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ABOGADOS SIERRA

Disparity between high airport costs with infrastructure and services.

- By Javier García



sierra  
L A T A M

## 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 how high above them those rights would extend. They decided on, Ad coelum et ad inferos, meaning that their property rights would extend as high up as the heavens and all the way down to hell.

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## Disparity between high airport costs with infrastructure and services.

Javier García.

Mexico is positioning itself as an attractive destination for foreign investment and tourism, and therefore witnessing a high demand for air mobility. Airports need considerable long-term investments to ensure adequate infrastructure and aviation safety. They are a round business for their investors, as they receive enormous profits from the exploitation of these public concessions, through the collection of user fees. These fees are considerably high; however, the quality of the facilities they offer is not adequately aligned with the expectations of a country experiencing a remarkable growth in air traffic.

The airport administration scheme in Mexico is unlike any other place and diverse, since different regulatory and operational forms coexist in the territory. On the one hand, there is the private sector, which includes airport groups such as *Grupo Centro Norte* (OMA), *Grupo Pacífico* (GAP) and *Grupo Sureste* (ASUR). While some airports are still under the administration of *Aeropuertos y Servicios Auxiliares* (ASA), a decentralized agency of the Federal Government, it has lost others after being delegated to the parastatal company of the Armed Forces, *Grupo Aeroportuario, Ferroviario, de Servicios Auxiliares y Conexos Olmeca-Maya-Mexica* (GAFSACOMM). For its part, the Mexico City International Airport (AICM) is in the hands of the Ministry of the Navy (SEMAR).

Airport operators' revenues include the provision of aeronautical services, such as facility use fees (airport use fees, landing fees, aircraft parking, passenger transport to terminal, security), and non-aeronautical services (space rental, vehicle parking, advertising, hotel services, etc.). The Airport Use Fee ("TUA" by its acronym in Spanish) is the main revenue for airport groups, for example, for OMA it represents 67% of total revenue<sup>1</sup>. This is what passengers pay to enter the airport, be in the common areas, go through security, use the restrooms and board the plane. It is collected and delivered to the airport by the airlines that transport passengers.

According to the Latin American and Caribbean Air Transport Association (ALTA), Mexico is the third country in Latin America where air passengers pay the most in total taxes and fees, after Argentina and Jamaica. In addition, Mexico City International Airport (AICM) and Monterrey are positioned as the airports with the highest TUA costs for international flights, while Guadalajara and Puerto Vallarta are in the top 10<sup>2</sup> of that region. Likewise, the AICM TUA increased 3.2% this year, making it one of the highest in the world<sup>3</sup>.

***"TUA is what passengers pay to enter the airport, be in the common areas, go through security, use the restrooms and board the plane [...]"***

In 2014, AICM and *Nacional Financiera* (NAFIN), a Mexican development banking institution, entered into an assignment agreement whereby AICM irrevocably assigned the TUA collection rights in favor of the trust under number 80460<sup>4</sup>. The intention was to finance the new Mexico City International Airport (NAICM), a project proposed and developed by the previous Public Administration; however, the fate of the project would have been different, as it is now nothing more than an aban-

1.- OMA Annual Report

2.- Milenio. 2023. *Tarifa aeroportuaria de México, la más alta de América Latina*: <https://www.milenio.com/negocios/tarifa-aeroportuaria-mexico-alta-america-latina>

3.- Portafolio. 2024. *Aeropuertos con más tráfico en Latinoamérica*: <https://www.portafolio.co/internacional/los-aeropuertos-con-mas-trafico-de-latinoamerica-donde-se-ubica-el-de-bogota-595676#:~:text=Si%20bien%20el%20primer%20lugar,pasajeros%20durante%20el%20a%C3%B1o%20pasado.>

4.- Infobae. 2024. *Gobierno de AMLO desvía fondos para pagar deuda por cancelación del aeropuerto de Texcoco*. <https://www.infobae.com/mexico/2024/01/22/gobierno-de-amlo-desvia-fondos-para-pagar-deuda-por-cancelacion-del-aeropuerto-de-texcoco-segun-aristegui/#:~:text=La%20deuda%20que%20gener%C3%B3%20con,realizada%20por%20Regina%20Diez%20Guti%C3%A9rrez.>



done site. This is due to the fact that the current president, Andrés Manuel López Obrador (AMLO), ordered its cancellation in order to dedicate his efforts to the creation of the Felipe Ángeles International Airport (AIFA) in the hands of the Armed Forces. The trust is still in force today but now with the purpose of paying the debt caused by the cancellation.

In other words, this debt is being financed "directly" by travelers that use the AICM, but the diversion of the TUA puts airport users at risk, since according to the Law, these resources must be used for maintenance, modernization and investment<sup>5</sup>. Accidents happen and the lack of maintenance of runways, airplanes and equipment for the adequate monitoring of takeoffs and landings is very worrying. We can recall the flooding in one of the terminals after the collapse of the pluvial systems in August last year or the pothole that caused the closure of one of the runways 2 years ago.

A higher TUA charge does not necessarily equate to having a better airport infrastructure. This fee can be used for a variety of purposes, such as maintenance, expansion, security or other expenses related to the operation of the airport. A quality airport infrastructure depends on investment in technology, operational efficiency and proper maintenance, among others. While user charges can help finance and maintain a sound infrastructure, they are not the only indicator of an airport's quality. It is important to evaluate other aspects, such as customer satisfaction, flight punctuality, safety, comfort of facilities and efficiency of services offered to determine the overall quality of an airport.

José Ricardo Botelho, director of ALTA, indicated that without investment, growth potential is limited, and therefore there is no improvement in infrastructure. The main reason for the lack of investment is the high level of legal and long-term planning uncertainty around Mexico's air market.

The airport investment scheme operates based on a Master Development Plan (MDP) with investment projects approved every 5 years by the aeronautical authority. Investments are determined based on traffic projections and criteria to guarantee an adequate level of service quality established by the authority. Aeronautical revenues are regulated under a Maximum Tariff system, which is defined and established every 5 years for each airport, therefore, there is an allowable limit that can be charged for airport services during that period. In addition, there are no compensations in scenarios where revenues generated are lower than expected.

Faced with this situation, private airport groups identify the following challenges:

1. It is very difficult to plan long-term infrastructure in the short term. Therefore, it would be necessary to implement a Strategic Planning scheme with a minimum 10-year perspective with the collaboration of all industry representatives.
2. Lack of flexibility to adjust the MDP to significant changes in the industry. Some suggestions for improvement are:
  - a. Create a consultation group with industry representatives to analyze trends and address abrupt changes in the market.
  - b. Make frequent adjustments to the calculation of the Maximum Tariff so that its impact is adequately reflected during the 5 years of execution of the MDP.
  - c. Adjust investment programs to market events, since the rigidity of the MDP does not allow the recognition of extraordinary investments (for safety, traffic increase, regulations, technologies), nor to defer investments.
  - d. Allow exchanging increases in the Maximum Tariff with airports with higher traffic volume within the same airport group. Smaller airports could increase their tariffs in exchange for additional financing to improve their infrastructure, while larger airports with significantly more traffic could accept lower tariffs in exchange for less financing. This allows smaller airports to be more competitive.

Airport concessions have been a key element in the development and modernization of airport infrastructure in the country, becoming the most profitable businesses in Mexico, especially in terms of the TUA. However, they need a more flexible regulatory framework that allows them to receive considerable investments to improve infrastructure and maintenance, so that the fees paid by users are congruent with the infrastructure and services provided to them.

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