

Doing business in Mexico



Re: Doing business in Mexico.

The United Nations Conference on Trade and Development (UNCTAD) considers Mexico to be one of the leading developing countries that investors should consider for their investments due to the growth and improvement the country has to offer in the private sector. The 2022 World Investment Report published by UNCTAD indicates Mexico is ranked 10th as foreign direct investment recipient, and 5th among developing economies. In 2021, the country received foreign direct investment of approximately thirty-one billion Dollars.

Likewise, Mexico has a large economically active population, a growing internal market, tax benefits, among other characteristics that enticing for new investment. It is characterized for its consistent foreign direct investment, as it received more than 300 billion Dollars during the last 10 years. Most of the amount invested in México during the period was destined to commercial, construction, real estate, manufacturing, mining, professional services, tourism, among others.

This document is intended to serve as a guide for businesses of any size looking to invest in Mexico.

This document contains the most relevant information to consider regarding the legal material that must be taken into consideration when investing in the country. Among the contents, the reader will find, in brief, the laws and regulations on foreign investment, corporate, tax, labor compliance, among others

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THE FEDERAL LABOR LAW (“FLL”) AIMS TO ACHIEVE A BALANCE BETWEEN THE FACTORS OF PRODUCTION AND SOCIAL JUSTICE, AS WELL AS TO PROMOTE DECENT WORK IN ALL LABOR RELATIONS. IN ORDER TO DO SO THE FLL CONTAINS PROVISIONS TO PROTECT EMPLOYEES IN TERMS OF DIGNITY, NO-DISCRIMINATION, ACCESS TO SOCIAL SECURITY, DECENT WAGES, SAFETY, AMONG OTHERS. 26

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Economic Overview

Mexico in Numbers	
32 nd	States
14 th	Largest country in the world
5 th	Largest country in Americas
15 th	Largest economy in the world
2 nd	Largest economy in Latin American
1 st	Exporter an Importer in Latin American
13 th	Largest exporter in the world

1. Strategic Geographical Location

Mexico covers an area of approximately 2 million square kilometers, which makes it the 5th largest country in the Americas and the 14th largest country in the world. Mexico's territory is positioned in one of the most strategic geographical locations within the continent for the several reasons, the main ones being:

1. It's a part of North America but has Latin American language and culture, as it is in the center of the continent.
2. It a natural bridge between the Atlantic and the Asian-Pacific region which facilitates their access to major consumption hubs worldwide, allowing companies and organizations engaged in trade to be more efficient and reduce logistic and inventory costs.

The border between the United States and Mexico covers more than 3,000 km and has 56 international crossings in which approximately one million people, 230 thousand vehicles, and 70,000 trucks cross daily. Some of the US states that border Mexico are: California, Arizona, New Mexico, and Texas. The aforementioned US states border Baja California, Sonora, Chihuahua, Coahuila, Nuevo Leon, and Tamaulipas in which 24% of Mexico's Gross Domestic Product ("**GDP**") is generated. The economic activity generated in this border ranks as the 3rd most productive worldwide.

2. Macroeconomic Stability

The Service industry represents approximately 63% of the country's GDP and 62% of the employed labor force; the Manufacturing industry is the second most important economic activity in Mexico,

as it contributes approximately 31% of the country's GDP and 25% of the employed labor force; finally, agriculture represents 6% of Mexico's GDP and 12% of the employed labor force.

Between 2013 and 2018, the Mexican economy grew at an average of 2.5%, however, the fall in oil prices in 2019, the international geopolitical events, and the COVID-19 crisis, caused the country's economy to fall 0.2%. Growth will be recovered due to the current economic development strategy implemented by the Mexican government, which involves the reinforcement of local consumption with social programs and financial involvement. This strategy seeks the increase of private and public investment in various matters such as infrastructure, investment in the different industries, among others. Considering the reconfiguration of the global value chains, an increase in the export of goods is expected soon.

Despite recent events that have negatively influenced the economy's growth, Mexico is not at risk of a deep crisis. The main economic indicators (internal, external, public, and private) have consistently remained stable in relation with the other crises registered, such as those in years 1994, 2007-2008, and 2019. These are reasonable grounds to sustain that Mexico will be free of economic risks in the years ahead.

Mexico: Macroeconomic Risk Factors										
	1993	1994	1995	2007	2008	2009	2019	2020	2021	2022
GDP (var %)	0.7	4.9	-6.3	2.3	1.1	-5.3	-0.2	-8.0	4.7	3.1
Inflation (var%)	8.0	7.1	52.0	3.8	6.5	3.6	2.8	3.2	7.4	7.7
GDP United States (var. %)	2.7	4.0	2.7	1.9	-0.1	-2.5	2.3	-2.8	5.9	1.9
FED Interest Rate (%)	3.0	4.2	5.8	4.7	1.6	0.3	2.2	0.5	0.3	2.0
Current Account Balance (% GDP)	-4.6	-5.6	-0.4	-0.9	-1.5	-0.9	-0.3	2.5	-0.4	-1.4
Exchange rate over(under)valuation (%)	24.7	20.1	17.1	17.5	16.6	1.7	11.7	19.2	13.6	13.0
International Reserves (% GDP)	4.8	1.2	4.4	7.5	7.8	10.1	14.2	17.9	15.9	15.0
Risk Country (EMBI+)	470	520	1250	151	361	165	171	199	213	260
Fiscal Balance (% GDP)	0.5	0.2	0.01	0.04	-0.1	-2.3	-1.6	-2.9	-2.9	-3.2
Export Mix Price Petroleum (USD/barrel)	13.2	13.9	15.7	61.7	84.4	57.6	56.2	35.7	65.1	89.6
Public Debt (% del PIB)	26.0	27.1	35.9	22.0	22.7	33.2	46.2	53.6	51.1	49.9
Maturity of Domestic Debt (year)	0.8	0.8	0.7	4.9	6.2	6.2	7.8	7.6	7.2	7.1
Bank Credit (% GDP)	29.8	34.3	29.6	13.6	15.1	15.8	21.3	23.2	20.5	20.4
Bank non-performing loans (% GDP)	6.1	8.4	15.0	2.4	2.9	3.5	2.0	2.1	2.3	2.2
Interest Rate: 28-days Bonds (%)	14.9	14.1	48.4	7.2	7.7	5.4	7.8	5.3	4.4	7.6
Bank Capitalization (%)	10.2	9.8	12.1	16.0	15.4	15.9	15.8	16.7	18.3	19.3
External Debt (% GDP)	23.9	24.6	40.3	10.9	11.8	17.4	24.9	30.7	26.7	23.7

In addition, the leading credit rating agencies consider Mexico as one of the most reliable countries to invest in Latin America as shown below:

Latin American	Chile	Mexico	Peru	Colombia	Uruguay	Brazil	Argentina	Venezuela
S&P	A	BBB	BBB	BB+	BBB	BB-	CCC+	B-
Fitch	A+	BBB-	BBB	BB+	BBB-	BB-	CCC	WD
Moody's	A1	Baa1	Baa1	Baa2	Baa2	Ba2	Ca	C

Latin American	China	Mexico	South Africa	India	Russia	Brazil
S&P	A+	BBB	BB-	BBB-	CC	BB-
Fitch	A+	BBB-	BB-	BBB-	C	BB-
Moody's	A1	Baa1	Ba2	Baa3	Ca	Ba2

3. Financial Stability

The country's financial system focus in consumption and investment is exceedingly effective, having a capitalization ratio of 18.6% which surpasses the international standards. Likewise, Mexico has superlative practices in terms of prudential standards, risks, accounting, and corporate governance, being considered as one of the most solid financial systems in the world according to the National Securities and Banking Commission ("**CNBV**").

The Mexican banking system is composed of 50 banks, all of which comply with international regulation standards, and are supervised by the CNBV. Currently, the banks with the highest market shares in Mexico are BBVA, Santander, Banorte, Citibanamex, HSBC, Scotiabank, and Inbursa.

