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Turbulence: Reflections on Civil Aviation in Mexico

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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.

Turbulence: Reflections on Civil Aviation in Mexico.

Arturo Fragoso

Strong winds, irregular airflow or, in our case, shifting rules and weak institutions. Over the past few years, civil aviation in Mexico has undergone profound changes that deserve to be examined from a legal and critical perspective, with the aim of contributing an objective opinion on what the industry needs.

To that end, it is worth recalling the origin of the Federal Civil Aviation Agency *(Agencia Federal de Aviación Civil, AFAC)*, a deconcentrated administrative body[1] of the Ministry of Infrastructure, Communications and Transportation *(Secretaría de Infraestructura, Comunicaciones y Transportes, SICT)*. The very purpose of a regulator such as the AFAC is to ensure an authority with sufficient legal powers, competent technical personnel and adequate resources to guarantee operational safety and aviation security in the country. That purpose is now being tested by two simultaneous challenges: addressing the observations arising from the most recent assessment conducted by the United States Federal Aviation Administration (FAA) under its IASA program[2], and a budget crisis.

Origin and Fragility of AFAC

The AFAC was created by a decree published in the Official Gazette of the Federation *(Diario Oficial de la Federación, DOF)* on 16 October 2019, replacing the former Directorate General of Civil Aeronautics *(Dirección General de Aeronáutica Civil, DGAC)*[3]. The decree transferred to the new agency the human, material and financial resources of the DGAC and granted it technical, operational and administrative autonomy, with the power to issue resolutions within the scope of its authority.

The decree itself acknowledges its immediate background. Among the action items arising from the IASA assessment that downgraded Mexico to Category 2 in July 2010, due to deficiencies within the then DGAC, was the creation of a civil aviation regulator with technical and oversight authority and greater administrative autonomy from the then Ministry of Communications and Transportation *(Secretaría de Comunicaciones y Transportes, SCT)*. Mexico regained Category 1 on December 1st of that same year[4]. Nine years later, the AFAC was born, however, the same decree conceived it as a body hierarchically subordinate to the Ministry, and its transitory provisions required that its creation be funded from the budget already approved for the SCT for 2019, with no additional resources and no increase to its recurring budget. That year, the communications and transportation sector had already absorbed a 24.2% cut compared with the previous fiscal year[5].

This legal status remains at the heart of the debate. As a deconcentrated body, the AFAC has no separate legal personality or assets of its own; its head is freely appointed and removed by the Federal Executive; and, its budget depends on decisions made by the SICT and the Ministry of Finance and Public Credit *(Secretaría de Hacienda y Crédito Público, SHCP)*. A decentralised agency[6] would allow it to have budgetary autonomy and its own assets, without stripping the SICT of its sector coordination and oversight powers. Likewise, it would provide greater insulation from political pressure, which is essential today given that the State itself participates in the industry as the operator of an airline and of several civil aerodromes under the legal figure of "assignee" (asignatario)[7]. This approach is consistent with the recommendations of the International Civil Aviation Organization (ICAO), which has emphasized the need for an autonomous regulator. Although the idea has been discussed, no bill to that effect has been introduced to date.

1.- A body hierarchically subordinate to a Ministry, with no separate legal personality or assets of its own, to which specific powers are delegated. Article 17 of the Organic Law of the Federal Public Administration (Ley Orgánica de la Administración Pública Federal, LOAPF). At https://www.diputados.gob.mx/LeyesBiblio/pdf/LOAPF.pdf

2.- International Aviation Safety Assessment Program. At https://www.faa.gov/about/initiatives/iasa

3.- DECRETO por el que se crea el órgano administrativo desconcentrado de la Secretaría de Comunicaciones y Transportes, denominado Agencia Federal de Aviación Civil, DOF, October 16, 2019. At https://www.dof.gob.mx/nota_detalle.php?codigo=5575548&fecha=16/10/2019

4.- FAA press releases, "FAA Finds Mexico Does Not Meet ICAO Safety Standards", July 30, 2010, and "FAA Raises Safety Rating for Mexico", December 1, 2010. At https://www.aviationpros.com/home/press-release/10393950/faa-finds-mexico-does-not-meet-icao-safety-standards and https://www.aviationpros.com/home/press-release/10392655/faa-raises-safety-rating-for-mexico

5.- PRESUPUESTO de Egresos de la Federación para el Ejercicio Fiscal 2019, DOF, December 28, 2018, at https://www.diputados.gob.mx/LeyesBiblio/abro/pef_2019/PEF_2019_orig_28dic18.pdf.

