4th Edition

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MEXICO

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When raw materials, parts, associated products, and packing materials are imported from a country which does not have a free trade agreement with Mexico for manufacture and export, to a country that has a free trade agreement with Mexico, the custom tariffs are calculated as follows:

1. It is necessary to work out customs tariff payments related to goods that imported temporarily to Mexico and are integrated into the goods to be exported. The temporarily-imported goods are classified as if they had been permanently imported, taking into consideration the customs tariff and the exchange rate applicable on the date of export.

2. It is necessary to determine the customs tariff paid for merchandise in the country of final destination with which Mexico has a free trade agreement.

3. The customs tariffs payable in Mexico will be the amount resulting from subtracting the customs tariffs payable in the country with free trade agreement of final destination, from the Mexican tariffs applicable to the final importation of the goods into Mexico. An illustration of the tariff calculation related herein is described in the following table:

Customs tariff in Mexico for component "X" imported from India.	Customs tariff paid in USA for final product "Y" assembled in Mexico.	Amount paid in Mexico for component "X" imported from India.
11	2	9
5	6	O

The general import tax, which was calculated as described hereinabove, must be paid within 60 days from the date of export of the finished product, taking into account tariffs and exchange rates applicable on the date of export.

In order to work out the general import duty, exporters are allowed to use a preferential tariff as described in the "sector programs" above. However, this formula cannot be applied to the temporary imports listed in Appendix 6, Annex 300-B of NAFTA, related to textile goods and clothing.

The companies will pay the general import duty, as if the goods were definitely imported, without taking into account their origin. This rule will apply to the following goods:

1. Tools, equipment and accessories for research, industrial security, the products used for hygiene, control and prevention of environmental pollution from productive plants, as well as work for manuals and industrial plans, telecommunications, and computing equipment; and

2. Machinery, devices, instruments and spare parts necessary for the production process, laboratory equipment, measuring and testing devices for their products, as well as devices that may be required to control quality, train their employees, and develop company administrative programs; the 1atter of which is applicable to the installation of new industrial plants.

According to the Value-Added Tax Law, final imports are subject to VAT, while temporary imports are VAT exempt.

XI Investment opportunities

To enable Mexican economic growth, substantial private investment is needed in the expansion and modernization of infrastructure, education, transportation and communications, among others.

As previously mentioned, Mexico's government since over a decade ago entered into a process of economic modernization by adopting unprecedented actions to reduce governmental intervention in the economy and open the country to international competition.

These objectives have been pursued through an intensive deregulation program directed towards promoting legal and administrative procedures favorable to private investment, national or foreign in some key sectors, as discussed below.

A. Energy

The economic development that Mexico demands requires the joint participation of both private and public agents during the decision-making process, as well as the development of that process. This was recognized in the 2000-2006 National Development Plan which contemplated the inclusion of private investment in the development of new infrastructure in order to increase the offer of public goods and services. The new Calderón Administration has also recognized the need to modernize the sector and an ambitious energy policy is expected during his presidency.

1. Petrochemicals and natural gas

The oil industry is operated by Petroleos Mexicanos (PEMEX). The petroleum sector, developed and operated primarily by British and American companies, was expropriated in 1938.

The Law regulating Article 27 of the Mexican Constitution referring to hydrocarbons, reserves to the Mexican State the following strategic activities, including investment and rendering of services, together defined as the "oil industry":

(i) Exploration, exploitation, refining transportation, storage, distribution and first-hand sales of oil and products derived from its refinement;

(ii) Exploration, exploitation and elaboration of natural gas, as well as transportation and storage indispensable for its exploitation; and

(iii) Production, transportation, storage, distribution, and first-hand sales of oil derivatives and gas that are suitable to be used as basic industrial raw materials and considered basic petrochemicals. The list of basic petrochemicals are the following: ethane, propane, butane, penthanes, hexane, raw materials for carbon black, naphthas and methane when derived from hydrocarbons obtained in deposits within Mexican territory and used as raw materials in petrochemical industrial processes.

Among the main modernization improvements in this legal field are the Natural Gas Regulations, which were published on December 1995, and are the field's most important feature. The sensitive areas identified therein are the following:

First hand sales, defined as the first natural gas sell made by Petroleos Mexicanos to a third party for its delivery within the national territory:

(i) Transportation;
(ii) Storage; and
(iii) Distribution.

The approval of these rules represents the conclusion of one of the most important stages for opening the natural gas market, since these rules along with the *Transportation Conditions for Pemex Gas and Basic Petrochemicals,* approved in June 1999 and ammended thereafter, defined new conditions for participating in this market.

A company intending to participate in these specific areas must insert in its bylaws, as a main corporate purpose, a provision of distribution and transportation of natural gas and other related services. Its by-laws must also include an obligation to have a fixed minimum capital stock, without right of withdrawal, which must be equal to 10 percent of the proposed investment. These permits will be in force for a 30-year term which will be renewable.

