THE OIL AND GAS LAW REVIEW

Sixth Edition

Editor
Christopher B Strong

THE LAWREVIEWS

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This article was first published in October 2018
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Published in the United Kingdom
by Law Business Research Ltd, London
87 Lancaster Road, London, W11 1QQ, UK

www.TheLawReviews.co.uk

ISBN 978-1-912228-65-2

Printed in Great Britain by
Encompass Print Solutions, Derbyshire
Tel: 0844 2480 112

ACKNOWLEDGEMENTS

The publisher acknowledges and thanks the following law firms for their learned assistance throughout the preparation of this book:

AB & DAVID

ALLIANI & BRUZZON

AMERELLER LEGAL CONSULTANTS

BIRD & BIRD LLP

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PREFACE

2018 has been a transitional period for the international oil and gas industry.

With the industry enduring a fourth straight year of low oil prices, and with no prospects for a significant increase in sight, participants in the industry have been forced to adapt. Oil companies must continue to be disciplined, allocating scarce capital only to their best prospects, and shelving less promising projects for future years. Some in the industry have already started to worry that by reducing capital expenditures the seeds of a future price shock are being sown.

Oil-producing countries have been in a similar pinch. Having become accustomed to triple-digit oil prices, the 'new normal' of US$50 oil has produced a grim budgetary reality. Producing countries that had only recently tightened fiscal terms in response to high oil prices must now considering loosening them again in order to attract investment. In Saudi Arabia, the world's largest producer, plans are afoot to sell a minority stake in the company to foreign investors in order to raise cash to diversify the country's economy, a move that would have been unthinkable a few years ago.

Yet amid the ongoing turbulence there are opportunities. The necessity for existing companies (many of which are over-leveraged and cash strapped) to offload parts of their portfolios will create opportunities for new, leaner competitors to arise. US shale producers, whom many were prepared to write off in the low oil price environment, have made dramatic improvements in efficiency and learned to calibrate their acreage to different oil price environments, focusing on their richest prospects when prices are low and adding lower-value opportunities as prices escalate. Among the major oil exporting countries, low oil prices have provided the impetus for long-needed structural reforms to diversify their economies beyond the extraction of petroleum.

The international oil and gas industry has always been cyclical. Although the last three years have been eventful, they are by no means the first downturn the industry has faced, nor the last. I have no doubt that the years ahead will continue to present challenges and opportunities for practitioners in this most dynamic of industries.

As always, I would like to thank our contributing authors for their outstanding contributions to this year's edition of *The Oil and Gas Law Review* and also the publishers at Law Business Research for their tireless work in bringing this all together.

Christopher B Strong
Vinson & Elkins LLP
London
October 2018

Chapter 18

MEXICO

José Antonio Postigo-Uribe, Guillermo Villaseñor-Tadeo and Tania Elizabeth Trejo-Galvez[1]

I INTRODUCTION

Before the Mexican Constitutional amendment in the energy sector known as the Energy Reform was published, private parties were prevented from exploring and extracting hydrocarbons in Mexican territory. All oil and gas development in the country was conducted by Petróleos Mexicanos (Pemex), Mexico's State oil and gas company. It operated as a vertical monopoly, controlling all oil and gas projects.

In December 2013, an amendment to the Mexican Constitution monumentally changed the legal nature of Pemex to a state productive company, changing the future of the Mexican petroleum industry. Likewise, this amendment allows now our nation to carry out exploration and extraction of hydrocarbons through allocations made to state productive companies and agreements with the latter or with private companies. Moreover, in order to comply with the purpose of the aforementioned allocations and agreements, the state productive companies may also enter into agreements with private companies. However, the hydrocarbons in the subsoil remain the property of the state.