4. Financial Stability

According to the CNBV and the World Bank, the export of Mexican goods and services represent approximately 49% of the country's GDP, placing it as the 12th largest importing and exporting country in the world.

Mexican exports represented approximately 37.9% of Latin America's exports, which make Mexico the lead exporter of this region. The World Bank established that 50% of Latin America's exports of involving the manufacture of intermediate and advanced technologies are attributable to Mexico.

Mexico Manufacturing industry is well founded, especially when it comes to metal mechanic, aerospace, automotive, electrical, and electronic products. The country prioritizes the export of industrialized goods with high added value, these products represent 88% of the Mexico’s exports.

Mexico has signed 17 Free Trade Agreements with 45 countries and has an Economic Partnership Agreement with Japan that provides preferred access to Mexican goods and services in the most important markets in the world. The purchase power of these markets represents more than 50% of the Gross World Product.

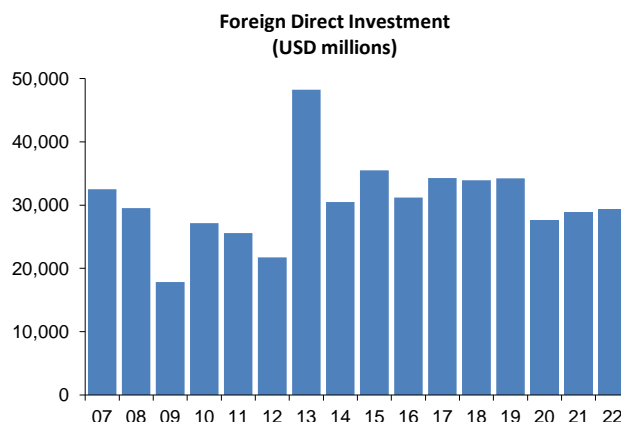
In addition to these agreements, Mexico has signed Economic Complementary Agreements, Partial Scope Agreements, and Cooperation Agreements that make it one of the most approachable countries in the world.

5. Investment Destination

Mexico’s attractiveness for foreign investors include: a) strategic geographical position, b) competitive costs, c) the size of internal market, d) macroeconomic and political stability, and e) open economy with access to the most important markets worldwide through a network of Free Trade Agreements.

As stated before, in 2021, according to the country’s Ministry of Economy, Mexico received foreign direct investment of approximately 31.6 billion Dollars, mostly in the Manufacturing industry. Besides, the foreign direct investment flows have performed favorably during the last 10 years, with a total amount of 300 billion Dollars. Most of the amount invested in México during this period was destined to commercial, construction, real estate, manufacturing, mining, professional services, tourism, among others.

The countries with more investments in Mexico are the United States and Canada, followed by Netherlands, Spain, Belgium, Germany, United Kingdom, Luxemburg, and Switzerland, and Asian countries like Japan.



A. Foreign Investment Law (“FIL”)

1. No restrictions on most investments

The FIL allows foreign investors and Mexican companies controlled by foreign investors, without prior approval, to (i) own up to 100% of the equity of Mexican companies; (ii) purchase fixed assets from Mexican individuals or entities; (iii) engage in new activities or produce new products; (iv) open and operate establishments; and (v) expand or relocate existing establishments.

2. Restricted activities under the FIL

The FIL lists certain economic activities as those established hereunder:

- a) Activities reserved to the Mexican State such as oil and hydrocarbon exploration and extraction, power transmission and distribution, nuclear power generation, issuance of banknotes, etc.;
- b) Activities reserved to Mexican nationals or Mexican companies without foreign equity participation such as domestic land transportation of passengers, tourism, and cargo (excluding courier and parcel services);
- c) Activities subject to quantitative foreign investment limitations, and
- d) Activities where foreign investors require prior approval of the National Foreign Investment Commission (“NFIC”) to own more than 49%

Prior approval is required for foreign investors to own more than 49% of a company engaged in any of the following activities:

- Port services to vessels engaged in interior navigation, such as towing, mooring and barging;
- Naval companies using vessels exclusively for high-seas traffic;
- Companies authorized to operate airfields for public services;
- Private schools, at the preschool, primary, secondary, preparatory, and higher education levels;
- Legal services, and
- Construction, operation, and exploitation of railways as well as public railroad transportation services.

Foreign investors are required to obtain prior approval of the NFIC to own more than 49% of a new or existing Mexican company and must therefore file an application with the NFIC. The NFIC has 45

business days from the day the application is filed to issue its ruling. If the NFIC does not rule within this 45-day period, the application will be deemed approved.

3. Branches and representative offices

A foreign company must obtain approval from the Ministry of Economy (“**SE**”) to establish and register a branch or a representative office in Mexico.

4. Registration requirements

All foreign investments must be registered with the Foreign Investment Registry within 40 business days from the date of the respective incorporation, branch registration, acquisition, or execution of the relevant trust agreement. Foreign investors that do not register their investment with the Foreign Investment Registry are subject to administrative fines.

B. IMMEX or Maquiladora Program

The Mexican maquiladora or IMMEX is governed by the Decree for the Promotion of the Manufacturing, Maquiladora and Export Services Industry (the “**Maquiladora Decree**” or the “**IMMEX Decree**”).

1. Corporate presence in Mexico

A foreign investor may qualify to operate under maquiladora status only if it has a corporate presence in Mexico. A Mexican corporation that qualifies for maquiladora status may have up to 100% foreign ownership.

2. Import permits and operation

The Ministry of Economy (or “**SE**” for its acronym in Spanish) is the authority in charge of authorizing the maquila or IMMEX program. The company must submit certain documentation and provide detailed information about the manufacturing process or service operation to be carried out, including descriptions of the following:

- The product(s) to be assembled and/or manufactured in Mexico
- The manufacturing or service process
- The time and domicile where temporarily imported goods will remain in national territory
- The investment program in Mexico
- Tariff classification of the goods to be temporarily imported and of the final product to be exported

- The materials, machinery, equipment, tools, and auxiliary items to be temporarily imported into Mexico for the manufacturing or service process

For purposes of the IMMEX Decree, the company must either have sales abroad exceeding USD \$500,000 annually or derive at least 10% of its total invoicing from exports.

The SE has 15 business days from the date of filing of the maquiladora application to issue its resolution. If the SE does not issue a resolution within this period, the application will be deemed to be approved.

Maquila services

Companies that qualify for a services maquiladora program include those providing services for importation, warehousing, distribution, classification, inspection, testing, verification, repair, reworking and recycling of goods subject to be exported.

3. Temporary importation

The maquiladora/IMMEX program allows the temporary importation of goods (including any material, parts, and components, machinery, and equipment) used in the manufacture of export products or in the rendering of export services

The temporary importation of goods under an IMMEX program are subject to the payment of Value Added Tax (“VAT”) and Special Tax on Products and Services (“IEPS” for its acronym in Spanish).

The Foreign Trade General Rules for 2022 (“FTGR”) set forth that companies certified under the VAT/IEPS Certification, “AAA” category, are allowed to transfer goods temporarily imported to non-IMMEX companies, as long as such companies comply with the requirements for such transaction.

4. Import duties

The payment of import duties upon temporary importation of goods into Mexico under an IMMEX program will be subject to different treatments as described below:

a) Duties on the importation of machinery and equipment

The importation of machinery and equipment is not subject to duty-free treatment. Reduced duties may be available through Mexico’s network of free trade agreements and under special programs available for manufacturers. Machinery and equipment temporarily imported are still exempt from compliance obligations related to certain non-tariff regulations and restrictions.

b) Duties on the importation of raw materials, parts, and components pursuant to the United States-Mexico-Canada Agreement (“USMCA”) provisions

The non-USMCA- originating materials incorporated into products manufactured in Mexico may be subject to the payment of Mexican import duties. USMCA-originating materials are exempted from the payment of duties if imported on a temporary basis.

c) Duties on the importation of raw materials, parts, and components pursuant to the provisions of the Free Trade Agreement with the European Union (“EUFTA”)

The finished products are imported into the European Union without claiming preferential duty treatment, the maquiladora would not be subject to the payment of import duties for the non-EUFTA inputs incorporated in the finished products.

