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When “Safety” Becomes Strategy: A Legal Appraisal of Mexico’s Unilateral Aviation Measures at AICM

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LATAM

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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October of this year, the U.S. Department of Transportation (DOT) issued orders disapproving certain Mexican airlines’ schedules at both Mexico City International Airport (AICM) and Felipe Ángeles International Airport (AIFA), as well as prohibiting Mexican carriers from transporting cargo on mixed-service flights between AICM and the United States. According to the DOT, these measures stem from actions taken by the Mexican government, specifically: (i) the decree which establishes the closure of AICM for full cargo transport services, and (ii) the continued confiscation and non-transparent management of AICM slots since 2022. Together, these actions allegedly constitute a violation of the 2015 bilateral Air Transport Agreement and have disproportionately affected U.S. carriers. In this *Coelum* article, we examine whether the Mexican government’s decisions are legally justified and consistent with its domestic and international obligations.

Background

Between 2022 and 2025, Mexico’s aviation policy largely centered on addressing AICM’s alleged state of congestion. In 2022, aviation authorities declared the terminal buildings of the airport to be saturated at certain hours¹, and therefore the AICM’s Operations and Schedules Committee, together with airlines and authorities, agreed to a temporary reduction of the airport’s declared capacity from 61 operations per hour down to 52². The Mexican Government’s action was taken a step further in 2023, by closing full cargo transport services by decree³, pushing cargo carriers to relocate their operations at other airports, including the recently inaugurated AIFA, within 108 business days to free up capacity for passenger flights. After cargo flights were exiled, authorities imposed a further unilateral cut in AICM’s hourly movements, from 52 to 43 operations⁴.

Although these measures were said to be necessary to ensure the safety of the public and airport operations, their hasty nature along with their inconsistent application and the timing of subsequent airport infrastructure works have raised doubts about whether they were firmly grounded on technical arguments of safety and security or driven by political motivations.

Slot Cuts

Despite the Mexican Administration’s fervent grounding of their decisions on arguments of operational safety and national security, the International Air Transport Association (IATA) rejected and challenged the Mexican Government’s decision to reduce AICM capacity to 43 operations per hour and warned that this unilateral action (taken with a complete disregard to consultative processes and stakeholder interests) places Mexico “in non-compliance with its international aviation commitments.”⁵ IATA affirmed that the Mexican Government had not submitted a new study which justified the reduction in slots and even questioned the methodology used by the Agencia Federal de Aviación Civil (AFAC) and SENEAM (Air Navigation Services). Rather, it was found that a study produced by the Mexican Government dating to 2018 proved the contrary; it stated that AICM was able to safely handle up to 72 movements per hour, adding to the confusion created by the sudden change in narrative and policy of 2022-2023⁶.

Mexican law empowers the Ministry of Infrastructure, Communications and Transport (*Secretaría de Infraestructura, Comunicaciones y Transportes*, “SICT”), through the AFAC, to declare an airport congested, overall and at certain hours alike⁷. Once an airport is officially classified as ‘saturated,’ the authority is entitled to subject operations to allocation and slot coordination rules set by the authority itself. In fact, in 2017, Mexico established “General Bases for the Assignment of Landing and Takeoff Schedules at Saturated Airports,”⁸ outlining this authority.

1.- Diario Oficial de la Federación. (2022, March 03) RESOLUCIÓN por la que se declara la saturación de los edificios terminales del Aeropuerto Internacional Benito Juárez de la Ciudad de México. <https://www.aicm.com.mx/wp-content/uploads/2022/03/DOF-SaturacionAICM-ET-03Mzo22.pdf>

2.- Secretaría de Marina. (2022, August 26) AICM y aerolíneas acuerdan disminuir de manera provisional operaciones en temporada de invierno. <https://www.aicm.com.mx/aicm-y-aerolineas-acuerdan-disminuir-de-manera-provisional-operaciones-en-temporada-de-inviern/26-08-2022>

3.- Diario Oficial de la Federación. (2023, February 02) DECRETO que establece el cierre del Aeropuerto Internacional de la Ciudad de México Benito Juárez, para las operaciones del servicio al público de transporte aéreo que se indica. https://dof.gob.mx/nota_detalle.php?codigo=5678705&fecha=02/02/2023#gsc.tab=0

4.- Diario Oficial de la Federación. (2023, August 28) RESOLUCIÓN por la que se declara la saturación del Aeropuerto Internacional “Benito Juárez” de la Ciudad de México. https://dof.gob.mx/nota_detalle_popup.php?codigo=5700389

