

March 29, 2021

## Energy Industry Group Newsletter



### Initiative to reform the Hydrocarbons Law.

On March 26, 2021, the President of the Board of Directors of the Chamber of Deputies, on the instructions of President Andrés Manuel López Obrador, presented to the Chamber of Deputies the Draft of reform initiative by which various provisions of the Hydrocarbons Law are amended and added (the "Initiative").

In accordance with the statement of purpose of the Initiative, its main objective is to strengthen the Mexican State productive companies as guarantors of the country's energy security and sovereignty, through modifications to the model implemented by the previous administration.

The statements of the Initiative are the following:

- Establish that the permits granted to Petróleos Mexicanos, other State productive companies and Private Parties, are subject to the interested party showing that, where appropriate, they have the storage capacity determined by the Ministry of Energy ("SENER") in accordance with the applicable legal provisions;
- Modify the effect of administrative inaction, so that in the event that the period set for the issuance of the permits has elapsed without there being an express resolution of the competent authority, instead of presuming that the respective request has been approved, it is understood that the authority's response is negative or unfavorable for the applicant;
- Reform the sanctions regime in order to impose the revocation of the corresponding permits previously

issued to all subjects who repeat: (i) non-compliance with the provisions applicable to the quantity, quality and measurement of hydrocarbons and petroleum products; and (ii) the modification of the technical conditions of systems, pipelines, facilities or equipment without the corresponding authorization;

- Empower SENER and the Energy Regulatory Commission ("CRE"), within the scope of their powers, to revoke the permits issued under the terms established in the Hydrocarbons Law when their holders commit the crime of smuggling hydrocarbons, petroleum products or petrochemicals, and this has been so determined by a final resolution of the competent authority, covering simple smuggling and "technical smuggling" through which undervalued goods enter in order to omit the payment of a large part of the compensatory fee to the supervisory body; and
- That SENER or CRE, within the scope of their respective powers, may temporarily suspend the permits issued under the terms established in the Hydrocarbons Law, when an imminent danger to national security, energy security or national economy is anticipated. In order to guarantee the continuity in the operation of the activities covered by the permit, the authority that issued it may take charge of the administration and operation of the permit holder, even using its facilities and staff, in order to guarantee the interests of the

end users and consumers, preserving the rights of third parties.

- Revoke those permits that on the date of entry into force of the Initiative fail to comply with the storage requirement established by SENER, as well as the revocation of any other permit for which it is proven that their holders do not comply with the corresponding requirements or violate the Hydrocarbons Law.

The Initiative establishes that all those permit holders that could be harmed in their legal sphere and their rights may request, within the framework of the regulations of the corresponding matter, the payment of the corresponding effects.

The Initiative was presented to the Chamber of Deputies and, if approved by it, the Initiative would have to be referred to the Senate for review, processing and, where appropriate, approval.

The Initiative may include certain provisions that may breach the Mexican Constitution, the applicable legislation and other international obligations of the Mexican State, as well as the sphere of rights of the participants in the sector, whether nationals or foreigners who carry out activities such as commercialization, distribution, transportation, storage, import or retailing of hydrocarbons, petroleum products or petrochemicals.

Due to the foregoing, individuals will have the right to defend their interests through legal means of defense and those foreign investors would also be entitled to initiate legal actions against the Mexican government under International Treaties. On the other hand, the parties to such Treaties could denounce the breach of international obligations, and impose retaliatory measures on Mexican goods and services.

Our energy practice, and litigation and dispute resolution team specialized in energy matters, advises diverse clients not only from a corporate and regulatory perspective but also with strategic litigation in order to implement the legal actions that help safeguard their operations and rights. We are at your service to assist you in connection with the legal alternatives that will allow you to prevent and counteract the effects of the Initiative and any other act of authorities in this matter.