5. Certified Companies Framework

Maquiladora companies and certain non-maquiladora companies (in some cases) may secure a special registration from Mexican customs authorities to operate as a Certified Company, which grants access to certain benefits that allow companies to save costs and time. The Certified Companies Framework includes different certification modalities in accordance with the operations and level of compliance with the requirements of the companies.

6. Tax implications

The tax implications for a maquiladora operation in Mexico are dependent on the operational structure and the type of activities conducted by the maquiladora.

a) Structuring of operations

Buy-sell model, owns the machinery and equipment, raw materials used for operations and the finished products. An IMMEX company operating under this model is subject to taxation in Mexico under general rules.

Manufacturing model (or toll-manufacturing) allows for the foreign resident to maximize the benefits arising from the sale of the finished products while attributing a modest return to the maquiladora company calculated in accordance with transfer pricing regulations, as described in more detail below.

b) Tax benefits of operating as a maquiladora

Maquiladoras are subject to Mexican taxes, including Income Tax (“**ISR**” for its acronym in Spanish) and VAT. The tax benefits of operating through a maquiladora company structured under the consignment manufacturing model are summarized as follows:

- The ability to engage in consignment manufacturing (i.e., toll manufacturing) with a foreign Principal without exposing the foreign Principal to the risk of having a tax presence (i.e., a permanent establishment) in Mexico that subjects the foreign Principal to the payment of Mexican ISR.
- The ISR liability as determined pursuant to the maquiladora’s income tax base at the general rate of 30%.
- The application of special transfer pricing rules that give the maquiladora a choice of two methods for computing the amount of the maquiladora service fee charged to the foreign Principal (included in Article 182 of the Income Tax Law).

- Zero VAT on the invoices issued by the maquiladora to its foreign-related party for the manufacturing processing or service fee

Requirements to have a maquila operation to exempt the permanent establishment exposure of the foreign Principal in Mexico.

Permanent establishment exposure may be exempt if the Mexican manufacturer operates in Mexico with an IMMEX authorization, if Mexico has in place a treaty for the avoidance of double taxation with the country of residency of the foreign Principal, and provided that the IMMEX company complies with the requirements to have a maquila operation under the terms of the Income Tax Law, which may be summarized as follows:

- All the productive income of the IMMEX company must originate exclusively from its maquiladora operation.
- The materials subject to the manufacturing operations may be consigned by the non-Mexican resident. The materials consigned to the maquiladora may be property of a third party.
- The IMMEX company shall undertake transformation or repair activities.
- Domestic goods or definitively imported goods may be incorporated in the manufacturing process.
- All the temporarily imported goods must be physically or virtually exported.
- Machinery and equipment owned by the foreign resident in at least 30% out of the total machinery and equipment used in the maquila operation.

The use of machinery and equipment owned by the foreign resident may be supplemented with machinery and equipment owned by:

- i. A foreign resident that has a manufacturing relationship with the Principal of the maquiladora.
- ii. The maquiladora.
- iii. A third party.

7. Sales into the Mexican market

A maquiladora company may sell in the domestic market up to 90% of the total value of its annual sales. Nonetheless, pursuant to the ISRL, the sale of outputs in the domestic Mexican market by maquiladoras will not be subject to the tax benefits included in the ISRL.

C. Company Law

Operating a business as a Commercial Company has many benefits, depending on the forms of business organization applied. Some of the benefits are: protection of personal assets, competitiveness, low cost, flexibility, and legal compliance. The cost of incorporating a Commercial Company may vary due to factors such as size and complexity. However, incorporating a Commercial Company isn't expensive when compared to the cost of not doing so and the many future benefits.

1. Forms of business organizations

The Mexican General Law of Commercial Companies (“**GLCC**”) regulates not only the requirements for their incorporation, but also sets forth their corporate governance directives. Relevant and commonly used forms of business organizations regulated in the GLCC include the following:

- Corporations (Sociedad Anónima or “S.A.” or Sociedad Anónima de Capital Variable or “S.A. de C.V.”; hereinafter collectively referred to as “corporation(s)”).
- Limited Liability Companies (Sociedad de Responsabilidad Limitada or “S. de R. L.” or Sociedad de Responsabilidad Limitada de Capital Variable or “S. de R. L. de C.V.”).
- Partnerships (Sociedades de Nombre Colectivo or Sociedad de Nombre Colectivo de Capital Variable).

US investors frequently incorporate limited liability companies because this form of business organization does provide limited liability to its partners as well as granting certain benefits for US tax purposes (as they are considered pass-through entities).

In addition, the Securities Market Law contemplates the following forms of business organizations:

- Investment Development Corporations (Sociedades Anónimas Promotoras de Inversión or “**SAPIs**”)
- Securities Investment Development Corporations (Sociedades Anónimas Promotoras de Inversión Bursátil or “**SAPIBs**”)
- Publicly Held Corporations (Sociedades Anónimas Bursátiles or “**SABs**”)

2. Corporations

a) *Capital stock*

A corporation must have fully subscribed capital stock in an amount freely set by the shareholders in the corporation’s charter and bylaws (minimum fixed capital) and at least 20% of their capital contribution paid in cash. In case of contributions in kind, the same must be subscribed and paid in full on the incorporation date.

Shares of stock, certificates of which are considered negotiable instruments under Mexican law, represent the capital stock of corporations. The S.A. and S.A. de C.V. differ in at least one significant aspect in this regard. A maximum amount of capital stock for an S.A. is fixed and specified in its charter and bylaws, and any subsequent increase or decrease to such fixed capital requires amending the referred incorporation documents. The charter and bylaws of an S.A. de C.V. sets the minimum fixed portion of its capital stock, and the variable portion of such capital may remain open. In this scenario, the variable portion of its capital stock may be unlimited and may be increased or decreased without amending the incorporation documents as in the case of the S.A.

b) *Minimum number of shareholders*

Mexican legislation states that there must be a minimum of two shareholders to incorporate a corporation.

c) *Management structure*

The corporation's management may be vested in one (Sole Administrator) or more directors (Board of Directors). The corporation will be legally represented by its Sole Administrator or Board of Directors, as the case may be, and its authority will be contained in the corporation's bylaws or conferred by the shareholders.

d) *Management surveillance*

To obtain better protection of the shareholders of Mexican corporations, the GLCC provides for the existence of a Statutory Auditor (Comisario) to be appointed directly by shareholders, whose main task and duty will be to survey the corporation's management for the benefit of the shareholders.

e) *Annual shareholders meetings*

The law states that shareholders must hold at least one shareholder's meeting a year. On that annual meeting, shareholders gather to discuss and approve the management report and the financial statements of the corporation.

Corporation are the most used types of business organization in Mexico due to their similarity with joint stock companies in other jurisdictions and flexibility in an international scale.

3. Limited liability companies

a) *Capital*

A limited liability company must have a fully subscribed capital with at least two equity quotas with a value of at least MXN 1.00 each (minimum fixed capital, no decimals allowed), as established by the members in the company's charter and bylaws, and at least 50% of such capital contribution must be fully paid. Most foreign investors prefer to organize their business activities in Mexico under the form of a S. de R. L. de C.V. rather than through a S. de R. L.

b) *Number of members*

There must be at least two members to organize a limited liability company; a limit of 50 members has been set forth by the GLCC.

c) *Management structure*

The limited liability company's management may be vested in one (Sole Manager) or more managers (Board of Managers), which can be freely removed by the company's members at any time.

d) *Annual partners meeting*

The members of a limited liability company must have at least one meeting at any time of every year.