Now Pemex can carry out the exploration and extraction of hydrocarbons on its own, with the support of its subsidiaries and affiliates, or by entering into agreements, alliances or associations with national or international, public or private individuals or corporations. In spite of the radical change in the legal landscape in 2013 for Mexican hydrocarbon exploration and production, Pemex produced 1.8 million barrels of crude oil per day in March 2018, a decrease of 7.6 per cent from the previous year. Pemex's natural gas production stood at 4,645 million cubic feet per day on average during March 2018, an annual decrease of 13.7 per cent.

On the other hand, as of the enactment of the Energy Reform, 108 exploration and extraction contracts have been awarded. Therefore, a tangible positive investment impact because of the Energy Reform is expected in the medium term.

II LEGAL AND REGULATORY FRAMEWORK

Following the Constitutional amendment, a number of laws and regulations were issued to give effect to the Energy Reform and to implement, among other things, the opening of the Mexican oil and gas sector to private investment. This ended Pemex's monopoly over the exploration and extraction of oil and gas reserves in Mexico.

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1 José Antonio Postigo-Uribe is the managing partner, Guillermo Villaseñor-Tadeo is a partner and Tania Elizabeth Trejo-Galvez is an associate at Sánchez Devanny.

The amendment's changes to upstream activities are primarily implemented through the Hydrocarbons Law (LH), Hydrocarbons Law Regulations, Hydrocarbons Revenue Law (LIH), Law of the Coordinated Regulatory Bodies on Energy Matters (LORCME), Law of the National Agency for Industrial Safety and Environmental Protection of the Hydrocarbons Sector (LASEA), regulations and administrative guidelines from the Ministry of Energy (SENER), the National Hydrocarbons Commission (CNH), the Energy Regulatory Commission (CRE) and the Hydrocarbons Industrial Safety and Environmental Protection Agency (ASEA).

i Domestic oil and gas legislation

As mentioned above, the hydrocarbons in the subsoil are property of the state. Now with the Energy Reform, allocations of hydrocarbons can be made to state productive companies and to private companies through exploration and extraction agreements. These agreements are to be awarded through public bidding proceedings. The LH provides for four types of exploration and extraction agreements: (1) services agreements; (2) licence agreements; (3) profit sharing agreements; and (4) production sharing agreements.

A services agreement implies, for contractors, the provision of services not giving rise to a supra-subordination relationship. Therefore, no labour relationship is generated between the contractor and the state. They only mutually seek to generate an economic benefit.

The licence agreement gives contractors the right to extract hydrocarbons owned by the state in a specific area at contractors' exclusive cost and risk. Contractors shall have the right to the onerous transfer of the hydrocarbons produced provided that, in accordance with the terms of the contract, they are up to date in the payment of the corresponding considerations in favour of the state.

The profit sharing agreement constitutes an association between the state and a private company to carry out exploration and extraction activities. Once hydrocarbons are extracted, the state is exclusively entitled to sell them.

The production sharing agreement gives the contractor ownership of a percentage of the production of hydrocarbons once they have been extracted from the subsoil and quantified in the facilities identified in the contract.

The LH further regulates the hydrocarbon industry's activities in the national territory, including the recognition and surface exploration of land and sea, hydrocarbons treatment, refining, disposal, commercialisation, transportation and storage.

The LIH establishes the calculation of the income that the Mexican state will receive from the exploration and extraction of hydrocarbons carried out through the allocations to state productive companies and exploration and extraction agreements. It regulates the considerations established, and the provisions on administration and supervision of financial aspects of such agreements, as well as the obligations on transparency and accountability regarding the resources referred to in in the LIH.

The LORCME regulates the organisation and functioning of the CNH and the CRE. Finally, the LASEA establishes the ASEA, and determines its attributes, authority, scope of action and activities.

Regulation

The SENER is in charge of establishing, conducting and coordinating Mexican energy policy and supervising compliance. In addition, in the hydrocarbon industry, the SENER grants and revokes assignments, establishes technical guidelines for bidding processes, is in charge

of the technical design of agreements, establishes the areas that may be subject to assignments and agreements and awards assignments and grants permits, for oil treatment and refining and natural gas processing. The SENER establishes the coordination mechanisms with the National Centre of Natural Gas Control (CENAGAS), so that the actions of this National Centre are compatible with the sectoral programmes.

