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## **Federal Government & Low-cost Carrier Aviaca Embroided In Bitter Legal Battle**

by LADB Staff

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The Secretaria de Comunicaciones y Transportes (SCT) and Mexico's Aviaca airlines are embroidered in a complex and bitter legal battle that could threaten the survival of the discount air carrier. The two sides initially squared off over Aviaca's failure to meet safety regulations on several of its aircraft, but the dispute now includes the air carrier's failure to pay millions of pesos in fees to use Mexican airspace.

### *Officials allege safety violations*

The SCT's Direccion General de Aeronautica Civil (DGAC) suspended Aviaca three times in the span of a few weeks, but the airline twice was able to obtain court orders allowing it to keep operating. The low-cost airline flies to 17 Mexican cities, including Mexico City, Guadalajara, and Monterrey, and to Las Vegas, Nevada. The DGAC first suspended Aviaca on June 2, after government inspectors deemed that the airline was endangering the flying public because it was not following adequate inspection and maintenance procedures on its fleet of 25 Boeing 737s.

The agency said the airline could resume operations once it presented the DGAC with a detailed plan outlining the various stages of inspection. "The airline has to present us with a program that ensures a quality of maintenance," said Hector Gonzalez Weeks, director of the SCT's civil aeronautics division. Claiming that it could not immediately comply with the DGAC's order and that the government's observations involved minor violations, Aviaca obtained a court order allowing it to continue operations while it looked into the government's conclusions.

On June 11, the DGAC issued another suspension of Aviaca, claiming that the original court order was no longer valid and that the airline had yet to resolve the safety violations. The SCT reiterated that the suspension was based only on Aviaca's failure to guarantee the safety of its flights. The second suspension lasted only a day because the airline was able to secure a second order allowing the resumption of operations. At that time, company officials again reassured the public that its aircraft did not pose any safety risks. But the concerns raised by the DGAC prompted the US Federal Aviation Administration (FAA) to suspend the Mexican carrier from serving the US, meaning that there would be no flights between Mexican cities and Las Vegas. "Our top concern is safety, and we are following the lead of the DGAC, which has determined that there are significant problems with Aviaca's operation," said the FAA.

The airline did suffer a minor mishap on one of its Boeing 737 planes that was landing at the Mexico City International Airport in early July. The two left tires of the aircraft's main undercarriage were punctured, forcing the plane to navigate very carefully to a point just beyond the runway. There were no injuries in the incident, although passengers had to be taken to the terminal on ground transportation.

## *Airline also in arrears on fees for use of airspace*

On July 6, the DGAC ordered a third suspension of Aviacsa, this time claiming that the airline had failed to pay 292 million pesos (US\$21.5 million) in fees to the SCT's Servicios a la Navegacion en el Espacio Aereo Mexicano (SENEAM) for the period between June 2007 and May 2009. The DGAC said the agency would allow Aviacsa to resume operations once the debt was paid, although officials for the Sistema de Administracion Tributaria (SAT) said the suspension could be lifted soon if the airline presented a viable plan to make the payments in installments. Even as the company was considering ways to make its payments to SENEAM, company attorney Haydee Cordova threatened legal action against the SCT, accusing the ministry of violating the June 11 court order that allowed Aviacsa to continue operations.

Independent observers said the airline could be in major financial trouble if it is not able to resume full operations in the near term. "The SCT's suspension comes at the worst moment possible, just one week before the peak of the vacation period in Mexico" said Jorge Sunderland, president of the consulting company Sunderland Kuri y Asociados. Sunderland noted that the loss of potential revenues during the busy period could prevent Aviacsa from undergoing a needed recovery. "That's why this is such a big blow to the company," said the consultant. Some company officials say that the SCT is out to get Aviacsa and that the actions taken against the company are politically motivated and designed to reduce the number of discount airlines in what is considered an unprofitable and saturated market. Manuel Cung, the airline's planning director, reiterated that the alleged safety violations are minor and do not affect the ability of its aircraft to operate safely. But the official said the airline is working closely with the DGAC to resolve the problem so flights can resume not only in Mexico but also to Las Vegas. "We expect to finish this chapter and focus on our operation," the Aviacsa official told Flightglobal.com.

Some Mexican legislators are concerned about the signals that the legal fight between the SCT and Aviacsa is sending to the international investment community. Regardless of the merits of the DGAC complaints, former deputy Francisco Davila Garcia, who chaired the tourism committee (Comision de Turismo) in the 2006-2009 Congress, said the government should try everything possible to support Aviacsa. Davila Garcia, a member of the governing Partido Accion Nacional (PAN), said the SCT should place a high priority on promoting investment, saving jobs, and preventing the creation of monopolies in the airline industry. Deputy Jose Alfonso Suarez del Real urged the administration to ensure that all means of transportation that serve the Mexican tourism industry remain viable. "This includes Aviacsa," said Suarez del Real, a member of the center-left Partido de la Revolucion Democratica (PRD). [Note: Peso-dollar conversions in this article are based on the Interbank rate in effect on July 8, reported at 13.53 pesos per US\$1.00]

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