

Aviation 2015  
**Introduction**

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Reference

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The Latin American aviation sector approaches 2015 with some familiar themes and challenges, as well as some bright spots.

### General economic overview

The decline in the price of oil, one of the sector's largest costs, will result in important savings for the airlines of the region. However, this development (West Texas Intermediate was trading at approximately \$50 per barrel at time of writing), if sustained, may still be offset to some degree by the moderation of economic growth in many of the largest markets in the region, brought on by declining sales of commodities to China and overall stagnating economic growth in many industrial markets such as the EU and Japan.

### Open skies agreements on the horizon

Historically, the region has had a mixed approach to the liberalisation of international airline services, sometimes referred to as 'open skies'. Some countries such as Chile have embraced it, while others such as Argentina and Venezuela have restricted markets. In contrast, the EU and the US have embraced open skies, with the EU having open skies within its 28-country territory and the US having signed more than 110 such open skies agreements. Recently, the US and Mexico signed an open skies agreement that, if ratified by the Mexican Congress, will remove many existing flight restrictions between these large trading partners. In light of this development, Delta and Aeromexico have already expressed their interest in applying for antitrust immunity for service between these two markets. Competition is likely to increase in this market, as Dallas-based low-cost carrier Southwest Airlines has commenced service to Mexico, and the opening of a new US\$156 million, five gate, international terminal in late 2015 at Houston Hobby is likely to result in enhanced service to the Mexican market. Also, in March 2011, Brazil and the US signed an open skies agreement and analysts are closely watching for Brazilian congressional ratification of this agreement, which would be effective in October 2015. This development would support Brazil's preparation for the Rio de Janeiro Olympic Games in 2016.

### Currency challenges

The industry regularly has had to move adeptly to mitigate the region's periodic currency crises, and 2015 will be no different, particularly in Venezuela and Argentina. Currently, there is an estimated US\$4 billion of airline money trapped in Venezuela, subject to unheeded Central Bank requests for repatriation. Argentina is also suffering a currency crisis, brought on by the recent default stemming from its payment dispute with certain US hedge funds, and airlines are struggling to cope with complex Central Bank rules, although some analysts see positive steps in the government's (albeit cautious) efforts to bridge the gap between the official exchange rate and the informal or 'blue' rate. Analysts are closely watching the run-up to the October 2015 presidential election in Argentina for changes in economic policy that could alleviate this problem.

### Labour law challenges

The region has always presented its fair share of labour challenges, from militant unions to restrictive labour rules that make firing or redeploying employees, where needed, costly or impractical. On this front, in recent years many countries have adopted new laws or rules making outsourcing more difficult. Whatever the merits of such rules, it is easy to see how such rules, when applied to the complex airline sector, would raise potential challenges to traditional ways of operating. In the case of Mexico, the industry is still waiting for the implementation of regulations that give more definition to the labour reforms adopted in late 2012. In Brazil, the Brazilian Supreme Court has taken up the issue of the legal limits of outsourcing in the aviation industry. The case reflects aggressive efforts by the labour authorities to restrict the use of outsourcing in areas deemed core activities. A decision is expected in 2015.

### Improvements in airport infrastructure

Mexico has announced that a new and long overdue Mexico City international airport will be built. The new airport will have one large terminal with 6 million square feet on a total lot of 11,400 acres, three runways to start (expandable up to six runways), and be capable of serving up to 50 million passengers per year. Construction is expected to start in the middle of 2015, but will not be completed before the end of President Peña Nieto's six-year term in 2018.

#### Alliances in the region

With the addition of Avianca, Taca and Copa to the Star Alliance, analysts are watching whether the Brazilian carrier Azul will be the next addition to the alliance sweepstakes.

#### Support for Brazil regional flying

Brazil is considering supporting flying within smaller regional markets. If adopted, the measure would provide subsidies to the airlines for this service. Various proposals are still being considered. Azul, which flies a fleet with a substantial number of Embraer aircraft, is viewed as a likely beneficiary if the measure is adopted, although it recently expressed opposition to a new version of the proposal that would expand the eligible aircraft under the programme.

#### PNR information

In June 2014, the Brazilian Civil Aviation Agency (ANAC) issued Rule No. 255, which addresses the obligation of airlines to transmit to the ANAC certain advance passenger information (API) and passenger name records (PNR) data prior to flights. API and PNR information is regarded by the ANAC as a valuable security tool, as well as a way to facilitate Brazilian customs, immigration, and health surveillance. Certain industry members have expressed concern about the scope of the measure, and the ANAC is studying industry comments.

#### US–Cuba developments

With President Obama's announcement this month regarding expansion of ties with Cuba, airline analysts will be closely watching developments in bilateral air transport relations between the two countries, and their impact on regional travel and associated sectors such as the hospitality area.



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Larry B Pascal is the co-chair of the international law practice group at Haynes and Boone, LLP and devotes his practice to a variety of cross-border transactions involving Latin America, including in the aviation sector. He is a prior Chair of the International Law Section of the State Bar of Texas, and recently successfully led a Texas Supreme Court Task Force to modernise the international practice rules, including the eligibility of foreign lawyers to sit for the Texas Bar. He is currently a director and secretary of the World Services Group, a global network of over 130 law firms and other professional organisations in 115 countries. He has advised several international airlines in their cross-border transactions in the region and globally.

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