4. SAPIs

SAPIs are corporations incorporated pursuant to the GLCC that adopt the SAPI regime as provided by the SML (a corporation subtype that may precede the SAPIBs, which may trade its stock in the stock market). SAPIs are not required to register their securities with the National Securities Registry (*Registro Nacional de Valores* or “**NSR**”).

SAPIs are not subject to the surveillance of the National Banking and Securities Commission unless their securities are registered with the NSR.

The management of the SAPIs shall be vested in a Board of Directors and SAPIs may adopt the surveillance regime applicable to SABs for the establishment of its Board of Directors.

SAPIs may, prior approval from its Board of Directors, acquire their own shares by: (a) charging them to their net worth, in which case, the SAPIs may retain the shares and no capital reduction will be needed; or (b) charging them to their paid-in capital, provided such shares are cancelled or converted into issued unsubscribed shares held by the treasury of the SAPI. SAPIs are subject to a regulatory:

- (a) The right to appoint or revoke the appointment of a member of the Board of Directors and a Statutory Auditor (in its case), for shareholders holding at least 10% of the total voting shares.
- (b) The right to request the call to a general meeting of shareholders (or extend the voting of its resolutions for up to 3 calendar days) resolving matters on which they are entitled to vote, for shareholders holding at least 10% of the paid-in capital of the corporation (at least 25% in the case of ordinary commercial corporations).
- (c) The right to commence civil liability claims against the administrators and/or the Statutory Auditor (in its case) in the interest of the corporation, for shareholders holding at least 15% of the total voting shares, inclusive of limited or restricted vote (at least 25% in the case of ordinary commercial corporations).
- (d) The right to judicially oppose certain resolutions of the general shareholders’ meeting, as long as they are entitled to vote on said matter, for shareholders holding at least 20% of the paid-in capital of the corporation (at least 25% in the case of ordinary commercial corporations) SAPIs cannot be publicly traded.

5. SAPIBs.

In the event a SAPI wishes to register its shares. The SAPI must comply with the requirements applicable to SAPIBs. SAPIBs may operate for a maximum of 10 years before transforming themselves into SABs.

To become SAPIB, and hence, subject to registration with the NSR, SAPIs shall:

- (a) Request registration with the NSR and to that effect adopt the information disclosure requirements set forth by the NBSC.

- (b) Resolve the following statements through a shareholders' assembly: (i) adding the expression "Bursátil" or its abbreviation, the letter "B", to the denomination of the corporation; (ii) adopting the SAB form within a term not exceeding 10 years as of the date of recording with the NSR or before, if the net worth at close of the corresponding year exceeds the equivalent in Mexican currency of 250 million of investment units (UDIS) pursuant to its audited financial statements; (iii) progressively adopting the regulatory regime applicable to SABs in accordance with the rules set out by the stock exchange and modifying the by-laws of the SAPIB to adequate the integration of the capital stock to the regime applicable to SABs.
- (c) Have at least one independent member of the Board of Directors.
- (d) Appoint a corporate practice compliance committee (which shall also have the duties of the auditing committee if so, decided by the corporation) to be presided over by an independent member of the Board of Directors.
- (e) Validate that the secretary of the board has authenticated the number of shares held by each shareholder.

Once registered with the NSR, to be traded in the stock exchange with or without public offering, an SAPIB shall:

1. Prepare a placement prospectus or informative document establishing its differences as compared to SABs and the terms and conditions.
2. Obtain the approval of the Mexican Stock Exchange for its program.

6. SABs

The SML establishes that corporations that are not SAPIBs, and whose shares are registered before the NSR, shall add to their corporate name the word "Bursátil" or its abbreviation "B." Organizational and functional regime of the SABs include the following:

a) Creation of consortiums

A group of companies that are part of the same economic unit are characterized and referred to as a consortium, a single economic management and decision unit. Consequently, the SML shall be applied to them on a consolidated basis, in aspects such as (i) the disclosure of information; (ii) the auditing and corporate practices roles of the Board of Directors; and (iii) consolidated accounting.

b) Duties of the Board of Directors

The role of the Board of Directors is modified by vesting upon it the following duties:

1. Establish general strategies and policies relevant to the operation of the business.
2. Approve relevant transactions or those which SABs enter into with related parties, taking into consideration the prior opinion of the corresponding committee.
3. Oversee the management and governance of the SAB.

c) Duties of the general manager

The general manager shall be responsible, among other things, for:

- The management, conduction, and execution of the day-to-day business.
- The existence and maintenance of the accounting, control, and registry systems.
- The compliance of the resolutions adopted by the Board of Directors and the shareholders' meetings and the disclosure of relevant information.

d) *Surveillance*

Hence, surveillance duties for the management, conduct, and operation of the business of the SABs and other legal entities controlled by the SABs are vested in the Board of Directors through the committee or committees created to conduct the activities related to corporate practices and auditing.

e) *Integration of Board of Directors*

The Board of Directors shall be conformed by a maximum of 21 members.

f) *Integration of committees*

Committees shall be formed by a minimum of three independent counselors not having conflicts of interest with the SAB, to guarantee the impartiality of their recommendations.

g) *Duty of loyalty and duty of care*

The functions and responsibilities of the directors and officers of the SAB are regulated.

h) *Minority rights*

At least 5% of shares is needed to exercise a civil action against directors and officers. Relevant information and relevant events are disclosed to provide fair treatment of stock market participants and allow them to attain a better knowledge of the financial standing of the SAB.

Hostile takeover protection clauses are allowed when: (i) they are adopted in an extraordinary shareholders' meeting; (ii) no more than 5% of the shareholders present at the meeting have voted against it; (iii) they do not exclude from the benefits of such clause a shareholders' group different from those who pretend to achieve the control; and (c) they do not obstruct in an absolute manner the corporate control of the SAB.

7. Compliance

Mexican companies are bound to comply with all the specialized regulation stated in local and federal laws, codes, as well as standards and regulations stipulated by administrative authorities.

On the past few years, government authorities have grown their effort to audit companies regarding different specialized activities. Some of the areas companies must comply with, including but not limited to, are mentioned as follows: (i) anti-money laundering activities; (ii) anti-trust activities; (iii) personal data protection; anti-corruption activities, among others.

It is of utmost importance that Mexican companies comply with each and every one of the standards and regulation regarding their activities or sector (automobile, agricultural, transportation, food and consuming, pharmaceutical, etc.), otherwise, the government authorities have the competence to visit

the company's facilities and, if applicable, impose sanctions and penalties for the non-compliance of the applicable standards and regulation. In Mexico, the standards are referred as *Normas Oficiales Mexicanas* (“**NOMs**”), and depending on the sector to whom it is intended, a Ministry (health, environmental, transportation, economical, agricultural, energy, among others) issues the applicable standards that companies must comply with.

8. Controlling Beneficiaries (“**CB**”)

As of 2022, a new tax reform has come into force and brought more obligations for CB and “**Joint Obligors**” (related parties such as shareholders/partners, members of the board of directors, special delegates for the notarization of corporate resolutions, legal representatives of shareholders/partners and accounting teams with whom legal acts are carried out, notaries and public brokers).

The purpose of the CB regulation is to prevent money laundering activities and funds of illicit origin. This will imply a greater requirement of information from the Mexican authorities, as well as from notaries and/or public brokers.

The tax reform generates new burdens, not only for the CB of the Legal Vehicles, but also for the Joint Obligors, since Mexican authorities now have greater power in the event that they make a request for information to the obligated people under this reform.

In case of non-compliance with the tax obligations contained in the following paragraphs, the authorities have the attribution to impose fines, criminal penalties, seizures, among others, against legal vehicles and their Joint Obligors.

9. Agreements/Contracts

There are several types of agreements that help organize and operate a business. Entering into an agreement may guarantee the interests of the parties involved and help the business grow unobstructed. It is essential to analyze and determine which type of agreements are fit for each business situation to establish the rights and obligations of the parties and therefore, avoid future conflicts.