Under the Constitution, the executive will count with coordinated energy agencies, the CNH and CRE.

The CNH

In accordance with the LORCME, the CNH has the power to supervise recognition and surface exploration, the exploration and extraction of hydrocarbons, the tender and signing of agreements for the exploration and extraction of hydrocarbons and technical administration of the assignments and agreements for the exploration and extraction of hydrocarbons.

The CRE

Pursuant to the LORCME, the CRE, among others, is responsible for regulating and promoting the efficient development of transport, storage, distribution, compression, liquefaction and regasification activities, as well as the sale to the public of oil, natural gas, liquefied petroleum gas, petroleum products and petrochemicals.

The ASEA

In accordance with LASEA, the ASEA regulates the environmental protection of soil and wild flora and fauna affected by exploration and the extraction, transportation, storage and distribution of hydrocarbons, in order to avoid or minimise the environmental impact of these activities. Likewise, the ASEA has the power to regulate, supervise and sanction in matters of industrial safety, operational safety and environmental protection, in connection with the sector's activities, and to issue or deny licences, authorisations, permits and registrations for environmental matters.

CENAGAS

Finally, in accordance with the Decree by which CENAGAS was established, this national centre is considered a decentralised public body of the federal public administration that is responsible for the management, administration and operation of SISTRANGAS, the National Integrated System of Natural Gas Transportation and Storage. CENAGAS shall guarantee the continuity and security of the natural gas supply in Mexican territory.

iii Treaties

Mexico is a contracting party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). Mexico has also entered into bilateral arbitration treaties with Italy, Brazil and Colombia.

Mexico has entered into multiple reciprocal investment agreements, including with the following countries: Argentina, Australia, Austria, Bahrain, Belarus, Belgium, China, the Czech Republic, Cuba, Denmark, Finland, France, Germany, Greece, Iceland, India, Italy, Korea, Kuwait, the Netherlands, Panama, Portugal, Singapore, Slovakia, Spain, Sweden,

Switzerland, the United Kingdom, Trinidad, Turkey and Uruguay. Mexico is also party to a number of trade agreements that establish investment protection rules such as the North America Free Trade Agreement with the United States and Canada.

Mexico has entered into treaties for the prevention of double taxation with several countries, including the following: Argentina, Australia, Austria, Bahrain, Brazil, Canada, China, Colombia, Germany, India, Italy, Luxembourg, Peru, Russia, Spain and the United Kingdom.

Regarding tax information exchange agreements, Mexico is a contracting party to the Convention on Mutual Administrative Assistance in Tax Matters between the Council of Europe and the (Organisation for Economic Co-operation and Development) OECD, and its Modification Protocol of 27 May 2010, which is in force under the Decree published in the Federal Official Gazette on 27 August 2012.

III LICENSING

The rights to explore and extract hydrocarbons are granted by service, licence, profit sharing and production sharing agreements. These agreements are granted through bid rounds carried out by the CNH.

Under the LH, the bid rules for each bidding process will provide that the corresponding contract for exploration and extraction may be formalised with Pemex, other state productive companies, and private entities, individually, in a consortium, or a joint venture. The alliances or associations can be made under schemes that allow greater productivity and profitability, including modalities in which they can share costs, expenses, investments and risks, as well as profits, production and other aspects of exploration and extraction. The SENER establishes the contracting model for each contract area that best serves to maximise the state's income, with the opinions of the Ministry of Finance and Public Credit (SHCP) and the CNH. The bidding process will begin with the publication of the call in the Official Gazette of the Federation.

