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ALLOCATION AS AN INSTRUMENT OF DOMESTIC AIR CONNECTIVITY: THE MEXICAN EXPERIENCE AND ITS IMPLICATIONS FOR ECONOMIC REGULATION OF AIR TRANSPORT

(Presented by Mexico)

EXECUTIVE SUMMARY

The evolution of Mexico's domestic air transport sector following the COVID-19 pandemic has led to a significant transformation in the concept of air connectivity and its economic regulation. Traditionally based on a system centered primarily on concessions and permits, the Mexican legal framework incorporated the concept of "allocation" as a mechanism through which the State can provide air transport services when justified by reasons of public utility, general or social interest, or national security. This regulatory transformation coincided with the development of new airport infrastructure and the revitalization of regional airports, creating the conditions for the establishment of a new model of domestic air connectivity with a social dimension.

In this context, the launch of operations by Aerolínea del Estado Mexicano, S.A. de C.V.— which operates under the Mexicana de Aviación brand—on December 26, 2023, constitutes a relevant case study for analyzing the relationship between government involvement, the provision of public services, and domestic air connectivity. Its operation aims to complement traditional commercial air services by connecting different regions of Mexico, including those with comparatively lower levels of passenger demand. This experience highlights the potential of air transport as a tool for territorial integration, economic development, and social well-being, while also underscoring the need for regulatory mechanisms capable of addressing connectivity needs that are not necessarily met by conventional, exclusively market-based models.

The Mexican experience is, therefore, a relevant reference for the international discussion on the economic regulation and development of domestic air transport. Although the principles established in the framework of the Convention on International Civil Aviation are fundamentally oriented to international aviation, its objectives can provide useful guidance elements for States seeking to strengthen domestic connectivity through complementary regulatory and institutional mechanisms.

In this sense, the experience of Mexico and Mexicana de Aviación could be considered by the International Civil Aviation Organization (ICAO) for the development of policies and guidelines related to domestic air connectivity, particularly through the incorporation of criteria that recognize the social, territorial and public interest dimensions of air transport in the corresponding regulatory guidance instruments.

[1] English and Spanish versions provided by Mexico.

1. INTRODUCTION

1.1 Air transport, in the context of Mexico, maintained a legal regulation scheme based on concessions and permits until 2022.

1.2 The successful resilience of Mexican civil aviation between 2021 and 2023 (post-pandemic period) allowed the integration of a new paradigm of domestic air connectivity with a social focus by a state-owned company.

1.3 The construction of new airport infrastructure based on the milestone of the construction of the Felipe Ángeles International Airport and the reactivation of civil aerodromes with low domestic demand made it possible to create the conditions for the launch into service of the state-owned company Aerolínea del Estado Mexicano, S.A. de C.V., which operates under the brand of "Mexicana de Aviación", providing low-cost scheduled domestic air service with a social focus.

1.4 The paradigm shift was not only business-oriented but also represents a revolutionary impact on the legal framework of Mexican civil aviation by including for the first time the "Assignment" regime, which is erected when there is a general interest, a social interest to be safeguarded or for reasons of national security that justify it.

2. ANALYSIS

2.1 Domestic air transportation between points other than the main international passenger transit aerodromes in the territory of a State represents an important link in the ecosystem of the economic and social benefits derived from air connectivity.

2.2 Through Mexico's experience during the COVID-19 pandemic and in the months following the global declaration of the end of the emergency, the resilience of Mexico's domestic air transport was key in determining a new paradigm in air connectivity in Mexican territory with a social focus. The resilience demonstrated by the aviation sector during the period following the health emergency showed that aviation is not only an economic activity, but also an instrument to promote communication between different regions, generate development opportunities and meet social needs.

2.3 On December 26, 2023, Aerolínea del Estado Mexicano, S. A de C. V., a company that operates under the legal regime called Assignment whose vocation is the provision of regular national air transport service for reasons of utility and public interest, safeguarding the social interest, began operations.

2.4 Its legal importance lies in the fact that the Allocation introduces a new relationship between the State and the provision of the public air transport service, in which State intervention may be based not exclusively on criteria of profitability or commercial competition, but also on objectives related to connectivity, social interest, public utility and territorial integration.

2.5 Since the start of its regular flights, the entity Aerolínea del Estado Mexicano, S. A. de C. V., which operates under the brand "Mexicana de Aviación" has transported more than one million passengers with sustained growth, linking various cities of the country from its base located at the Felipe Ángeles International Airport, the aerodrome that serves Mexico City with the largest capacity available for both combined service airlines and exclusive cargo services.