5.- IATA. (September 2023) IATA Rejects Decision to Reduce Capacity of Operations at AICM. <https://www.iata.org/en/pressroom/2023-releases/2023-09-01-01>

6.- Ibid. <https://www.iata.org/en/pressroom/2023-releases/2023-09-01-01/>

7.- T. De Alba (2025, September 01) Mexico Sets New Rules for Slots, Oversight at Airports. *Mexico Business*. <https://mexicobusiness.news/aerospace/news/mexico-sets-new-rules-slots-oversight-airports>

8.- Diario Oficial de la Federación. (2017, September 29) BASES generales para la asignación de horarios de aterrizaje y despegue en aeropuertos en condiciones de saturación. <https://www.cofemersimir.gob.mx/expediente/25635/mir/51217/archivo/6035324>

The pressure imposed on Mexican authorities by a discontented U.S. resulted in the recent amendment of the Airports Law Regulations, and the issuance of new General Bases/rules for the Assignment of Slots. The 2025 rules not only “update” the allocation mechanism, they change the scope of application, relax the historical threshold of grandfather rights (from 85 to 80 percent) but tighten the rules of use, eliminate automatic priority on returned slots, redefine new entrants, introduce a more complex supervisory framework and subcommittees, and align the Mexican regime with IATA’s Worldwide Airport Slot Guidelines (WASG) logic and the new congestions of the AICM. The fact that such amendments were deemed necessary to ease the tensions in the bilateral relationship with the U.S. Government indicates that Mexico’s former slot governance framework lacked adequate transparency safeguards, just as was suggested by the DOT in July of 2025⁹.

Cargo Transfer

The Presidential decree declaring the closure of AICM to all national and international cargo operations, framed as a matter of public interest and national security, limited the possibilities for judicial review. Although no amparo actions were filed, the unilateral approach invited criticism. The Institute of Legal Aeronautical Research, noted that cargo flights comprised only about 3% of AICM traffic and operated during off-peak hours, questioning whether their removal genuinely improved safety or efficiency; in fact, there was “no technical justification for operating at reduced capacity”¹⁰. The decree’s true motivation was to accelerate the relocation of operators to AIFA¹¹.

While the decree relied on Article 51 of the General Communications Routes Act (*Ley de Vías Generales de Comunicación*), which allows the SICT to suspend services that fail to meet efficiency and safety standards and to require carriers to make technical improvements within reasonable deadlines¹², the government arguably stretched this authority. The effective ban on cargo flights went beyond the corrective or temporary measures and bypassed the administrative processes required for such decisions.

By imposing unilateral changes without clear regulatory processes, Mexico breached the Convention on International Civil Aviation and bilateral air services agreements, which guarantee equality, operational safety, non-discriminatory and reciprocal treatment between air carriers. The measure turns out to be discriminatory as it disregards the procedures and regulatory provisions that operators complete before relocating to another airport. The decree lacked proportionality, since the measure adopted does not adequately address the reason for its issuance¹³.

U.S.-Mexico Air Transport Agreement

Mexico’s measures at AICM must also be assessed under the Air Transport Agreement between the U.S. and Mexico (ASA), which guarantees fair competition and equal opportunities for both Parties’ airlines. According to the DOT, Mexico violated these commitments by abruptly rescinding historic slots at AICM from U.S. passenger airlines and by forcing all U.S. cargo carriers to leave the airport¹⁴. Although the ASA does not list specific airports, limiting access to Mexico City effectively undermined the rights guaranteed under the liberalized treaty regime.

In a July 2025 warning, the DOT argued that these actions were arbitrary, anti-competitive, and unsupported by genuine safety needs, giving Mexican carriers an unfair advantage¹⁵. It also noted that Mexico lacked a transparent and non-discriminatory slot-allocation regime aligned with international standards¹⁶. Although Mexico’s defense could have invoked exceptions to unilaterally limit the capacity of international air transport offered at AICM for technical reasons, such as infrastructure projects, the absence of actual works (which did not occur until the announcement of remodeling ahead of the 2026 World Cup¹⁷) and the failure to provide studies and evidence on security grounds weakened that defense.

