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

# The New Mexico City International Airport – Considerations in the midst of a new Federal Administration.

by Juan Manuel Estrada.

According to the annual report issued by the Council of the International Civil Aviation Organization ('ICAO'), the total global air transport network has doubled in size every 15 years since 1977 and, between 2012 and 2030, it is expected to double again.<sup>1</sup> The Council has further stated that the three billion airline passengers that were carried in 2012 are expected to grow to over six billion by 2030, and the number of departures are forecast to grow to some 60 million in 2030.<sup>2</sup> Furthermore, in terms of passenger per kilometers performed, combining both international and domestic services, the Latin America/Caribbean Region accounts for 5 per cent of the world traffic and has grown at 8.6 per cent, being the region with the biggest growth percentage in 2015.<sup>3</sup>

*"In order to address such growing imbalance and thus alleviate or minimize the situation, many different congestions remedies have been proposed. The most self-evident remedy consists of capacity expansion through airport enlargement or the construction of new airport."*

Similarly, in 2014 the International Air Transport Association ('IATA') issued its 'Tourism Economics' joint Passenger Forecasting service study, where it forecasted that the number of global air passenger journeys would increase at an average rate of 4.0% each year over the next 20 years. With regards to Mexico, IATA's forecast is that its domestic market is on course to overtaking Canada as the second largest in North America (by 2023). This exponential growth has been fostered by the rapid increase in living standards and a younger population currently settled in the country.<sup>4</sup> Thus, the proliferation of air traffic experienced in Mexico during the last decades has resulted in higher levels of congestion and delays in all major airports.<sup>5</sup> Unfortunately, this problem has been aggravated within the Mexico City *Benito Juarez International Airport* ('AICM'), which is the only airport that has been officially declared as 'congested' in several occasions by the Mexican Ministry of Communications and Transportation ('SCT').<sup>6</sup>

In order to address such growing imbalance and thus alleviate or minimize the situation, many different congestions remedies have been proposed.<sup>7</sup> The most self-evident remedy consists of capacity expansion through airport enlargement or the construction of new airport.<sup>8</sup> As a consequence of this, in 2014 the Federal Government announced its plans for the construction of what is known as the New Mexico City International Airport ('*Nuevo Aeropuerto Internacional de la Ciudad de México*', 'NAICM') project, which consists on one of the core infrastructure plans of the current administration,<sup>9</sup> and one of the three present largest infrastructural airport projects worldwide.<sup>10</sup> The Federal Government has anticipated

1.- ICAO, 'Annual Report of the Council- 2012', (2004) ICAO Doc. 9851, 8.

2.- Idem.

3.- Idem.

4.- International Air Transport Association (IATA), 'International Cargo and Passenger Forecast 2012 to 2034', (2012), <<https://www.iata.org/events/agm/2015/Documents/airpax-forecasts-executive-summary.pdf>> (Last visited on 25 May 2018).

5.- Former Director General of Mexico's Civil Aviation Authority ('DGAC') Alexandro Argudin Lerroy stated that "Mexico City, Guadalajara, Monterrey, Tijuana, Los Cabos and Cancun concentrate more than 78% of Mexico's air traffic, which has resulted in chronic airport congestions" <[http://www.milenio.com/negocios/Aeropuerto-Cancunproblemas-saturacion-DGAC\\_0\\_251375284.html](http://www.milenio.com/negocios/Aeropuerto-Cancunproblemas-saturacion-DGAC_0_251375284.html)> accessed 20 June 2017.

6.- Published in the Official Gazette ('DOF') on: June 15, 2005, October 4, 2007, November 8, 2007, April 7, 2013, and September 29, 2014. Folio 0000365 of the FILE.

7.- Paul Dempsey, "Airport Planning & Development: A Global Survey", (1999) McGraw Hill, 235- 269.

8.- Jan K. Brueckner, 'Airport congestion when carriers have market power', (2002) *American Economic Review* 92 (5), 1357-1375.

9.- OECD Public Governance Reviews, 'Effective Delivery of Large Infrastructure Projects: The Case of the New International Airport of Mexico City', (2015) OECD., 174.