This newsletter was prepared by José Antonio Postigo Uribe ([japostigo@sanchezdevanny.com](mailto:japostigo@sanchezdevanny.com)), Gerardo Prado Hernández ([gph@sanchezdevanny.com](mailto:gph@sanchezdevanny.com)), Guillermo Villasenor Tadeo ([gvillasenor@sanchezdevanny.com](mailto:gvillasenor@sanchezdevanny.com)), Max Ernesto Hernández Ernult ([mhernandez@sanchezdevanny.com](mailto:mhernandez@sanchezdevanny.com)), Tania Elizabeth Trejo Gálvez ([tetrejo@sanchezdevanny.com](mailto:tetrejo@sanchezdevanny.com)) y Mauricio León Alvarado ([mleon@sanchezdevanny.com](mailto:mleon@sanchezdevanny.com)).

Our Energy, Natural Resources and Environmental practice leads a larger group specialized in the energy sector, comprised of a talented team of dedicated lawyers from several practice areas, that form our Energy Industry Group, which is in a singular position to offer the diverse energy industry participants an integral, profound and multidisciplinary legal analysis that considers the different relevant matters to their business, including the energy reform in Mexico, its implications and the business opportunities it represents.

The multidisciplinary advice of our Energy Industry Group includes corporate, transactional, strategic litigation, public biddings, contractual, tax, foreign trade, labor, alternative dispute resolution methods, corporate governance and regulatory compliance.

Sánchez Devanny is a leading Mexican law firm that provides **full-service legal advice** both to Mexican and international clients.

We build enduring client relationships because we make every effort to understand our clients' businesses and expectations, to serve as an ally, and to provide **complete, accessible and personalized advice**.

## Contact

*Alberto Campos-Vargas*  
[jacampos@sanchezdevanny.com](mailto:jacampos@sanchezdevanny.com)

*Alfonso López-Lajud*  
[alopez@sanchezdevanny.com](mailto:alopez@sanchezdevanny.com)

*Gerardo Prado-Hernández*  
[gph@sanchezdevanny.com](mailto:gph@sanchezdevanny.com)

*Guillermo Villaseñor-Tadeo*  
[gvillasenor@sanchezdevanny.com](mailto:gvillasenor@sanchezdevanny.com)

*José Antonio Postigo-Uribe*  
[japostigo@sanchezdevanny.com](mailto:japostigo@sanchezdevanny.com)

Ciudad de México:  
Av. Paseo de las Palmas #525 Piso 6  
Col. Lomas de Chapultepec, 11000  
Ciudad de México  
T. +52 (55) 5029 8500

Monterrey:  
José Clemente Orozco #335 Piso 4  
Despacho 401 Col. Valle Oriente, 66269  
San Pedro Garza García N.L.  
T. +52 (81) 8153 3900

Querétaro:  
Querétaro Business Park  
Av. Antea #1088 Torre 2 – Piso 2  
Col Jurica, 76100. Querétaro, Qro.  
T. +52 (442) 296 6400



Sánchez Devanny Eseverri S.C.



@SanchezDevanny



/sanchezdevannymx

[www.sanchezdevanny.com](http://www.sanchezdevanny.com)

Sánchez Devanny refers to Sánchez-Devanny Eseverri, S.C., a leading Mexican law firm that provides full-service legal advice both to Mexican and international clients.

This publication contains general information only and is just for informative purposes. Sánchez Devanny is not rendering legal advice or services by means of this publication. To obtain legal advice or services and before making any decision or taking any action that may affect your business you should consult a qualified professional advisor.

Sánchez Devanny provides legal services in the areas of Corporate and M&A; Corporate and Project Finance; International Trade and Customs; Real Estate, Infrastructure and Hospitality; Tax; Labor, Social Security and Immigration; Corporate Governance and Regulatory Compliance; Energy, Natural Resources and Environmental; Life Sciences; Intellectual Property, Entertainment and Sports Law; Litigation and Alternative Dispute Resolution; Antitrust; Financial Institutions and Services; Private Wealth Management and Estate Planning and Data Privacy and Information Technology to both public and private clients, especially in the automotive, retail, pharmaceutical, manufacturing, real estate and energy industries.