6.- An entity of the parastatal public administration with its own legal personality and assets, governed by a board and assigned to a sector headed by a Ministry, which exercises coordination and control over it but not hierarchical authority. Article 45 of the LOAPF and the Federal Law of Parastatal Entities (Ley Federal de las Entidades Paraestatales) at https://www.diputados.gob.mx/LeyesBiblio/pdf/LFEP.pdf.

7.- A title granted by the SICT to agencies or entities of the Federal Public Administration to manage, operate or exploit civil aerodromes or to provide air transport services, pursuant to the Airports Law (Ley de Aeropuertos) and the Civil Aviation Law (Ley de Aviación Civil).

Inadequate Budget

Federal Public Accounts data[8] clearly illustrate the scope of this fragility. The following table compares, starting with the last year of the DGAC, the budget approved in the Federal Expenditure Budget *(Presupuesto de Egresos de la Federación, PEF)* with the modified budget, that is, the final amount authorised after the adjustments made during the year, which is virtually identical to the amount actually spent.

Fiscal year	Approved (PEF)	Modified / Spent	Change
2019 (DGAC)	518.2	414.6	−20.0%
2020	484.1	368.6	−23.9%
2021	379.7	551.8	+45.3%
2022	500.6	943.9	+88.5%
2023	678.7	902.1	+32.9%
2024	712.0	873.4	+22.7%
2025	653.4	897.9	+37.4%
2026[9]	657.5	In progress	-
2027 (Draft)[10]	175.4	-	-

Millions of Mexican pesos, nominal terms.[11]

In 2019 and 2020, the transition years, the authority closed the fiscal year with between 20% and 24% less than its approved budget. In 2021, with only MXN 379.7 million approved, the budget was increased by 45% during the year. Not coincidentally, this was the year in which the FAA downgraded Mexico once again. From 2022 to 2025, approved amounts ranged between MXN 500.6 and 712.0 million, while the modified budget remained between MXN 873 and 944 million. Thus, it can be observed that, the problem lies in the gap between what is approved and what the authority actually needs. Even with those increases, the authority continues to operate in practice with insufficient staff, backlogs in processing applications and a limited presence at airports.

For 2027, the draft PEF submitted by the Federal Executive allocated only MXN 175.4 million to the AFAC, 73.3% less than in 2026. It looked like a mistake, but it was not. For weeks, industry associations and specialists warned of the critical situation the authority would face and of the risk of yet another downgrade. The SICT replied that additional funds would be made available and, in October, its head announced that the AFAC would have MXN 1.4 billion in 2027, subject to congressional approval[12]. However, the committee report currently under discussion in the Chamber of Deputies reallocates only MXN 700 million, bringing the total to MXN 875.4 million[13]: 33% more than the amount approved for 2026, but 2.5% less than what was actually spent in 2025. There is, therefore, no material increase and, once inflation and the lack of investment are considered, the amount is even lower in real terms.

The situation of Air Navigation Services (Servicios a la Navegación en el Espacio Aéreo Mexicano, SENEAM), the SICT's deconcentrated body responsible for air traffic services, is even more delicate and warrants separate analysis. The draft PEF 2027 proposes a cut of roughly 75% which, according to the Civil Air Navigation Services Organisation (CANSO), would not even guarantee the payment of salaries[14].

Safety Oversight and FAA's IASA Assessment

According to ICAO, safety oversight is the function through which States ensure the effective implementation of the safety related Standards and Recommended Practices (SARPs)[15] contained in the Annexes to the Convention on International

8.- SHCP, Cuenta Pública (Federal Public Accounts) 2019 to 2025. At https://www.cuentapublica.hacienda.gob.mx.
9.- PEF 2026. At https://www.pef.hacienda.gob.mx
10.- Draft PEF 2027. At https://www.ppef.hacienda.gob.mx/es/PPEF2027/introduccion
11.- Data compilation and calculations prepared with AI assistance and verified by the author.
12.- La Razón, "AFAC, con presupuesto histórico en 2027: SICT", 20 October 2026. At https://www.razon.com.mx/negocios/2026/10/20/afac-con-presupuesto-historico-en-2027-sict/
13.- El Financiero, "Le pasan la tijera al INE en el Presupuesto de Egresos 2027", November 2, 2026. At https://www.elfinanciero.com.mx/nacional/2026/11/02/presupuesto-2027-diputados-quitan-5-mil-mdp-al-ine-y-los-reparten-entre-estos-sectores/
14.- El Financiero, "Reducción al presupuesto de servicios a la navegación representa riesgo alto para seguridad: CANSO", September 29, 2026. At https://www.elfinanciero.com.mx/empresas/2026/09/29/reduccion-al-presupuesto-de-servicios-a-la-navegacion-representa-riesgo-alto-para-seguridad-canso/

Civil Aviation (Chicago Convention). Each State's responsibility in this regard is the foundation on which global aviation safety rests.

