.

Regarding the current covid-19 pandemic, we must think ahead to rethink and rebuild tourism, empowering the less crowded destinations and fighting mass tourism. Skyscanner, the travel search engine, pointed out that “the impact of a lower investment in tourism will impact the places meant to serve a large number of foreign visitors”. Meaning that the tourism industry should redirect travelers to new and less attended destinations. Promoting lesser-known places as safer alternatives could help counteract over-tourism. www.a21.com.mx/aerolineas/2020/09/25/turismo-sustentable-el-futuro-post-pandemia September 25, 2020.

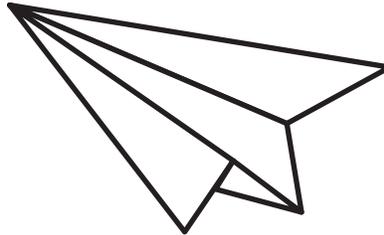
Air passenger flow in Mexico slightly reactivates in August.

During August, all airlines operating in Mexico transported three million 36,018 passengers on regular flights, which represented a decrease of 65.1% with respect to the same month in 2019. In annual comparisons, during July the drop was 74.5%, in June 86.2%, in May 94.2% and in April 94.1%. In August, national airlines mobilized two million 120,271 people within the country, which represented a decrease of 55.5%, and on foreign flights 303,633 passengers, 79.7% less than August 2019, while foreign airlines mobilized 612,114 travelers, 75% less in their annual comparison. www.americaeconomia.com/negocios-industrias/flujo-de-pasajeros-aereos-en-mexico-se-reactiva-levemente-en-agosto-por-impulsol September 28, 2020.

Newer Actors Driving Evolution Of Air Traffic Management.

With aircraft movements reduced, technology deployments slowed and professionals working from home due to COVID-19 pandemic, the air traffic industry, is contemplating future operational scenarios and what were once considered as “nontraditional” actors in the airspace system. For instance, the electric- and jet-powered vehicles with incredible performance characteristics, high- and low-altitude flights, and integrated manned and unmanned aircraft operations is creating the need for new air traffic management procedures and regulations, says the International Civil Aviation Organization (ICAO). <https://aviationweek.com/special-topics/air-traffic/newer-actors-driving-evolution-air-traffic-management> September 28, 2020.

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