2.6 In the Mexican legal context, air transport is conceived as a public service, a concept that can be explained in a general way as a specialized activity, carried out by a private or public person, directly or indirectly through a company, to satisfy, through concrete and continuous services, a general or collective need, as long as it subsists.

2.7 In this sense, air transport is identified as a constant need of society, whose availability and continuity are essential for the general population. Its social function contributes to energizing various sectors of the national economy and, at the same time, to strengthening the connectivity and integration of the regions, generating favourable conditions for their economic and social development.

2.8 Air transportation is a catalyst for change that, as a public service, must be within the reach of the majority. This is how Mexicana de Aviación finds its historic opportunity to develop domestic air transport where there were no air transportation options before. Sustainable air connectivity is generated through modern aircraft, committed to the efficient management of gas emissions into the atmosphere, and new connection poles are generated that are different from those traditionally established and served by other commercial airlines.

2.9 From this perspective, regional and domestic aviation takes on a strategic dimension. Connectivity between points other than the main international airports can contribute to the decentralization of passenger flows, the use of existing airport infrastructure and the generation of new development poles. Therefore, air transport policies should not focus exclusively on large demand centres but should also consider the economic and social benefits derived from a territorially integrated air network.

2.10 Consequently, the domestic air transportation services provided by the Mexican State Airline are considered complementary to traditional regular services and seeks to resize the scope of the principles of the *Convention on International Civil Aviation* (Chicago Convention) through a domestic perspective. In a certain way, international civil aviation finds a new point of strengthening and continuous improvement from the perspective of its economic, legal and administrative regulation, through the adaptation of its original guidelines in the context of domestic air transport. Its operating model allows us to observe a modality of public service provision in which state participation, domestic connectivity and a purpose of public interest converge.

2.11 The principles derived from the Chicago Convention should not be understood exclusively from the perspective of international air transport but can constitute a reference for the development of national policies compatible with the objectives of safety, efficiency, continuity, connectivity and sustainable development of civil aviation.

2.12 Therefore, it is recommended that ICAO evaluate the experience presented by Mexico to include guiding criteria that will have a favorable impact on the development of domestic air transport services similar to the case of Mexicana de Aviación, and are set forth in documents Doc 9626, *Manual on the Regulation of International Air Transport* and Doc 9587, *Policy Material and Guidance on the Economic Regulation of International Air Transport*.

3. CONCLUSION

3.1 Consequently, it is pertinent to consider that the economic regulation of air transport must incorporate a sufficiently flexible vision to recognize the different functions that aviation can play within a State. Mexico's experience shows that, alongside strictly commercial air transport, mechanisms can coexist to guarantee social and territorial objectives, always within a legal framework that preserves operational safety, effective competition, transparency and economic sustainability.

3.2 The experience of Mexicana de Aviación therefore offers elements that could be considered in the guidance and policy work of the International Civil Aviation Organization. It would be advisable for guidance instruments relating to the economic regulation of air transport to contemplate more broadly domestic connectivity models that incorporate objectives of public interest, especially when these are intended to serve regions with limited air transport supply.

3.3 By harmonizing international control and auditing criteria Universal Safety Oversight Audit Programme (USOAP) under mutual recognition schemes, ICAO will make it easier for States to focus their capabilities on air transport efficiency, ensuring that regulation is an engine of global development and not a break on the connectivity of nations.

3.4 The Mexican experience could contribute to this debate by demonstrating that State intervention and the participation of commercial operators do not necessarily constitute exclusive models but can function in a complementary manner within a comprehensive air transport policy.

3.5 Finally, the main conclusion that can be drawn from the experience analyzed is that air connectivity must be understood as an instrument of economic development, territorial integration and social welfare. Air transport, as a public service, has a dimension that goes beyond the strict commercial relationship between carrier and user. Hence, States may require legal and administrative instruments capable of responding to those connectivity needs that the market, on its own, does not necessarily meet.

3.6 Consequently, the Mexican case is an experience that can be analyzed at the international level, not as a single or universal model, but as a reference for studying new forms of legal and economic organization of domestic air connectivity. The incorporation of these experiences into the international debate could contribute to strengthening civil aviation development policies and to expanding the social and economic benefits derived from air connectivity.

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