10.- OECD, 'OECD's participation in the New International Airport of Mexico City Project (NAICM)', (2017) available at <http://www.oecd.org/gov/ethics/oecd-participation-in-the-new-international-airport-of-mexico-city-naicm.htm> (Last visited on 25 May 2018).

that initial phase of this undertaking would be finalized and operational by 2020,<sup>11</sup> while the remaining expansion that could bring capacity up to 120 million passengers a year, almost 20 million more than went through the world's busiest airport, Hartsfield-Jackson Atlanta International, in 2017, would be ready by 2025.<sup>12</sup>

However, despite the evident need for what has been labeled as "the continent's biggest infrastructure project"<sup>13</sup>, the development of the NAICM has hit turbulence in recent months as a consequence of the opposing positions held by the different presidential candidates to the 2018 General Elections that will be held in Mexico. Particularly relevant to our analysis is the public position taken by the runaway front-runner in this year's Mexican presidential race, Andrés Manuel López Obrador, who has vowed in multiple occasions to cancel the project if he is elected.<sup>14</sup>

*"Despite the fact that the costly development of the airport has been linked with possible rife of corruption it is important to mention that, by this point, its canceling would be awfully expensive, due to several factors."*

The widely known position adopted by presidential candidate Andres Manuel López Obrador has sparked understandable alarms amongst Mexican stakeholders, which not only have both high hopes in the development of the airport project but also a vested interest and financial stakes in it, with more than 70 percent of the \$13 billion estimated cost being financed by private investors.<sup>15</sup>

It is at this point where we reach a cross road. Despite the fact that the costly development of the airport has been linked with possible rife of corruption it is important to mention that, by this point, its canceling would be awfully expensive, due to several factors such as: a) the existing and prospective work force that is now hired or which will benefit from the construction of the NAICM; b) the contractual penalties clauses arising from the multiple agreements entered by the federal government; c) the financial costs derived from the existing financing from private investors; and d) the loss of a considerable market share in the region.

As stated by Gerardo Ruiz Esparza, Head of the Ministry of Communication and Transportation ('SCT'): "Regardless of the presidential victor of the 2018 General Elections, the project is socially, legally and financially shielded. Halting its construction would cost a 3% reduction in the GDP."<sup>16</sup> This number is of particular relevance when we take into account the figures issued by the OECD and the National Institute of Geography and Statistics ('INEGI') for 2017, which state that the GDP of Mexico for 2017 reached USD \$18,979.00 per capita (where the population census reached in 2017 reached 123.5 million citizens), which would entail that a 3% reduction of the GDP could reach the stunning amount of 70 billion USD.

The social shielding for the construction of the NACIM includes the more than 40,000 jobs that are currently generated by its construction, along with the more than 100,000 prospected permanent jobs that will be directly and indirectly generated upon the conclusion of this of this project. Should the elected President decide to proceed with its cancelation, he would not only face strong opposition from a political standpoint as a consequence of the loss of

11.- *Idem* at 18.

12.- Bloomberg, 'The Continent's Biggest Airport Project Hits Turbulence', (2018) available at <https://www.bloomberg.com/view/articles/2018-05-08/north-america-s-biggest-airport-project-hits-turbulence> (Last visited on 20 May 2018).

13.- *Idem*.

14.- Bloomberg, 'Mexico's Obrador Threatens Probes If Airport Isn't Halted in July', (2018) available at <https://www.bloomberg.com/news/articles/2018-04-18/mexico-s-obrador-threatens-probes-if-airport-not-halted-in-july> (Last visited on 20 May 2018).

15.- El Financiero, '¿Cómo se pagará el nuevo aeropuerto?', (2014) available at <http://www.elfinanciero.com.mx/economia/como-se-pagara-el-nuevo-aeropuerto> (Last visited on 21 May 2018).

