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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”

The reform of the Mexican Energy Sector.

A historic modernization breakthrough
by Carlos Sierra.

On December 20, 2013 the decree was published implementing the very thorough energy reform offered by President Enrique Peña Nieto and approved by the Mexican Congress. The reform will permit the participation of the private sector in the hydrocarbons and electricity sectors after a ban of more than seventy five years.

The reform of the energy sector is added to the stream of major structural changes that the government has proposed and that congress has approved during 2013. These major reforms have included the overhaul of essential sectors such as education, telecommunications, finance, tax and a major political reform. These reforms were demanded for decades by all sectors and were considered essential to detonate growth and the accelerated development of Mexico. During 2014 the duty of congress will be to adopt efficient and modern secondary legislation that can implement these reforms practically and efficiently. The changes have created an environment of optimism and anticipation of vast potential of growth.

The extent of the energy reform resolves the long standing taboo that shadowed the development of the Mexican energy sector to the level of other countries. The political cloud that impeded the approved changes for so long, proved to be only a perception of antagonism, which in spite of being announced so loudly, it only amounted to minor protest from the leftist political parties, being an undisputable fact that the reform has gathered more support than opposition throughout the country.

With this reform, the Mexican government will be able to permit the private sector from within Mexico and abroad to invest in the energy sector, enabling the country to gain access to the necessary funds and to state-of-the-art technology to permit the exploration of new fields that require modern technology as well as the capital to create the necessary infrastructure to permit the development of the basic petrochemical industry for the processing and refinement of oil as well as for the production of electricity.

To this date, Mexico conducts substantial imports of gasoline from other countries and lacks the technology for deep water exploration as well as for the extraction of shale gas. The production of Mexican crude oil has diminished constantly per year due to the exhaustion of reserves and because the Mexican state has not had the resources to invest in exploration. The percentage with which Petroleos Mexicanos (PEMEX), the behemoth oil company owned by the Mexican state, contributes to the tax income of the country is equivalent to one third of the national tax revenue, which deprives PEMEX of the resources that are necessary to the exploration and development of its capacities. This is a vicious circle that had to be resolved.

The approved reform will include the participation of the private sector in the exploration and production of oil as well as infrastructure and technology for the petrochemical industry. Together with the fiscal reform, the fiscal regime of PEMEX has also changed to increase its profitability, and the availability of resources to permit its modernization and development.

The most substantial part of this reform is reflected in the amendment made to articles 25, 27 and 28 of the Constitution. These changes will permit various forms of participation by the private sector in the exploration and production of hydrocarbons and electricity. With these changes PEMEX will be required to compete with other participants for the exploitation of oil fields that require different technologies and will be able to be developed by private companies having access to the required technical expertise.

The state will regulate the form in which the private sector will be able to participate in the exploration and exploitation of resources applying social equity, productivity and sustainability policies for the benefit of public interest. The planning and control of the electricity production and distribution will be controlled by the state, together with the transmission and distribution of the electric fluid.

As part of this reform, in accordance with Article 25 of the Constitution, PEMEX and the Comisión Federal de Electricidad (CFE) will be converted into State Productive Companies. These companies will be subject of assignation to be granted by the state in the same form in which other participants of the private sector will be allowed to compete for the right to conduct activities for the exploration and extraction of oil and hydrocarbon products, as well as for the processing thereof.

The reformed Article 27 of the Constitution contemplates now the possibility to conduct assignations to the State Productive Companies for the exploration and extraction of oil and other hydrocarbons, or to celebrate contracts with these companies or with the private sector in accordance with the regulations to come, permitting also that the State Productive Companies enter into contracts with private entities.

For the administration of the income generated by the state through the oil industry, under Article 28, the reform contemplates the reorganization of the energy regulatory entities, which shall be denominated the Comisión Nacional de Hidrocarburos (National Hydrocarbon Commission) and the Comisión Reguladora de Energía (Energy Regulatory Commission). The reform also creates the Fondo Mexicano del Petróleo para la Estabilización y el Desarrollo (Mexican Oil Fund for the Stabilization and Development) of which the central bank will be the trustee and which will have the purpose to receive, administer and distribute the resources that will result from the assignations and contracts referred in Article 27.

In the transitory articles the reform establishes the form in which the above constitutional reforms shall be conducted and implemented through the secondary legislation. The necessary changes to the legal framework will need to be approved by Congress within 120 days from the date of publication of the decree, which means that the secondary legislation should be ready by the end of April of this year. The new legislation shall contemplate the new forms in which contracts can be entered by the state for services, shared profits, shared production or licenses, which the State Productive Companies will be able to enter with private entities to conduct the exploration, extraction of oil and of solid, liquid or gaseous hydrocarbon products.

The legislation will contemplate the form in which the participants in these agreements will be able to be remunerated, which shall be (i) in cash, in respect to the contracts for services; (ii) by means of a percentage of the profits (iii); through a percentage of the production obtained; (iv) through the onerous transmission of extracted hydrocarbons; or (v) through a combination of the above, all of these depending of the type of contract or license involved.

The private companies involved in contracts with the state, or with any State Productive Company, will be able to report these assignations or contracts and the expected benefits for accounting and financial purposes as long as they recognize the ownership of the Mexican state of the natural resources involved.