Those interested in submitting proposals must comply with the prequalification criteria on technical, financial, execution and experience elements, under the terms indicated in the guidelines established by the SENER for this purpose. The awarding mechanism may be, among others, an ascending auction, a descending auction or an auction at the first price in a sealed envelope, in which case the envelopes must be presented and opened in the same public session. Proposals may be presented and analysed through electronic means. Bidding criteria must include tiebreaker criteria, which will be included in the corresponding bid rules.

The SHCP will determine the time and conditions under which the minimum and maximum acceptable values for the variable that integrates the economic proposal will be revealed during the bid. The economic proposal shall be understood as the offer submitted by the bidders, prepared in accordance with bid rules. Finally, the corresponding decision must be published in the Official Gazette of the Federation.

As an exception, it will not be necessary to carry out a bidding process and a contract for exploration and extraction may be awarded directly to the owners of mining concessions.

The federal executive, through the CNH, may administratively rescind contracts for exploration and extraction and recover the contractual area for certain serious causes. Some of such causes include the following:

a for more than 180 calendar days, the contractor does not initiate or suspends the activities foreseen in the exploration or development plan for extraction in the contractual area, without justified cause or authorisation from the CNH;

b the contractor does not comply with the minimum work commitment, without justified cause, in accordance with the terms and conditions of the exploration and extraction contract; or

c the contractor partially or totally assigns the operation or the rights conferred in the exploration and extraction contract without prior authorisation.

If the contractor cures the default before the CNH issues the respective resolution, the rescission procedure initiated will not have effect. The exploration and extraction contract will establish the causes for termination and rescission thereof.

IV PRODUCTION RESTRICTIONS

Pursuant to the Mexican Constitution, in the case of oil and solid, liquid or gaseous hydrocarbons, in the subsoil, the property of the state is inalienable and imprescriptible, and no concessions will be granted. However, with the purpose of obtaining income for the state that contributes to the long-term development of the state, as already mentioned, the Mexican state will carry out the activities of exploration and extraction of oil and other hydrocarbons through allocations to state productive companies and agreements with the latter or with private companies.

Exports and imports of hydrocarbons must comply with the Foreign Trade Law, the Foreign Trade General Rules (as issued by the tax authorities every year) and a number of Mexican official standards (NOMs) regarding product specifications, such as quality standards. Furthermore, those interested in the export or import of hydrocarbons shall request their registration beforehand, before the Hydrocarbons Sector of the National Import/Export Registry. Additionally, these activities are subject to a special permit granted by the SENER.

All of the activities related to hydrocarbon matters are subject to special permits (i.e., storage, commercialisation, distribution, transportation, among others). The state productive companies or private investors that intend to conduct such activities are obliged to request the corresponding permit appropriate to the development activity.

In addition to the aforementioned, under the LH, hydrocarbons, oil products and petrochemicals shall meet quality specifications, as well as testing, sampling and verification methods applicable to qualitative characteristics, and volume in the transportation, storage, distribution and retail activities.

The CRE, with the opinion of the Federal Commission of Economic Competition (COFECE), establishes the rules to which the holders of transportation, storage, distribution, retail and commercialisation permits of hydrocarbons, and the users of said products and services, must adhere. The foregoing is to promote the efficient development of competitive markets in these sectors. Among other things, these provisions may establish the strict legal separation between the permissive activities or the functional, operational and accounting separation of the same. These provisions contemplate the cases in which the persons who are the owners of capital stock of end users, producers or marketers of hydrocarbons and who use pipeline or storage transportation services subject to open access, may participate in the

capital stock of the permit holders that provide these latter services. The aforementioned imply that the cross-participation does not affect competition, market efficiency and effective open access.

Finally, according to the LH, the CRE is the responsible authority for periodically issuing the tariffs regarding all hydrocarbon matters except for the sale prices of liquefied petroleum gas, diesel and gasoline, which should be settled by market conditions from time to time.