9.- U.S. Department of Transportation. (2025, July 19) Trump’s Transportation Secretary Sean P. Duffy Announces Slate of America First Actions to Combat Mexico’s Abuse of Bilateral Aviation Agreement, Anti-competitive Behavior. <https://www.transportation.gov/briefing-room/trumps-transportation-secretary-sean-p-duffy-announces-slate-america-first-actions>

10.- T. De Alba. (2023, November 21) AICM Slot Shifts Spark Industry Concerns Over Legal Basis. Mexico Business. <https://mexicobusiness.news/automotive/news/aicm-slot-shifts-spark-industry-concerns-over-legal-basis>

11.- A. Fragoso. (2023, March 15) AICM’s All Cargo Operations Presidential Decree: Burden or Relief? Coelum. Sierra Latam. https://asyv.com/wp-content/uploads/2023/12/COELUM_MARCH_2023_720248087e.pdf

12.- Ley de Vías Generales de Comunicación, Art. 51 sections II and V.

13.- A. Fragoso, n.11. https://asyv.com/wp-content/uploads/2023/12/COELUM_MARCH_2023_720248087e.pdf

14.- U.S. Department of Transportation. n.11.

15.- Ibid.

16.- Ibid.

17.- Gobierno de México. (2025, January 14) Remodelación del Aeropuerto Internacional de la Ciudad de México. <https://www.gob.mx/aicm/documentos/remodelacion-del-aeropuerto-internacional-de-la-ciudad-de-mexico>

Mexico's continued failure to implement corrective measures led to retaliatory action by the DOT, which issued orders on October 28 to suspend and restrict certain Mexican airline operations and initiate reviews of their operating permits to provide mixed services to the U.S. These steps were intended to pressure Mexico back into compliance rather than impose disproportionate penalties, but they nonetheless escalated the dispute and risked disrupting passengers and cargo shippers (consignors).

November 2025 Resolution and Slot Reallocation

In November of this year, President Claudia Sheinbaum stated that in the spirit of competitiveness, an internal agreement had been reached to hand over some of the slots which Mexican Airlines guarded so jealously to U.S. carriers¹⁸. This move highlights the extent of the pressure placed on Mexico by the U.S., considering that this relinquishment of slots falls completely outwith established IATA procedures¹⁹.

Sheinbaum also proposed the introduction of a new digital system for the management of slots by 2026, to enhance competitiveness and transparency²⁰. The above shows an apparent commitment from the current administration to modernize its slot governance, and an intention to place both AICM and AIFA on equal footing when it comes to how they serve the Mexico City metropolitan area. This approach aligns more closely to the bilateral ASA, as the U.S.' needs are guaranteed to be met through the return of their AICM slots or through AIFA's newer facilities.

Conclusion

The way that the Mexican government handled AICM's so-called saturation revealed a disconnect between the powers granted under domestic aviation law and the way said powers were exercised. While SICT and AFAC have the legal authority to declare an airport as congested and to manage slots, the substantial cuts in capacity and the mandatory relocation for all full cargo operations were implemented without following transparency requirements, technical studies or stakeholder consultations required to support these decisions. This unilateral approach left carriers, passengers, and international bodies neither informed of the reasons behind these actions nor consulted on operational and economic impacts.

The Government's subsequent amendments to Mexican Law, to patch the strained relationship with the U.S., signal an implicit acknowledgement of its own initial wrongdoing and blatant disregard of required due process and transparency. International community perceived Mexico's unilateral aviation policies as protectionist and discriminatory, giving credibility to the U.S. DOT's claims of breach (and subsequent countermeasures) under the U.S.-Mexico Air Transport Agreement and the Chicago Convention can therefore be deemed to be credible and legally-sound. States do not count with unchecked sovereign authority when they have voluntarily subscribed to binding international commitments.

Mexico must therefore continue to adhere to the principles it sovereignly chose to by subscribing to bilateral and multilateral agreements and move forward with due regard to the principles of fair competition, transparency and non-discrimination. However, other affected States may take equal or more severe actions to ensure reciprocity, non-discrimination and fair basis to their nationals in Mexico. The challenge to the Mexican Government will be to appease every possible affected State without compromising the civil aviation security measures it was so eagerly protecting.

18.- D. Rodríguez. (2025, November 17) México cede espacio a EE UU en el principal aeropuerto de Ciudad de México ante la presión de Washington. El País. <https://elpais.com/mexico/2025-11-17/mexico-cede-espacio-a-ee-uu-en-el-principal-aeropuerto-de-ciudad-de-mexico-ante-la-presion-de-washington.html>

19.- T. De Alba. n.7.

20.- D. Rodríguez, n.18.

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