Appendix 1 to Annex 19 to the Chicago Convention (Safety Management) sets out the eight critical elements (CEs) of a State safety oversight system:

i. Primary aviation legislation (CE-1);
ii. Specific operating regulations (CE-2);
iii. State system and functions, that is, an authority with adequate powers, structure and resources (CE-3);
iv. Qualified technical personnel and their training (CE-4);
v. Technical guidance, tools and provision of safety-critical information (CE-5);
vi. Licensing, certification, authorisation and approval obligations (CE-6);
vii. Surveillance obligations (CE-7); and,
viii. Resolution of safety issues (CE-8).

Both ICAO's Universal Safety Oversight Audit Programme (USOAP) and the FAA's International Aviation Safety Assessment Program (IASA) programme are built on these elements. The latter determines whether the civil aviation authority of each country whose airlines operate to the United States complies with ICAO standards. A country that meets all eight elements is rated Category 1. If a country fails to meet at least one of them, it is rated Category 2. A Category 2 rating does not prevent airlines from maintaining their existing services, but it does bar them from opening new routes or adding frequencies, to and from to the United States.

Mexico is already familiar with these consequences. In 2010, the downgrade stemmed from 11 deficiencies concentrated in three areas and was resolved within four months. In May 2021, with the AFAC already in place, the FAA identified 28 structural deficiencies across all eight critical elements[16]. Among these findings, the FAA observed that the use of Mandatory Circulars *(Circulares Obligatorias)* as national regulations did not demonstrate the effective implementation of the Annexes to the Convention, considering that such circulars were issued without a rigorous rulemaking process and with minimal consultation with the industry. Category 1 was not restored until September 2023[17], after more than two years of restrictions. Thus, it can be observed that the deficiencies identified are closely related to a weak regulatory framework.

Today, the AFAC is facing a new assessment. In this context, the on-site phase of the assessment was carried out from August 10 to 14, and on October 14, the AFAC received the corresponding report from the FAA, which, out of the 339 items reviewed, identified 21 observations of a technical, operational and administrative nature[18]. Mexico retains its Category 1 rating for now, but the FAA will conduct a follow up visit in December and announce its final determination in February 2027. The AFAC has not disclosed how many observations fall under each area or whether any of them amounts to a direct breach of an ICAO standard, and it has classified the audit information for five years[19]. While the confidentiality of such information may be justified for technical reasons, it is important to emphasize that it does not contribute to building trust within the industry.

Misdirected Agenda

Meanwhile, the legislative agenda appears to be heading in a different direction. Over the past year, at least seven separate bills on overbooking have been presented, along with price control proposals; new service obligations such as the automatic refund of the Airport Use Fee *(Tarifa de Uso de Aeropuerto, TUA)*; and, amendments to the Federal Consumer Protection Law on total pricing, advertising, loyalty programmes and subscriptions, as well as proposals on the carriage of pets and service animals, carbon footprint and ground transportation at airports. With few exceptions, none of them seeks to strengthen the authority or to place operational safety, which a competitive and sustainable industry requires, on firmer ground.

15.- SARPs are adopted under Article 37 of the Chicago Convention, and their incorporation into domestic law is the responsibility of each Contracting State.
16.- El Financiero, "Inspección aérea en México: irregularidades y precariedad", July 1, 2021, at https://www.elfinanciero.com.mx/bloomberg-businessweek/2021/07/01/inspeccion-aerea-en-mexico-irregularidades-y-precariedad/; and FAA, "Federal Aviation Administration Announces Results of Mexico's Safety Assessment", May 25, 2021, at https://www.faa.gov/newsroom/federal-aviation-administration-announces-results-mexicos-safety-assessment
17.- FAA, "Federal Aviation Administration Returns Mexico to Highest Aviation Safety Status", September 14, 2023. At https://www.faa.gov/newsroom/federal-aviation-administration-returns-mexico-highest-aviation-safety-status
18.- AFAC, "AFAC RECIBE INFORME DE EVALUACIÓN IASA DE LA FAA", 14 October 2026. At https://www.gob.mx/afac/articulos/afac-recibe-informe-de-evaluacion-iasa-de-la-faa
19.- El Financiero, "¿México perderá la categoría 1 aérea? FAA detecta 21 fallas por resolver", 14 October 2026. At https://www.elfinanciero.com.mx/empresas/2026/10/14/mexico-perdera-la-categoria-1-aerea-faa-detecta-21-fallas-por-resolver/

