



SUBSECRETARÍA DE COMUNICACIONES Y TRANSPORTES

México City, March 4, 2024

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Joint Application of
DELTA AIR LINES INC. and
AEROVÍAS DE MÉXICO, S.A. DE C.V.
under 49 U.S.C. 41308 and 413009 for approval of and
antitrust immunity for alliance agreements

Docket DOT-OST-2015-0070

COMMENTS OF UNDERSECRETARY OF TRANSPORT

DEPARTMENT OF TRANSPORTATION DECISION

- On January 26, 2024, the U.S. Department of Transportation (DOT) issued a preliminary decision to terminate (effective October 26, 2024) the Joint Cooperation Agreement between Delta and Aeromexico.
 - The primary obstacles to the DOT extending Antitrust Immunity (ATI) are not related to the airlines.
- The decision states that the market conditions under which such an agreement was established no longer exist due to two main reasons:
 - Shift of cargo operations at Mexico City International Airport (AICM)
 - Uncertainty regarding capacity reduction at AICM.
- Additionally, the application for ATI from American carrier Allegiant and Mexican carrier Viva Aerobus has been pending since December 1, 2021 but processing has been suspended since July 31st 2023.
- We strongly object to DOT's suggestion that because we have had to take practical measures to address the widely acknowledged congestion at MEX, Mexico is no longer in compliance with its obligations under our bilateral air services agreement. We will not look favorably upon any unilateral decision by DOT that has the effect of damaging the commercial situation of Mexican airlines and all those price sensitive passengers that will not benefit from additional capacity between our countries.





COUNTERARGUMENTS

CARGO

- The AICM is an airport that has been saturated for decades. Having cargo here brings additional operational challenges, mixing large freighter operations and commercial operations.
- Increased pressure and social complaints have been made for the reduction of noise produced by large aircraft, such as cargo planes, which also operate at night.
- The Felipe Angeles International Airport, where most of the cargo ships that left the AICM were transferred, is larger and has new infrastructure, which makes cargo operations more efficient.
- The relocation was organized with the involvement of airlines and global entities like the International Air Transport Association (IATA).
- A total of 184 working groups and site visits were conducted, enabling them to familiarize themselves with the infrastructure and identify and enhance areas of opportunity.
- The industry requested an extension of the migration deadline to ensure minimal operational and service conditions.
- There was no discrimination based on nationality or company as the action was taken without bias.
- In AIFA, the surface area available for the cargo area is 350,250 m², which represents approximately 150% larger than the infrastructure at AICM.
- Today, Saint Lucia is served by around 30 cargo airlines operating over 270 weekly flights.
- The AIFA cargo terminal currently handles the highest volume of cargo in the country. In December 2023, it processed 36.5 thousand tons, while the AICM processed 20.5 thousand tons in the same month.
- We will collaborate with industry, organizations, and other authorities to address the current and future requirements at AIFA.

AICM

- In light of the overcrowding in terminal facilities and the safety concerns identified under the existing Civil Protection regulation, a choice was made to decrease the operational capacity at AICM to mitigate risks to public safety.
- In collaboration with the industry and IATA, the matter was deliberated in the AICM's Operations and Schedules Committee
- At all times, it was made clear that the reduction process would be temporary, and the historical slots of each airline would be honored. Once conditions allow, we will gradually resume to regain capacity.
- The initial decision was made to decrease from 61 operations per hour to 52, considering all airlines operating at the airport.





- In addition, capacity was reallocated in both terminals, and three gates in T1 were deactivated to decrease operations.
- In the second stage, the number of operations per hour was reduced from 52 to 43. This reduction only affected the three national airlines, excluding international flights. The decision to respect every single slot of all international airlines was made to honor our bilateral agreements and to honor the open skies agreement between México and the United States.
- Maintenance and investment work has been conducted at the AICM, including:
 - Re-leveling of the foundation of Terminal 2
 - Taxiways planned for 2024.
 - Horizontal Signaling on Runways, Taxiways, Aprons and Roads
 - Adaptation of connecting surfaces on taxiways
 - Taxiway Maintenance Program Projects
 - Taxiway maintenance program works
 - Supervision for the taxiway maintenance program
 - Bravo Taxiway Repair (Module 11 - Header 05L)
 - Filming Rehabilitation 2021
 - Conservation and maintenance of buildings and facilities
- The AICM has assessed various scenarios to enhance the airport's infrastructure, conducting a planning study for the future expansion of passenger terminals.
 - One of the strategies implemented at the AICM is the HUB-type Operation, which involves the construction of two new terminals within the next 10 years or one terminal with the capacity to meet current and future demand. This is necessary as Terminals 1 and 2 are nearing the end of their useful life, all while ensuring the airport's operation remains uninterrupted.

Slots AICM & Access to Mexico City

- The AICM has aimed for an open and transparent process in line with the recommendations of IATA's WASG.
- AFAC staff attend IATA slot conferences twice annually to incorporate best practices.
- The AICM has set up and manages a webpage for airlines to access slot information.

Additionally, to ensure that airlines have more access than before to launch or increase their number of operations to Mexico City, a new NLU was built in record time. The airport has been open since September 2022 and it is currently being used by domestic airlines but also but other international carriers. No US airline has shown intention to operate at the airport but it is of course open to give service to any route in the US. Our government is indeed ready to include NLU in the treaty as one of the Mexico City Airports.





Therefore, we believe that the concerns raised by the DOT do not justify the claim that the market is not as liberalized as before. The actions of the Mexican Government and its officials demonstrate a commitment to ensuring the safety and welfare of passengers.

With regards to the proposed alliance between Allegiant and Vivaaerobus whose focus is not MEX City but to provide new low price service between other non-serve airports in our countries, our recommendation is that the procedural schedule continues. Otherwise, what we are doing prevents the entry of new competitors and maintains airline concentration in a few and very strong airlines. This does little to help reduce ticket prices and promote traffic growth between our countries.

Due to the above, at the SICT, we are able to review the raised issues and address each of them and their specific impact, including the reduction of slots, the transparency of the process, and the potential for initiating their recovery.

Regarding exclusive cargo operations, we can collaborate with the operators to assess how the issues resulting from the change have been resolved and whether there has been an improvement in the efficiency of their operation.

Looking forward to meeting soon.

Sincerely,
Undersecretary of Transport



Arq. Milardy Douglas Rogelio Jiménez Pons Gómez

Firma con fundamento en el Artículo OCTAVO Transitorio del DECRETO por el que se expide el Reglamento Interior de la Secretaría de Infraestructura, Comunicaciones y Transportes, publicado en el Diario Oficial de la Federación el 29/01/2024. "En tanto se aprueban y registran los puestos de las unidades administrativas que con motivo del presente ordenamiento se modifican, continuarán las personas servidoras públicas que ocupan los puestos con las denominaciones previstas en el Reglamento Interior de la Secretaría de Comunicaciones y Transportes que se abroga, a fin de dar continuidad a las funciones institucionales de las unidades responsables involucradas"