V ASSIGNMENTS OF INTERESTS

As mentioned before, state productive companies or private investors are able to request permits for the development of activities in the hydrocarbons sector. Likewise, permit holders are allowed to assign their permits under the LH. These transactions are subject to approval from the CRE or the CNH in the case of exploration and production agreements prior to the assignment.

Certain requirements have to be met, among which the following stand out: the permits should be valid, the assignor has to comply with all its obligations and the assignee must meet the requirements to be a permit holder and comply with its obligations. In each case, the authorities are required to verify the technical and economic capacity of the assignee. Nevertheless, the authorities have to ask for an opinion from the COFECE, since an assignment can possibly involve antitrust matters.

According to the LH, a resolution should be issued no longer than 90 days after the request is filed. If no resolution is reached by the responsible authority in that term, it is understood that the assignment is approved.

On the other hand, transactions regarding the assignment of corporate and operational control within the companies holding the permits described before are subject to a special and prior authorisation by the CRE. For this kind of assignment, the assignee must prove its technical capacity to perform the activities under the agreement that is to be assigned. If the parties fail to request the corresponding authorisation, different penalties and fines can be applied, as well as the annulment of the assignment.

VI TAX

As mentioned earlier, in Mexico there are four types of agreements for exploration and extraction of hydrocarbons that can be entered into: (1) services agreements; (2) licence agreements; (3) profit sharing agreements; and (4) production sharing agreements. Depending on the characteristics of each agreement, different government take will become applicable as well as the consideration received by the contractor or the state productive company.

i Services agreement

In a services agreement, a private contractor is hired to work on a defined project and paid in cash without retaining any right to any resulting production. Therefore, the contractor is only liable for tax on the income generated by its services to the government.

ii Licence agreement

Under the licence agreement, the contractor is entitled to the extracted oil and gas production, after payment of the government take, which in this case is composed of: (1) the initial signing fee; (2) the contracting quota for the exploratory phase; (3) the royalty; and (4) the rate on the contractual value of hydrocarbons.

iii Profit sharing agreement

Under this type of agreement, the contractor is entitled to recover authorised expenses, costs and investments incurred in connection with the agreement upon success into the exploration and extraction phases, as well as a percentage of the operational profit. In this case, the government take is composed of: (1) the contractual quota for the exploratory phase; (2) royalty payments; and (3) the agreed percentage of operational profits.

iv Production sharing agreement

In accordance with this agreement, the contractor is entitled to a percentage of the oil and gas production and optionally to the recovery of the authorised expenses, costs and investments incurred in connection with the agreement upon success in the exploration phase. The government take is composed of: (1) the agreement quota for the exploratory and extraction phase; (2) royalty; and (3) the agreed percentage on operational profit.

In addition, contractors must pay the tax on hydrocarbons exploration and extraction activities, which is payable on a monthly basis, as follows:

Phase of activities	Monthly tax (pesos)
Exploratory phase	1,500 per square kilometre
Production phase	6,000 per square kilometre

Mexican law provides for special rules for companies involved in the exploration and production activities that supersede general rules. For example, new rules were incorporated into the LIH regarding permanent establishment taxation.

A permanent establishment is deemed to exist if foreign tax residents perform hydrocarbon exploration and extraction related services in Mexico for 30 days or more, during a 12 month period. In such cases, permanent establishment taxation is triggered on the attributable income. The same rule becomes applicable to foreign tax residents receiving salary payments from abroad. If they work in Mexico for more than 30 days within any 12-month period, then the salary is subject to Mexican source taxation.

It is important to note that the aforementioned rules are contained within Mexican domestic law and thus can be overridden by tax treaty disposition, providing for longer periods to trigger permanent establishment taxation or employee taxation.

Finally, the LIH allows for more beneficial depreciation rates than those contained within the Income Tax Law for property used in oil and gas exploration and extraction activities, as follows:

a 100 per cent of invested amounts in exploration, secondary and enhanced oil recovery, as well as for non-capitalised maintenance;

b 25 per cent of investments in the exploration and development of oil and gas deposits; and

c 10 per cent of amounts invested in infrastructure for storage and transportation required under the agreement, for example for oil and gas pipelines, terminal, transportation or storage tanks.