In this context, the FAA and ICAO have repeatedly stressed the need to update the regulatory framework. The 2021 and 2023 amendments to the Civil Aviation Law and the Airports Law addressed some of those observations but did not resolve the underlying problem. Following the recent findings, a comprehensive draft amendment to both laws has been shared in working sessions between the authorities and the industry. In broad terms, it seeks to:

Civil Aviation Law

- Regulate operations, air navigation services and operations conducted under regional agreements, and formally recognise SENEAM as the provider of such services.
- Harmonise aviation security and facilitation rules with ICAO standards.
- Strengthen the powers of regional and airport commanders, as well as those of inspectors and verification officers, including access to facilities and aircraft.
- Reinforce the legal framework and independence of the accident and incident investigation authority.
- Regulate the prevention, handling, reporting and recording of incidents involving unruly or disruptive passengers, and create special criminal offences for conduct that endangers operations.
- Allocate to the AFAC the revenue from the fines it imposes and simplify administrative procedures.

Airports Law

- Update the legal regime governing the construction, administration, operation and exploitation of civil aerodromes, in line with the Civil Aviation Law.
- Require economic feasibility studies for assignments, concessions, permits and extensions, and clarify the grounds for denial and revocation.
- Subject slot allocation at congested airports to technical and administrative rules issued by the AFAC.
- Add chapters on bird strike and wildlife hazards, disruptive passengers, special criminal offences and mandatory operational safety standards for complementary services.

The only visible progress is the publication, on October 28, on the Regulatory Governance Platform *(Plataforma Integral de Gobernanza Regulatoria, PIGR),* of a draft decree amending the Civil Aviation Law to strengthen air transport security, clarify the responsibilities of authorities and industry participants and improve passenger protection[20].

It is striking that the publication relied on an exemption from the Regulatory Impact Assessment *(Análisis de Impacto Regulatorio, AIR)*[21], on the grounds that the amendments entail no compliance costs. A simple reading of the draft shows otherwise as it creates obligations with direct costs for private parties, in training, certifications, equipment and personnel, and for the authority itself, which would have to authorise, certify, accredit and oversee considerably more. Even so, its transitory provisions state that all of this must be funded from the budget already authorised, with no additional resources. Moreover, dispensing with the AIR and with meaningful consultation reproduces, at a different level, the very shortcoming the FAA identified with respect to the Mandatory Circulars.

Conclusion

Turbulence is nothing new for Mexican civil aviation, what is concerning is that its causes keep repeating themselves. In 2010 and again in 2021, the downgrades were essentially the result of the same problem: an authority lacking the staff, resources and regulatory framework needed to exercise effective oversight. Today, with 21 pending observations, a budget that is topped up along the way and a proposed reform that imposes new functions without providing the means to perform them, the risk is present once more.

Structural reforms are essential and cannot be postponed any longer. In view of the above, it is essential to undertake structural reforms aimed at granting the AFAC greater institutional autonomy, under a legal form that guarantees a sufficient and stable budget; ensuring that it has the technical, administrative and financial resources necessary to serve the industry, improve regulatory processes and strengthen operational safety oversight; and, building a new regulatory framework based on a proper regulatory impact assessment and genuine consultation from the industry.

20.- Proyecto de Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Ley de Aviación Civil (Draft decree amending the Civil Aviation Law), published on the PIGR on 28 October 2026. At https://www.herramientasregulatorias.gob.mx/AirConstancia?IdAir=2070&tab=tab1

21.- An instrument provided for in the General Law on Regulatory Improvement (Ley General de Mejora Regulatoria) through which the proposing authority justifies the need for a regulation and assesses its costs and benefits, including new procedures and obligations for private parties. An exemption applies when the proposal entails no compliance costs for private parties.

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