Some of the most relevant types of agreements for businesses are:

a) Joint Venture

Business entity created by two or more parties, characterized by shared ownership, shared returns and risks, and shared governance.

b) Purchase and Sale Agreement

An agreement between a buyer and a seller of real estate property, company stock, or other assets.

c) Standard Service Agreement

Legal contract between a client and a service provider.

d) Non-disclosure Agreement

Legal contract or part of a contract between at least two parties that outlines confidential material, knowledge, or information that the parties wish to share with one another for certain purposes but wish to restrict access to.

e) *Product Supply Agreement*

A product supply agreement establishes the terms on which a seller will supply products to a buyer. The agreement must be clearly written to ensure that products will reach the hands of the consumers quickly and with little complication.

f) *Lease Agreement*

A legal contract between a landlord and a tenant that states what the tenant will pay monthly for rent and for how long.

g) *Licensing Agreement*

A contract that allows one party (the licensee) to use and/or earn revenue from the property of the owner (the licensor).

h) *Other agreements*

The agreements described above are only some of the contracts commonly used by companies throughout their operations. However, there are other types of agreement that are relevant for the management of a business and, in addition to the main ones, more rights and obligations can be included in contracts as long as they do not go against the law, public order, and the rights of third parties.

10. Commercial businesses

A commercial business establishment is defined as all those premises where an individual or legal entity carries out activities such as the purchase and sale, rental, distribution of goods, or rendering of services with the purpose of obtaining an economic remuneration.

Commercial businesses can be of low impact, neighborhood impact, or area impact.

a) *Low Impact Businesses*

The low impact businesses are those characterized by the purchase and sale, lease, distribution of goods or provision of services, which do not include the sale of alcoholic beverages, for example: hospitals, clinics, schools, parking lots, internet cafes, public restrooms, etc.

b) *Neighborhood Impact Businesses*

These businesses cause transformations, alterations, or modifications to the community, some examples are: hotels, theaters, auditoriums, party salons, etc.

c) *Area Impact Businesses*

The main activity of area impact businesses is the sale or distribution of alcoholic beverages for indoor consumption, such as bars, night clubs, restaurants, etc.

The procedures and permits required to commence business operations may vary depending on the Mexican state in which the business will operate; the municipality, city council, or city hall of the Mexican state in which the business will operate; and the specific location in which the business will operate.

However, general procedures and permits, like Registration in the Federal Taxpayers Registry, Notice of Establishment Opening, and Operating License, among others, are required to operate throughout the country.

D. Taxes

1. Corporate income tax

a) *Corporations*

The general Corporate Income Tax rate is 30% for legal and corporate entities, whereas the rate applicable for individuals may range from 1.92% to 35% depending on the net income/revenue of the individual.

The basis of the tax is equal to the recognizable income minus allowable deductions and the previous year's net operating losses.

All deductions must be strictly indispensable for the activities carried out by the taxpayer, supported by invoices that meet specific requirements, recorded in the accounting books of the taxpayer, and paid with check or credit/debit/service card or by wire transfer, among other conditions.

b) *Dividends*

Dividends distributed by Mexican companies to foreign residents or Mexican individuals are subject to a 10% withholding tax. This withholding tax is applicable to the shareholder or equity quota holder, as the case may be, and it is not an additional tax to the entity distributing the dividends. Dividends paid to another Mexican legal entity will not be subject to the 10% withholding tax. The dividend tax may be reduced or even eliminated if the shareholders or partners are residents of a country with which Mexico has signed a treaty for the avoidance of double taxation.

If the dividends are distributed from a net after tax profit account, the dividends being distributed will not be subject to any additional corporate income tax applied to the company.

c) *Withholding taxes*

Royalties, license fees or other compensation paid by a Mexican licensee to a nonresident for unpatented technology, software or technical assistance are subject to withholding tax at the rate of 25%. Royalties paid to a nonresident for patents, trademarks, trade names or for advertising are subject to withholding tax at the rate of 35%.

Payments to residents of tax havens are generally subject to a 40% withholding tax, except for certain interest and for dividends.

d) *Sale of shares*

The sale of shares of a Mexican company is subject to Mexican income tax, regardless of the country where the sale takes place. Foreign residents who sell shares of Mexican companies are subject to a 25% tax on the gross proceeds from the sale, or at the option of the foreign resident if it has a local representative in Mexico, to a 35% tax on the net gain derived from the sale.

e) *Thin capitalization rules*

The rules disallow the deduction of interest corresponding to debts with nonresident related parties when the total amount of all debts generating interest exceeds three times the taxpayer's book net worth.

Interests might be re-characterized as dividends if they derive from back-to-back loans, of which Mexican law has an overly broad concept.

f) *Transactions and investments related to tax havens*

Mexico considers a low tax jurisdiction or preferential tax jurisdiction to be a country where the income tax actually paid is less than 75% of the tax payable in Mexico for the same income.

g) *Transfer pricing*

Mexican taxpayers are required to prepare and keep current documentation supporting the prices charged or paid.

h) *Transfer pricing rules applicable to maquiladoras*

An exemption from constituting a permanent establishment in Mexico for the foreign resident is available provided that the maquiladora complies, among other requirements, with special transfer pricing requirements.

The ITL provides specific conditions in order to have a maquila operation concept for income tax purposes and to exempt its foreign related party from a permanent establishment in Mexico. These conditions include the following:

- Undertaking of transformation activities
- Utilization of raw materials furnished by the foreign principal, with the obligation to export physically or virtually (to other maquiladora) 100% of the productive output
- Use of machinery and equipment owned by the foreign principal in at least 30% and which must not have been previously owned by the maquiladora or a Mexican related party.
- Production of income from productive activities exclusively from the maquila operation.
- The foreign principal's tax residence in a country with which Mexico has in place a tax treaty

If the maquiladora performs other activities that are not deemed as maquiladora operations, the maquiladora must comply with general transfer pricing rules.

i) Deductibility of outsourcing payments

Outsourcing cannot perform all the company's activities. In fact, it is a requirement by the Federal Labor Law that outsourcing should be reserved for tasks that require specialized labor, and specific activities that are not included in the company's bylaws. Outsourced tasks should not be included as a primary activity of the company nor as a service provided by the company to other clients.

2. Value added tax ("VAT")

Mexico imposes a value added tax on the following activities:

- Sale of goods
- Lease of goods
- Rendering of services
- Importation of goods or services

The general rate is 16% of the value of the subject matter transaction. A 0% rate applies in certain limited cases, mainly related to exportation of goods and services, as well as food and medicines. VAT is levied on a cash-flow basis.

3. Tax incentives

There are incentives for maquiladoras, the film and entertainment industries; and, for those who hire handicapped employees and adults who are 65 years old or older, as well as for real estate investment trusts, among others.

4. Employee profit sharing

Employers have the obligation to pay an amount equal to 10% of their taxable base to their employees within 60 days after the employer is required to file its year-end income tax return. Corporate taxpayers are allowed to deduct the employee profit sharing paid during the tax year from income tax taxable profits.

5. Payroll tax

Rates vary from state to state but generally can range between 2% and 3%.

6. Mining fees

Holders of mining concessions will be subject to an annual "special mining fee" at a rate of 7.5% on the positive difference resulting from reducing income originated by the sale of the extraction activity except for: (i) investments, excluding exploration and prospecting expenses; (ii) interest accrued during the fiscal year, without any adjustment and default interest; and (iii) the deductible annual inflation adjustment.

E. International trade

1. Imports in general

Duties are generally assessed based on the transaction value of the products imported into Mexico and may be reduced and/or deferred pursuant to the foreign trade programs enacted by the government.