The deductible amounts for each taxable year may be limited in accordance with the rules contained within the agreement entered into between the contractor and the government.

VII ENVIRONMENTAL IMPACT AND DECOMMISSIONING

It is important to bear in mind that in Mexico all three levels of government share responsibilities to protect the environment and that variables, such as (1) the location of projects and (2) the communities that may be affected by them, will be determinants to identify the applicable legislation to which they will be subject.

The ASEA becomes the Ministry of Environment and Natural Resources' (SEMARNAT) specialist unit for all activities involving oil and gas. As mentioned before, among other powers, the ASEA is responsible for directing environmental policy and the creation of systems and specific guidelines for performing these activities. Moreover, the ASEA will come to replace the PROFEPA (the Federal Attorney for Environmental Protection) in its functions of inspection and monitoring compliance with environmental matters.

The ASEA has also assumed among its responsibilities the issuance of authorisations and permits on several environmental matters that used to be distributed in several other SEMARNAT departments. This is how the ASEA came to be in charge of reviewing and authorising permissions that have an impact in a wide range of environmental issues through a 'sole attention office'. While this might accelerate project response times, it also poses a challenge for the agency with regard to the integration of a multidisciplinary group of public officers to review and authorise all these permits.

Matters regarding the management of water resources in the hydrocarbons sector will remain under the strict supervision of the CONAGUA (the National Water Commission) and the provisions of the National Waters Law and its regulations, as well as the applicable NOMs.

Pursuant to LASEA, decommissioning is the stage of partial or total removal, disassembly, reuse or disposal of equipment and accessories from a facility dedicated to activities for the hydrocarbons sector. Site abandonment is the final stage of a project, typically after the decommissioning of a facility, where the site is left in a safe condition in a definitive way and there are no recognised environmental conditions on the site, or a remediation process has been successfully performed.

The particular characteristics that must be met during these two stages may vary based on the specific activities undertaken during the project, although in all cases it must be referred to in the environmental impact authorisations. However, there are general provisions that indicate the minimum specifications to which the projects are subject to for this stage. Some of these general conditions include: giving notice of abandonment of facilities, providing adequate handling or disposal for all the waste generated during this final stage in order to ensure that the site is free of environmental liabilities and concluding any permit, authorisation, registration or concession issued on behalf of the project holder.

VIII FOREIGN INVESTMENT CONSIDERATIONS

i Establishment

In all the bidding processes carried out in Mexico for exploration and extraction of hydrocarbons, only Mexican companies may sign the corresponding agreements. In contrast, for the pre-qualification process (in which the experience and capacities of each stakeholder will be evaluated), the bid rules allow a foreign company to participate. However, as mentioned before, it will be necessary to incorporate a Mexican company for the purposes of signing the agreement of reference. Thus, investors may not establish a branch of a foreign corporation as contracting party.

Moreover, companies may participate in the bidding processes individually, in consortium or through a joint venture. In the latter case, the joint venture agreement shall have been entered into pursuant to Mexican laws. Likewise, a consortium will be understood as two or more state productive companies or private companies that jointly submit a proposal within the bidding process for the awarding of the corresponding agreement.

The process for the establishment of a local entity is as follows.

a A permit from the Ministry of Economy approving the local entity's name must be obtained.

b At least two partners are required for the incorporation of a local entity. These members can be either companies or individuals.

c A set of by-laws and articles of incorporation containing the general corporate governance and management rules of the local entity should be drafted.

d Once the permit is granted, the powers of attorney are duly granted and formalised and the by-laws drafted, the attorneys-in-fact will appear before a Mexican notary public to request the formalisation of the articles of incorporation and by-laws. The notary public shall issue an incorporation deed, which shall be registered before the corresponding Public Registry of Commerce.

e The local entity shall be registered before the Federal Taxpayers' Registry.

f If the local entity has foreign investment, within 40 business days of the date of the issuance of incorporation deed, the local entity shall be registered before the National Registry of Foreign Investment.