16.- El Universal, 'New Mexico City International Airport shielded for long term construction', (2017) available at <http://www.eluniversal.com.mx/articulo/english/2017/05/22/new-mexico-city-international-airport-shielded-long-term-construction> (Last visited on 20 May 2018).

prospective jobs, but he would further have to deal with the unlawful termination of the existing personnel currently working on the construction of the NAICM.<sup>17</sup>

From a legal standpoint, it has been reported that the Federal Government has entered into commercial agreements and public work contracts with more than 157 as a result of more than 120 public tenders. The value of such agreements is estimated in more than 25 billion USD. As stated by Federico Patino, the chief executive officer of *Grupo Aeroportuario de la Ciudad de México* (GACM), the firm overseeing the development of the NAICM: "its cancellation will surely lead to lawsuits and damages as a consequence of the penalty clauses included in the commercial agreements entered by the federal government".<sup>18</sup>

It is also important to analyze the financial implications that would accrue in case of the cancelation of the NAICM. To this date, it has been reported that the NAICM has raised more than 30 billion USD in public funding. In order to obtain such funding, the Federal Government has granted as collateral, the TUA generated and collected from the AICM as well as that e generated by the NACIM when its construction is completed. Accordingly, the head of the GACM has estimated that cancellation of the project would cost \$6.6 billion, while analysts at Moody's Investors Service<sup>19</sup> and Barclays Plc<sup>20</sup> have warned in recent weeks that it would have broader negative consequences for the Mexican airport sector and the economy as a whole, such as a rising from a negative image generated by the Federal Government with foreign investors.

In addition to this, as evidence the lack of infrastructure has proved to be a long-lasting issue for Mexico, as stated by IATA, who has developed studies that show that for a country of its size, Mexico underperforms in terms of its integration with the global air transport network. Consequently, losing a considerable amount of market share to the likes of countries with much smaller home markets such as Dominican Republic, Colombia, Peru, Chile, and Panama.<sup>21</sup> The case of Panama is particularly relevant, as its heavy investment in the development of the Tocumen International Airport (PTY) has led to its positioning of not only a mere alternative to the AICM but rather as the main gateway for passenger and cargo transfer in Latin America.<sup>22</sup>

In conclusion, the aviation sector already accounts for an enormous contribution to Mexico's economy, supporting 1 million jobs and 2.9% of GDP, including the economic contribution of foreign tourists arriving by air.<sup>23</sup> However, the lack of infrastructure capacity has hampered the ability of the country to capture an even larger share of the benefits of aviation connectivity, regionally and globally. In such regards, the cancelation of the NAICM would lead to burdensome consequences from a social, legal and financial standpoint, causing the suppression of jobs and economic growth. As declared by Carlos Slim "suspending the project is equivalent to suspending the country's growth".<sup>24</sup>

17.- *Expansión*, 'La cancelación del nuevo aeropuerto costaría 120,000 MDP, dice el GACM'. (2018) available at <https://expansion.mx/economia/2018/03/26/la-cancelacion-del-nuevo-aeropuerto-costaria-120-000-mdp> (Last visited on 21 May 2018).

18.- Daina Beth Solomon, 'Cancelling new Mexico airport would cost \$6.6 billion: company CEO', (2018) available at <https://www.reuters.com/article/us-mexico-election-airport/cancelling-new-mexico-airport-would-cost-6-6-billion-company-ceo-idUSKBN1H22VQ> (last visited 25 may 2018).

19.- Moody's Investor Services, *Moody's: Air traffic growth boosts sector but Mexico City airport cancellation would be negative*, (2018) available at [https://www.moody's.com/research/Moodys-Air-traffic-growth-boosts-sector-but-Mexico-City-airport--PR\\_382448](https://www.moody's.com/research/Moodys-Air-traffic-growth-boosts-sector-but-Mexico-City-airport--PR_382448)(Last visited on 21 May 2018).

20.- Barclays, *Canceling Mexico City Airport Would Be Imprudent, Barclays Says*, available at <https://www.bloomberg.com/news/articles/2018-04-23/canceling-mexico-city-airport-would-be-imprudent-barclays-says> (Last visited on 21 May 2018).

21.- This is based on a qualitative measure of the number and economic importance of destinations served from the main airports in a country, the frequency of service to each destination and the number of forward connections available from each destination, weighted by the GDP of each country. As reported by IATA, available at <https://www.iata.org/policy/Documents/Benefits-of-Aviation-Panama-2013.pdfv> (Last visited on 21 May 2018).