2. Foreign Trade Law

a) *Purpose of the Foreign Trade Law*

The purpose of the Foreign Trade Law (“**FTL**”) is to promote foreign trade and establish the provisions on import quotas and non-tariff regulations and restrictions. Likewise, the FTL seeks to increase the competitiveness of Mexico’s economy, facilitate the use of the country’s resources in the most efficient manner, integrate the Mexican economy with the global economy, among other objectives.

b) *Unfair practices in international trade*

The FTL is that it seeks to prevent unfair practices in international trade, such as the import of goods under conditions of price discrimination or subsidies in the exporting country (either the country of origin or the country of provenance), which could harm the domestic industry producing identical or similar goods.

c) *Mexican Official Standards on foreign trade*

Import, circulation, or transit of merchandise will be subject to Mexican Official Standards (“**NOMs**” for its acronym in Spanish) in accordance with the law of the matter. It will not be possible to establish standardization provisions for the importation, circulation, or transit of merchandise different from the NOMs. Goods subject NOMs shall be identified in terms of their tariff items and the corresponding nomenclature in accordance with the respective tariff.

3. Customs Law

The Customs Law (“**CL**”), along with the Laws on General Import and Export Taxes and other applicable ordinances, regulate the entry and exit of good from Mexican territory and the means in which they are transported. The CL also regulates custom clearance practices and any event that derives from custom clearance or from such entry or exit of goods.

The CL contains provisions on customs clearance duties and taxes payable upon importation, and non- tariff regulations and restrictions on foreign trade.

4. International Treaties and Reciprocal Investment Promotion Agreements

a) *Reciprocal Investment Promotion Agreements*

Reciprocal Investment Promotion Agreements (“**APPRI**s”) were created to protect foreign investors as they provide certain guarantees, such as the possibility of resorting to international arbitration, equal treatment, compensation for expropriation, non-discrimination, among others.

Mexico has signed 32 APPRI with 33 countries, of which 29 are currently in force.

b) *International Treaties*

Mexico has 17 Free Trade Agreements with investment protection provisions with more than 45 countries of which the Mexico-United States-Canada Treaty, better known as “**T-MEC**”, stands out. The T-MEC, which substitutes the earlier North American Free Trade Agreement (“**NAFTA**”), helped retain key element of the trade relationship between the countries involved and incorporate new and updated provisions aimed at meeting the trade challenges of the 21st century and promoting points of sale by people living in North America.

As well as the APPRI, International Treaties provide foreign investors with a set of guarantees, such as fair and equitable treatment, non-discrimination, compensation for expropriation and access to arbitration.

F. Labor Law

The Federal Labor Law (“**FLL**”) aims to achieve a balance between the factors of production and social justice, as well as to promote decent work in all labor relations. In order to do so the FLL contains provisions to protect employees in terms of dignity, no-discrimination, access to social security, decent wages, safety, among others.

1. Mandatory employee benefits

a) *Profit sharing*

As of the second year of operation, an employer must distribute among its employees (excluding the directors, administrators, and general managers) an amount equal to 10% of the employer’s pretax profits within 60 days after the employer is required to file its year-end income tax return. This profit sharing (“**EPS**”) will be capped to an amount equal to a 3-month wage for each employee or the average of the last 3 years, which benefits the employee the most.

For employees to know if their Employer declared profits, the Employers are required to deliver to the employees’ representatives (their union or to the majority of the employees) a legible copy of the annual tax return within 10 days from the filing date. Even if the amount distributed was less than

10% of the taxable profit, the Employers must declare it as distributable income for the year in their Annual Tax Return.

Unclaimed profits for the previous year, in the year in which they become due, must be added to the distributable profit for the following year.

The employees will have the right to collect the EPS that they are entitled to, for a term of 1 year from the day following the date on which the obligation arises. The statute of limitations to claim the EPS begins to run the day after the Joint Commission for profit sharing notifies the employees of the individualized EPS distribution project.

b) Year-end bonus

All employers must pay their employees a year-end bonus equal to, at least, a 15-day Wage.

c) Paid holidays

For every 6 days of labor, there must be one rest day. An employee required to work on a rest day, must be paid two times the employee’s regular wage; if required to work on a mandatory paid holiday, the employee must be paid three times the employee’s regular wage. The following mandatory paid holidays are observed in Mexico:

- January 1st
- First Monday of February
- Third Monday of March
- 1 May
- 16 September
- Third Monday of November
- 1 December every six years for Inauguration Day
- 25 December
- Other dates established by election law for ordinary elections

d) Vacation and vacation premium

Employees are entitled to paid vacation at a rate of at least 25% of their wage as follows:

Years of service	Paid vacation days	Vacation premium
1	12	25%
2	14	25%
3	16	25%
4	18	25%
5	20	25%
6-10	22	25%
11-15	24	25%

16-20	26	25%
21-25	28	25%
26-30	30	25%
31-35	32	25%

e) Training

All employers are required by law to provide training to their employees. Companies with more than 50 employees are required to establish a Joint Commission for Training, Instruction and Productivity that comprises an equal number of representatives of the employees and of the employer.

f) Housing contributions

The Federal Workers' Housing Fund Law requires employers to pay an amount equal to 5% of each employee's wages to the Federal Workers' Housing Fund ("**INFONAVIT**" for its acronym in Spanish).

g) Minimum wage

The National Minimum Wage Commission establishes a minimum daily wage that must be paid to all employees in cash, without deductions or withholdings, on a weekly basis. The wage amount is updated at the end of every year, taking into account the variation on the country's GDP and other important economic factors. The updated minimum wage is applicable at the beginning of the next year of its approval, as of January 1st.

h) Overtime

The maximum number of hours an employer may require an employee to work, without having to pay overtime, is 48 hours per week on the day shift. The employer must pay the first nine hours of overtime at 200% of standard pay, and overtime exceeding nine hours at 300%.

If an employee works more than 57 hours a week, the labor authorities may penalize the employer.

i) Health and safety

The employer is required to provide a safe and sanitary environment for workers to render services.

j) Paid maternity leave (females)

All employers must provide their female employees with a fully paid maternity leave of six weeks prior to the approximate delivery date and six weeks thereafter. Employees have the right to move up to four weeks from the pre-birth period to the post-birth period, resulting in a 4-week pre-birth and 8-week post-birth maternity leave period.

k) Paid paternity leave (males)

All employers must provide their male employees with fully paid paternity leave of five days after the birth of a child or after an adoption is granted.

1) *Additional non-mandatory benefits*

Employers may voluntarily enhance the minimum benefits such as savings funds, punctuality and attendance bonuses, cafeteria and transportation subsidies, productivity bonuses, etc.

2. Severance payments

a) *Occasion and basis of the payment; reinstatement*

Employers may not freely dismiss employees without cause. To dismiss an employee without being liable for the severance pay, an employer must: (i) be able to prove, in labor court if necessary, that the dismissal was for a statutorily defined “just cause”, and; (ii) give the employee, directly or through the Labor Board, the following severance payments: 1) three months’ worth of salary; (2) a seniority premium, equal to 12 days of salary per year of service; (3) back wages from the date of dismissal through the date of payment; and (4) accrued benefits.

If the employee ends the individual employment relationship with cause stated in the FLL, the employer is required to pay, in addition to the foregoing, 20 days of salary per year of services rendered.

An employee dismissed without “just cause” has the option to be reinstated instead of receiving the severance payment.

b) *Termination of the individual labor relationship*

Labor relationship may be terminated without either party being liable under certain circumstances, including: (i) mutual agreement of the parties; (ii) death of the employee; (iii) the conclusion of a specific job; and (iv) the physical or mental incapacity or disability of the employee.

c) *Employees in positions of “trust”*

The determination of whether an employee is an employee in a position of trust depends not on title but on actual work functions (direction, inspection, surveillance, and supervision generally and those that involve personal matters of the owner(s) of the company).

d) *Seniority premium*

Equal to 12 days of salary (limited to twice the minimum wage) per each year of services rendered, must be paid to all employees who: (i) voluntarily leave their jobs after completing 15 years of employment; (ii) leave their jobs for “just cause”; (iii) are dismissed by the employer with or without “just cause”; or (iv) die while still employed, in which case their beneficiaries receive the seniority premium.