The timing for the establishment of a local entity is approximately one month. In practice, a local entity can start operations once it has been registered before the Federal Taxpayers' Registry.

ii Capital, labour and content restrictions

Employees in the oil and gas industry have the same rights and obligations as in any other industry or business sector in Mexico. Employers must have an employment contract in place for each employee, regardless of whether the employee is covered by a collective bargaining agreement.

Employers must comply with minimum benefits set forth in the Mexican Federal Labour Law (FLL) at the time of hiring employees such as: (1) 15 days' salary as Christmas bonus, payable every year by December 20; (2) annual vacation period according to employee's seniority; (3) 25 per cent of salary corresponding to vacation days as vacation premium; (4) overtime paid at double rate for the first nine hours of work exceeding the normal shift; (5) double salary for work on rest days and holidays; (6) 25 per cent of salary

if an employee is required to work on Sundays as a regular workday; (7) profit sharing based on the employer's 10 per cent taxable income in a fiscal year (January–December); and (8) statutory severance if terminated without cause. Benefits may be enhanced in terms of the applicable collective bargaining agreement and its annual negotiation between the employer and the corresponding trade union.

Similar to any other employer in Mexico, oil and gas companies must hire nine Mexican nationals for each non-Mexican individual. General managers are not considered for the 9:1 ratio required by the FLL, and in the case of technicians and professionals, the law requires them to be Mexican nationals, unless it can be demonstrated that there are no candidates with the capabilities and experience of foreign workers intended to be hired. In this latter case, the FLL provides that foreign workers may be hired on a temporary basis, without specifying the term of employment.

Foreign workers may render services if a Mexican legal entity hires them, provided the company obtains the Employer Certificate required by the National Immigration Institute in advance, and the foreign worker files for and obtains a temporary resident work visa. This immigration permit will allow the foreign individual to earn salary and benefits out of a Mexican payroll and contribute for medical coverage from the Mexican Social Security Institute. Another alternative for a foreign worker to render services in Mexico is obtaining a temporary resident visa for non-remunerated activities, which will allow the individual to earn salary and benefits from his or her home country without necessarily becoming an employee for Mexican purposes. Several labour and tax aspects need to be carefully reviewed for this latter alternative.

iii Anti-corruption

Mexico has a National Anti-corruption System (SNA), which is the coordination body between the authorities of all the competent government entities for the prevention, detection and sanction of administrative responsibilities and acts of corruption. The public policies established by the SNA should be implemented by all public entities. Likewise, the rules for this coordination are established in the General Law of the National Anti-corruption System. The aforementioned Law is of recent creation, published in the Official Gazette of the Federation on 18 July 2016.

With the SNA, Mexico intends that anti-corruption strategies are carried out in an inter-institutional coordination framework. This is intended to prevent the carrying out of isolated, uncoordinated and ineffective actions, as has occurred in Mexico prior to the creation of the SNA. Therefore, since the SNA is an integral and transversal system to combat corruption, one of the bodies that integrates it is the Citizen Participation Committee. This Committee is composed of five citizens of probity and prestige who have stood out for their contribution to transparency, accountability or their fight against corruption. Likewise, the SNA shall be replicated in all federal entities, whose integration, attributions and operation shall be developed by the laws of each of the aforementioned entities.

IX CURRENT DEVELOPMENTS

So far, four rounds have been carried out in Mexico. Round Zero worked as the first previous mechanism of market diversification and opening. This round was only applicable to Pemex, since it consisted in evaluating which projects and reserves would continue under the development of the now state productive company.

Round One was structured in four bids and comprised five production sharing agreements and 33 licence-type agreements. According to the CNH, during Round 1, 39 areas of 55 tendered were awarded, an adjudication percentage equivalent to 70 per cent. These new contracts will be operated by 49 companies from 14 different countries.