The new legislation will contemplate the form in which the regulatory entities will make the assignations and contracts, the requirements that the participants will need to meet and the form in which these will be implemented assuring mechanisms of transparency and information in respect thereof.

The described reform, in summary, reopens the participation of the private sector in the above described activities with the consequent change in the dynamics of the oil and energy industries and with the resultant increase in investment and modernization. The created potential is immense and the expectations are high that with these changes Mexico will gain autonomy in the availability of resources at competitive prices and will be reinserted as one of the world primal producers of oil.

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Competition, poverty and Mexican agriculture.

The Executive Committee of the National Alumni Association of the Autonomous University of Chapingo demanded greater participation of the professionals of the field in the existing problems in the food sector. Competitiveness and poverty requires agronomists and related professionals to participate and design public policies. *El Informador 7/12/2013.*

F.D.A. Restricts Antibiotics Use for Livestock.

The Food and Drug Administration on Wednesday put in place a major new policy to phase out the indiscriminate use of antibiotics in cows, pigs and chickens raised for meat, a practice that experts say has endangered human health by fueling the growing epidemic of antibiotic resistance. This is the agency's first serious attempt in decades to curb what experts have long regarded as the systematic overuse of antibiotics in healthy farm animals, with the drugs typically added directly into their feed and water. The waning effectiveness of antibiotics — wonder drugs of the 20th century — has become a looming threat to public health. At least two million Americans fall sick every year and about 23,000 die from antibiotic-resistant infections. *The New York Times. 11/12/2013*

The Train Bid begins.

The Secretary of Communications and Transportation (SCT for its acronym in Spanish) has announced that in January 2014 the race for the passenger train constructions is to begin. The Federal government has announced the plan to construct at least three train routes for starters: One from Mexico City to Toluca and Queretaro and another in the Yucatan Peninsula to connect Mérida and Punta Venado. The money for such ambitious project is to be merged in both private and public investment the SCT has announced. Currently, according to official information, railways account only to 12.6% of national transportation, and the project is looking forward to drastically change the percentage after an investment of over 4 billion pesos. *El Universal. 12/12/2013*

The effects of the Energetic Reform are not limited to petroleum.

The hectic and controversial reform of the Mexican Energetic sector has been deeply analyzed on the petroleum and gas parameters, yet the reform holds an extremely positive expective on the Electricity subdivision of the Federal Government. The bill plans to grant major autonomy, strength and productivity to the CFE (the Federal Comission of Electricity). The bill lays out plans to relocate national energy control center (Cenace), currently a department in state-owned utility CFE. Cenace would become an independent state-owned body tasked with administering an open generation market, functioning like most independent system operators (ISOs) around the world. *Business Insight Lat. Am. 12/12/2013*

In this month extract was prepared by Vera García, José Manuel Muñoz, Miguel Ruelas and Patricia González.

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Agribusiness panel to Congress: Get us workers.

A disturbingly different American landscape – from farm fields and rural communities to supermarket produce shelves – is on the horizon if immigration reform in Congress can't provide enough legal workers. The panel discussion was part of the 2013 Agribusiness Economic Outlook Conference, which brought 147 industry leaders, agribusiness professionals, policymakers, educators and farm managers to Cornell's Warren Hall. Unless the House can act on immigration reform before March or April in the upcoming election year, Maloney predicted, compromise on federal legislation to provide sufficient legal farm workers won't come until 2015. *Cornell University. 12/12/2013*

Growers support Florida tomato assessment increase.

Assessment rates funding the Florida Tomato Committee would increase more than 50% if a proposal published Dec. 26 is adapted. The proposal from the Florida tomato industry would increase the funds collected by the Florida Tomato Committee, which administers the federal marketing order for Florida tomatoes from 2.4 cents to 3.75 cents per 25-pound carton in the 2013-14 season — 56% increase. There are about 80 handlers of tomatoes and 100 producers subject to regulation under the Florida marketing order, according to the proposal. During an Aug. 22 public meeting, the Florida Tomato Committee unanimously recommended 2013-14 expenditures of $1.82 million and an assessment rate of 3.75 cents per 25-pound carton of Florida tomatoes, according to the proposal. Last year, budgeted expenditures were $1.67 million, but the committee depleted reserves to meet expenses from the past year. Because of that, the committee recommended raising the assessment rate to generate funds for its reserve, according to the USDA. Reserve funds are projected at $440,500 under the proposed assessment rate. *The Packer. 27/12/2013*

Chinese expected to remove ban on certain U.S. apples.

Federal and state officials report that progress during recent trade negotiations with China could mean U.S. apple growers will again be able to export red and golden delicious varieties to the country in early 2014. China closed its borders to those varieties from the U.S. in August 2012 because of concerns about postharvest decay and disease issues. Growers in the U.S. saw their apple exports plummet from 9,350 metric tons in 2010 to only 366 metric tons in the first nine months of 2013. Just before Christmas, however, U.S. agriculture secretary Tom Vilsack returned from Beijing and the 24th U.S.-China Joint Commission on Commerce and Trade with optimistic comments. The Packer*. 27/12/2013*

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