3. Subcontracting and Outsourcing regime

As of September 1st, 2021, subcontracting is forbidden in Mexico, including insourcing and outsourcing activities that are held on the same premises as the company that receives them (with

some exceptions). In fact, it is a requirement by the FLL that outsourcing should be reserved for tasks that require specialized labor, and specific activities that are not included in the company's bylaws.

Despite being forbidden, subcontracting will only be allowed if the contractor is duly registered in the Registry of Providers of Specialized Services or Specialized Works ("**REPSE**" for its acronym in Spanish, before the Labor Ministry and the outsourced tasks are provided for required specialized labor. Outsourced tasks should not be included as a primary activity of the company that receives them nor as a service provided by the company that receives them to other clients, otherwise, the amount specified on the invoice will: (i) not be deductible for tax purposes, and; (ii) the company could be fined by the labor authority.

4. New ways of hiring

a) Trial period

Allows an employer to evaluate whether an employee meets the requirements and has the necessary knowledge to perform specific job duties. This trial period must be negotiated in the employment contract and must not last more than 30 days.

b) Training contract

The purpose of the training contract is to allow the employee to acquire the necessary knowledge and skills for the job. A training contract may last three months at most.

c) Seasonal work

The seasonal period may comprise certain days of the week, certain weeks of the month, or certain months of the year.

5. Social security

The purpose of social security is to guarantee the right to health, medical assistance, protection of the means of subsistence, and the social services necessary for individual and collective well-being, as well as the granting of a pension which, if applicable and subject to compliance with legal requirements, will be guaranteed by the State.

An employer must register its employees before the Mexican Social Security Institute ("**IMSS**" for its acronym in Spanish); by doing so, the employer can relieve itself of responsibility for the following: (i) work-related risks; (ii) health and maternity insurance; (iii) disability pension and life insurance; (iv) retirement, old age pension, and old age unemployment insurance; and (v) child care and social benefits.

a) Work related risk

Work related risks are accidents and illnesses to which workers are exposed to due to their work. An occupational accident is considered an accident at work when someone, in the course of his work or because of it, is injured or dies. Occupational disease is understood as any pathological condition originating from or caused by work.

Employers who comply with and register their workers before the IMSS will not be liable for compensation in the event that one of their workers suffers an occupational hazard, since the IMSS will assume this responsibility.

b) Benefits to a person who suffers from a work related accident or illness

According to the Social Security Law (“**SSL**”), a registered worker who suffers from a work related accident or illness will receive payment and payment-in-kind. Payment-in-kind benefits include: (i) Medical, surgical and pharmaceutical assistance; (ii) Hospitalization service; (iii) Prosthetic and orthopedic appliances; (iv) and Rehabilitation.

On the other hand, the cash benefits include: (i) If the person is unable to work, he/she will receive, for the duration of the disability, one hundred percent of the salary on which he/she was contributing at the time the risk occurred; (ii) When the total permanent disability of the worker is declared, he/she will receive a definitive monthly pension equivalent to seventy percent of the salary in which he/she was contributing at the time of the occurrence of the risk; (iii) If the disability declared is permanent partial greater than fifty percent, the insured will receive a pension that will be granted by the insurance institution he/she chooses under the terms of the SSL.

All the aforementioned benefits may vary based on the situation in accordance with the provisions of the SSL.

c) Employee death benefits

Upon the death of the insured or disability pensioner, the Institute will grant his beneficiaries the following benefits: (i) Widow's or widower's pension; (ii) Orphan's pension; (iii) Pension for ascendants; (iv) Welfare assistance to the widow's pensioner, in the cases in which she requires it, in accordance with the medical opinion issued for such purpose; and (v) Medical assistance.

As mentioned above, all the benefits may vary based on the particular situation in accordance with the provisions of the SSL.

d) Other benefits

In accordance with the SSL, workers who are registered before the IMSS will be entitled to other benefits in addition to those mentioned above. These benefits may be included in cases of maternity, sickness, day care, disability, among others.

G. Environmental

1. Environmental authorities

The Ministry of Environment and National Resources (“**SEMARNAT**” for its acronym in Spanish) is the federal authority entrusted with establishing and overseeing national policy for environmental protection. In addition, it is responsible for enacting Mexican Official Standards (“**NOMs**” for its acronym in Spanish) that establish: (i) pollutant limits for air emissions and wastewater discharges and (ii) criteria for designating waste as hazardous. A technically autonomous agency within

SEMARNAT, the Federal Bureau of Environmental Protection (“**PROFEPA**” for its acronym in Spanish), oversees carrying out enforcement activities.

2. Prevention and control of air pollution

Industrial facilities that emit gases, fumes or solid particles into the atmosphere are required to obtain an Operating License if the stationary source is under state jurisdiction or a Single Environmental License if the source is subject to federal jurisdiction.

3. Water

The National Water Law (the “**Water Law**”) requires a concession to be granted by the National Water Commission (“**CONAGUA**”) to draw groundwater for industrial, commercial or service activities. In addition, wastewater must comply with the water quality limits established by the applicable NOMs.

4. Soil pollution

According to the General Law for the Prevention and Integral Management of Wastes, owners or occupiers of land that is contaminated with hazardous waste, are jointly liable for its remediation regardless of their fault.

H. Intellectual property

Intellectual property is the right and recognition granted by the State in favor of an inventor, designer, or author of a creation of the mind. Doing so, it promotes economic growth and encourages innovation by protecting the interests of creators and offering them prerogatives as a reward for their contributions.

The Mexican Intellectual Property system is divided into two categories, (i.e., Industrial Property and Copyrights). Industrial property is regulated by the Mexican Industrial Property Law (“**IMPI**”) which includes patents, industrial designs, utility models, trade secrets, trademarks, trade names, slogans, appellations of origin, as well as enforcement and unfair competition. Copyrights are regulated by the Federal Copyright Law (“**FCL**”).

1. Industrial Property

a) *Overview*

The IMPI’s purpose is to promote the improvement of Mexican processes and products, promote inventive creativity and the quality of goods, and protect industrial property by: (i) regulating and granting patents; (ii) registering utility models, industrial designs, trademarks, and slogans; (iii) publishing trade names; (iv) protecting appellations of origin, and; (v) regulating trade secrets.

b) *Trademark Law*

The Mexican National Copyright Institute (“**INDAUTOR**”) is the body in charge of the protection and promotion of copyrights; promotion of creativity; control and administration of the public registry of copyrights; keeping the nation's cultural heritage up to date and promote international cooperation and exchange with institutions in charge of the registration and protection of copyrights and related rights.

Trademarks are registered according to the Nice Classification (international classification of goods and services). There are no multi-class applications in Mexico and, only recently, the process of opposition of an application for the protection of a trademark has been regulated.

Upon registration, the mark should be labelled with “*Marca Registrada*” or with the abbreviations “Marc. Reg.” or “MR.” The Mexican Property Trademark Office also allows the use of the ® symbol to indicate registration.

c) Madrid Protocol

The Madrid System provides a mechanism whereby a trademark owner who has an existing trademark application or registration in a member jurisdiction, may obtain an international registration by filing a single application directly before their local Trademark Office (“**MPTO**”). This System does not replace the original registration method of each country.

d) Trade secrets

In Mexico, trade secrets are protected not only under the IMPI, but also under other statutes, including the Federal Labor Law and the Mexican Criminal Code, both at federal and at state level.