Round Two had four bids. In the first, 10 of the 15 contract areas located in shallow waters of the Gulf of Mexico were awarded. The second bid was composed of 10 contractual areas under a licence agreement modality, three of which have been abandoned and seven of which were awarded. In the third bid, which includes 14 contractual areas, all were awarded. In the fourth bid round, 65 per cent of the blocks offered were awarded, that is, 19 of the 29 offered.

Finally, Round Three is currently constitutes three bids. In the first bid, 16 of the 35 contractual areas offered were awarded. In addition, the CNH approved amendments to the bid rules of the second bid of Round Three for the award of 37 licence contracts for exploration and extraction of hydrocarbons in conventional onshore deposits. With these modifications, the CNH postponed the opening of proposals for two months to tie it with the third bid of Round Three. Therefore, the presentation and opening of proposals for both bids will take place on 14 February 2019.

In light of the above, the SENER, jointly with the CNH, is analysing a substantial increase in the number of areas and blocks offered in future oil bid rounds, which will increase national production of oil and gas, as well as reserves in the medium term. In addition, this measure aims for Mexican consolidation as one of the most attractive investment destinations in the world in terms of hydrocarbons.

Appendix 1

ABOUT THE AUTHORS

JOSÉ ANTONIO POSTIGO-URIBE

Sánchez Devanny

Jose Antonio is the managing partner for Sánchez Devanny's Mexico City office. He heads the firm's energy, natural resources and environmental practice group and the firm's Energy Task Force, a group that includes practitioners of different law practice areas specialising in advising clients of the energy sector. He has advised clients investing in those areas historically open to private participation, especially in gas distribution, developing wind farms, solar projects, cogeneration plants, self-supply schemes, biddings with the CFE (Federal Electricity Commission) and independent producer schemes.

He also advises clients entering the new wholesale electricity market such as generators, suppliers, traders and final users. José Antonio also advises clients in oil and gas matters, including set up of business in Mexico, structuring investments, bidding processes, processes with PEMEX and gas and other fuel supply and sale. He also represents companies active in the midstream and downstream sector. Following the enactment of the historic 2013 constitutional reform that created an open energy market in Mexico, José Antonio has led the creation of a multidisciplinary industry group within the firm to help clients take advantage of the new opportunities opened up by these reforms.

GUILLERMO VILLASEÑOR-TADEO

Sánchez Devanny

Guillermo co-heads the Energy Industry Group and member of our tax group based in Mexico city. His expertise relates to corporate tax planning, M&A and transfer pricing legal analyses.

Guillermo has represented and assisted multinational companies in complex cross-border tax litigation resulting from transfer pricing adjustments, cost-sharing arrangements, multinational restructures, and potential recharacterisation of intercompany payments. Guillermo is chair of the Legal and Tax Committee of the Canadian Chamber, and vice chair of the Tax Committee of the American Chamber of Commerce in Mexico. He is a member of the International Fiscal Association, and officer of the International Tax Committee of the American Bar Association, Section of International Law.

TANIA ELIZABETH TREJO-GALVEZ

Sánchez Devanny

Among the services that Tania offers within her professional practice should be highlighted the analysis and preparation of different types of contracts relating to the energy sector (electricity and hydrocarbons), as well as legal advice to national and international clients regarding the implementation of the new energy industry regulatory framework in Mexico.

Owing to her experience and academic background in the energy sector, she is at the forefront regarding the recently created regulations, which are part of the energy reform in Mexico. The aforementioned allows her to inform clients, in a timely manner, on the impact that the regulations will have on their current or future projects. Before joining Sánchez Devanny, Tania was part of a distinguished Mexico City law firm specialising in energy law. In addition, she worked as a lawyer in a state production company developing new Mexican energy industry business and projects.

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ISBN 978-1-912228-65-2