22.- IATA, 'Economic Benefits from Air Transport in Panama', (2013) available at <https://www.iata.org/policy/Documents/Benefits-of-Aviation-Panama-2013.pdfv> (Last visited on 21 May 2018).

23.- IATA, 'IATA Reiterates Strong Support for New Mexico City Airport', (2018) available at <http://www.iata.org/pressroom/pr/Pages/2018-04-09-01.aspx> (last visited on 26 may 2018).

24.- Bloomberg, 'Canceling Mexico City Airport Would Be Imprudent, Barclays Says', (2018) available at <https://www.bloombergquint.com/onweb/2018/04/23/canceling-mexico-city-airport-would-be-imprudent-barclays-says> (last visited on 26 may 2018).

## **Mexico's central bank is creating a cyber security unit, following a hack on its domestic payments system.**

Central bank Governor Alejandro Diaz de Leon said on Monday that the country had seen an unprecedented attack on payment system connections and that he hoped that measures being taken would stop future incidents. The attack on Mexican banks is similar to one of the biggest-ever known cyber heists, when thieves stole \$81 million from Bangladesh's central bank in 2016, said Fermin Gonzalez, head of forensic services at PricewaterhouseCoopers in Mexico. The central bank said in a notice in the government's daily gazette that the new unit would design and issue guidelines on information security for the country's banks, which are supervised by the central bank. <https://www.reuters.com/article/us-mexico-cyber/mexico-central-bank-to-create-cyber-security-unit-after-hack-idUSKCN1G3AB> 15/05/2018.

## **Electoral speculation hits the Mexican Peso.**

The peso has fallen 7.4 percent since the end of the first quarter, among the worst performances in emerging markets. Trading at about 19.8 per dollar now, it's headed for a fifth straight week of declines amid speculation that Lopez Obrador's rivals won't be able to catch up to him before the July 1 election. Traders in the forwards market are betting the peso will weaken to about 20 per dollar in one month and 20.2 in three months. One-month implied volatility jumped to 14.5 percent on Tuesday, the highest in 15 months, a sign that markets expect intense peso swings in the next few weeks. <https://www.bloomberg.com/news/articles/2018-05-15/mexico-peso-bulls-can-t-count-on-nafta-deal-to-protect-from-amlo> 15/05/2018.

## **Independent candidate Zavala quits Mexico's president race.**

Mexican independent presidential candidate Margarita Zavala is quitting the race ahead of the nation's July 1 vote, a move that potentially boosts the chances for the major-party rivals to leftist front-runner Andres Manuel Lopez Obrador. "I am withdrawing my candidacy from the race out of a principle of congruence, out of a principle of political honesty, but also to free those who generously supported me, so they can make their decision as they should in this difficult race for Mexico," Zavala said. <https://www.bloomberg.com/news/articles/2018-05-16/mexico-independent-candidate-zavala-is-quitting-president-race> 16/05/2018.

## **Trump scraps North Korea summit.**

The President of the United States, Donald Trump called off a historic summit with North Korean leader Kim Jong Un scheduled for next month and warned that the U.S. military was ready in the event of any reckless acts by North Korea. Trump wrote a letter to Kim to announce his abrupt withdrawal from the meeting that would have taken place on June 12, "Sadly, based on the tremendous anger and open hostility displayed in your most recent statement, I feel it would be inappropriate, at this time, to have this long-planned meeting," Trump wrote. <https://www.reuters.com/article/us-northkorea-missiles/north-korea-blows-up-nuclear-test-tunnels-amid-doubts-over-summit-idUSKCN1P1RY> 21/05/2018.

## **Foreign Investment grows 20% in Mexico.**

According to the National Record of Foreign Investment of the Ministry of Economy, Mexico received, on the first quarter of 2018, the amount of USD\$9,502 million in Direct Foreign Investment, making an increase of 19.6%, compared to the previous year. Most of the investment came from the US, despite the recent NAFTA negotiations. The Federal Government expected at least USD\$30,000 million dollars to be received this year, as a result of the recent structural reforms in Mexico. <http://www.eluniversal.com.mx/english/foreign-investment-grows-20-mexico> 22/05/2018.

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