Information constituting a trade secret must relate to the nature, characteristic, or purpose of a product, production method, or process, or to a way or means of distributing or marketing a product or rendering a service.

e) Patent Law

Under the IMPI, any patent license or assignment of patent rights must be registered before the MPTO. If it is not registered, such license or assignment will not be effective against third parties.

f) Benefits

Registering and protecting industrial property helps in the following:

(i) It grants its holder an exclusive right of use and, if applicable, prevents and avoids the use of such exclusive rights by unauthorized third parties;

(ii) It increases the market value of companies, since industrial property rights represent an important intangible asset of such companies;

(iii) In the specific case of trademarks, it makes it possible to differentiate the products or services of a company from those offered by competitors;

(iv) Industrial property rights are assets that may be transferred or encumbered through licenses of use, assignments and pledges, making it possible to obtain additional resources through them;

(v) It is possible to obtain financing or contracts in the private and public sector.

2. Copyright

The FCL defines copyright as the patrimonial and moral rights over a literary or artistic work held by the creator of the work and recognized by the State. The holder of the patrimonial rights may authorize the temporary or permanent exploitation of the copyright, through license or assignment agreements. In Mexico, copyright infringement is considered a crime subject to imprisonment.

I. Real estate

1. Categories of real property

Nonpublic land in Mexico falls into two categories: (i) Private property, and; (ii) Social property. Social property is divided into two subcategories: (1) Ejido property, and; (2) Communal property.

a) Private property

Private property is owned by individuals or legal entities for their own exploitation and use. Property titles are registered before the Public Registry of Property in the corresponding local jurisdiction.

b) Ejido property

Ejido property is land granted by the Mexican government to individuals for agricultural and livestock purposes. Ejidos are structured as communities or townships. All Ejido properties are inalienable and not subject to liens or attachments.

c) Communal property

Communal property virtually shares all the characteristics of Ejido property, with the exception that there are no exclusive parcels for individual beneficiaries.

2. Property conveyance under Mexican law

a) Funding of real estate transactions

Real estate transactions are usually funded by institutional lenders such as banks, non- bank financial institutions, financial institutions, and investment funds. The borrower usually pays for all costs, including the lender's costs. Certain liens require to be registered before the corresponding Public Registry.

b) Types of conveyances

1. "Fee simple" conveyance

The most direct way to convey a real estate property in Mexico is through the equivalent of a "fee simple" conveyance when permitted. The buyer and seller simply execute a Public Deed, prepared

by a notary public. To be valid and enforceable, the preliminary purchase and sales agreement must contain the essential elements of the final purchase and sale agreement that is to be formalized before the civil law and a notary public, such as identification of the parties, description of the real estate property subject matter of the agreement, price, and term.

For a conveyance of title to be valid and deemed effective against third parties, it must be registered before the Public Registry corresponding to the place of location of the corresponding real estate property.

2. *The trust regime*

Under a typical trust arrangement, the Mexican financial institution acts as trustee. Foreign individuals, foreign legal entities, or Mexican companies whose shares may be acquired by foreigners are designated as beneficiaries. These trusts have a duration of 50 years and may be renewed by the foreign investor. Trust agreements must be registered with the Foreign Investment Registry and the Public Registry of Property.

c) *Formalities and procedural steps for the conveyance of title*

Any agreement whereby an interest in real estate is conveyed or otherwise affected, shall be formalized through a public deed and registered before the corresponding Registry of Property (normally in the city or municipality where the real estate property is located).

Generally, the public notary requests a copy of the title held by the seller/trustor (generally another public deed), an expert's appraisal on the property, a certificate of no liens issued by the Public Registry of Property, a certificate evidencing nonfiscal or utility consumption fees indebtedness and, in certain cases, a sales or trust permit from the Ministry of Foreign Affairs ("**SRE**").

In addition to formalization by means of a public deed, real estate property transactions (i.e., acquisitions, mortgages, easements, leases for terms typically greater than five years, etc.) are instruments subject to be registered before the Public Registry of Property.

Prior to the registration of a real estate purchase and sale agreement before the Public Registry of Property, the buyer must pay the real estate property acquisition tax (as described in more detail below). After the payment is made, the public deed containing the formalization of the purchase and sale agreement shall be filed before the Public Registry of Property.

d) *Warranties given by a seller to a buyer*

It is also common to include provisions and warranties regarding liabilities arising from the environmental conditions of the property, hidden defects, conditions of title, absence of legal proceedings, infrastructure, and utilities available on site, etc.

3. Ensuring good title

The only way to verify the validity of the title and other related rights associated with the real estate property is to conduct an independent search of records before the Public Registry of Property and other applicable government agencies, such as the National Agrarian Registry, the Public Registry of Mining, the National Water Commission and local assessment bureaus (such as the Municipal Treasury, Public Works and Urban Development Department, etc.).

Due diligence in real estate transactions usually includes a title search and a title report performed by a legal counsel. The search and report will cover issues such as the following:

- Limitations on the use of the property as dictated by any applicable zoning ordinances, road expansions, etc.
- Limitations on the use of the property imposed by the owner or the corresponding governmental authorities, such as usufructs, easements, federal zone limitations, etc.
- Pending claims against the property by third parties or registered liens.
- Limitations or requirements which may be contained in any registered restrictive covenants.
- Conveyances of partial real interests on the property such as usufruct.
- In some states, long-term leases.

In addition, real estate may be affected by certain interests or liens that a Certificate of Liens issued by the Public Registry of Property or by a search of such records may not necessarily reveal.

In the case of industrial or commercial properties, which are already developed, it is important to verify the nonexistence of labor claims that may affect the property. In general, under Mexican law, workers' rights have preference over other creditors. Insurance companies, mostly of US origin, offer title insurance for real estate property.

4. Environmental issues

Whoever is in possession of a real estate property, before the environmental authorities, is jointly and severally liable with the owner of the real estate property and with whomever contaminated the same, to carry out the required remediation for such contamination.

5. Taxes and fees on real estate transactions

a) Real Estate Acquisition Tax

Applies upon the formal conveyance of title to any real estate, with certain exceptions. Generally, the tax rate is between 2% and 4% of the highest of the appraised cadastral value or the transaction value of the real estate property subject matter of the transaction.

b) Value Added Tax ("VAT")

Mexico imposes a VAT on all purchases of goods and services in the country, with certain exceptions. The general rate is 16% of the value of the product or service, subject to certain exceptions where special rates apply.

c) Registration fees

Although most states have a set maximum for registration fees, in certain states registration fees have no limit and are set as a percentage over the transaction value of the real estate conveyance.

d) Appraisal fees

By law, appraisals must be performed in all real estate transactions in order to determine the tax base for the transfer.

e) ***Brokerage, notarial and legal fees***

Commercial brokerage and notarial fees in Mexico are normally between a 4% to 7% of the total value of the real estate property, which can usually be negotiated and vary widely.

6. Leasing

Mexican applicable law recognizes the following forms of leases:

Civil: Civil leases are those entered into between private parties, who have free disposal or sufficient powers to dispose of them in the name and on behalf of their legitimate owner. Likewise, civil leases can be determined by exclusion, such as when a lease is not commercial, administrative, or financial it is a civil lease.

Commercial: The Mexican Code of Commerce considers leasing to be a commercial activity when it is conducted for the purpose of commercial speculation.

Administrative: A lease is administrative in nature if the leased premises belong to the Mexican federation, states, or municipalities. This type of leases is regulated by the applicable administrative law.

Financial: Financial leases are regulated in the General Law of Credit Instruments and Operations.

Parties may freely discuss and determine other terms to regulate the lease and all its legal consequences, except for those provisions that by law are not subject to be waived. On leases where tenant has had possession of the premises for a term over three to five years, the tenant will have the right to be preferred, under equal conditions, over any other interested party for a new lease, provided it fulfilled all its obligations and performed timely payments of the rent.

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A B O G A D O S



Boulevard Antonio L. Rodríguez 3000, Colonia Santa María, 5to piso, Interior 501 Torre Albia,
C.P. 64650 Monterrey, Nuevo León, México.

T. 52-81-24748538

www.j-bravo.com