As per the Foreign Investment Law, the drilling of oil and natural gas wells is still subject to the 49 percent limitation on foreign ownership, unless authorization is obtained to exceed such limit. On the other hand, this law gives foreigners the right to own up to 100 percent of a company engaged in secondary petrochemical activities.

Production of the following will be classified as secondary petrochemical products: acetylene, ammonia, benzene, butadiene, butylene, ethylene, methanol, n-paraffins, orto-xylene, para-xylene, propylene, and toluene.

Although the privatization of the oil industry sector has been discussed over the last decade, social and political reasons have delayed the sector's privatization, and most likely will not happen in the foreseeable future. However, private participation in the petrochemicals and gas industry has increased through the implementation of the Multiple Services Contracts Model ("MSC"), specifically with respect to the natural gas industry in the north of the country (Burgos) since 2002.

2. The electric power sector

In the last several years, the use of electric energy has increased by an approximate annual rate of 5 percent, which reflects the increasing industrial activity and evidences the growing need for a greater electric supply. Zones such as Baja California, the northeast, and the peninsular areas, are the regions experiencing the largest annual increases in demand and use of electric energy.

Taking into consideration that industrial and economic development requires and depends upon sufficient electric supply, the Mexican Federal government has agreed to encourage private investment in the electric power sector through the modalities permitted by the Law for the Public Service of Electric Power; in this way, the private sector can con tribute to the increase of existing capacity through *co-generation, supply,* and *independent production.*

Articles 27 and 28 of the Constitution establish the exclusive authority of the government to provide electric power. However, based on historical and social factors, since 1992, the Law for the Public Service of Electric Power permits private investment as a complement to the public resources destined to improve the electric power sector.

As previously mentioned, the current legal framework permits the private sector to participate in the following areas, which were previously considered as reserved to the government:

(i) Cogeneration - Production of electric power together with steam or any other type of secondary thermal power, or both; direct or indirect production of electric energy from unused thermal power in whatever process; or the direct or indirect production of electric power through the use of fuels produced on the proceedings performed.

(ii) Self-generation - When companies acquire, establish, or operate an electricity generating facility to satisfy their own needs.

(iii) Independent production - The production of electric power in a plant with capacity over 30MW, destined only for sale to the Federal Electricity Commission for exportation. The independent production is always derived from a public bid called by the Federal Electricity Commission.

(iv) Small production - The sale to the Federal Electricity Commission of the total amount of electric power produced, not having a capacity superior to 30MW, in an area previously determined by the Ministry of Energy. The creation of this type of power plant does not require previous authorization from the Federal Electricity Commission.

(v) Exportation - The exportation of electric power derived from co-generation, independent production, or small production (note that the Federal Electricity Commission

must be part of the negotiations).
(vi) Importation - To cover own needs.

(vii) Permit-holders must adopt the proper methods to comply with "Official Mexican Standards" related to public works, installations, industry services, and delivery of electric power to the public service network, and shall also be subject to transmission and operation regulations of the National Electric System. Permit-holders may assign their rights derived from permits to third parties upon prior approval of the Ministry of Energy.

An important regulatory improvement was achieved to benefit new private electric power generators when the Interconnection and Related Services Agreement and its related Agreements (for transmission, back up energy, and purchase and sale of economical energy) were approved. The regulations enable private electric power generators or permit-holders to use the national electric infrastructure and the benefits derived therefrom.

Nevertheless, important efforts have been made to completely reform the sectors legal regulation, since the modernization of the legal framework is needed to attract private investments. The most recent proposals, under analysis by the new Calderón administration seek to achieve the following goals:

- To supply sufficient electric power energy to cover the growing demand,
- To deeply modernize the current infrastructure,
- To strengthen public enterprises in this sector to make them productively competitive,
- To decrease the sector's dependence on public resources.

As of today, all major proposals for the aforementioned reforms have been rejected due to political interests. However, it is possible that a minor amendment to the legal framework that would enable more private investment in the sector will be approved in the years to come.

In May 2003, the Supreme Court of Justice held that parts of the *Regulations of the Law [or the Public Service of Power (RLPSEP)*, a subordinate document of the *Law [or Public Service of Electric Power (LPSEP),* to be unconstitutional. The Court found the RLPSEP to be unconstitutional because it modified the definitions of co-generation and self-generation, altering the definitions from those described by the LPSEP.

The LPSEP defines excess electric power generated as "what is left after self-consuming the electric power production," while the RLPSEP defines it as "the excess capacity of the permit-holder, once satisfying its own needs," which as declared by the Supreme Court can be erroneously interpreted as "anything that can be produced and not consumed."

Additionally, the declaration of the document's unconstitutionality is exemplified as the altered definitions of co-generation and self-generation directly violate articles 25, 27, and 28 of the Mexican Constitution, which established that electric power is a national strategic area, and that generation, conduction, transformation, distribution and provision of electric power for the purpose of rendering a public service, corresponds exclusively to the Mexican nation.

As mentioned herein, despite the Supreme Court's decision, and as a consequence of the needs in the sector, some relevant reforms aiming to increase the productivity are expected with the new Calderón administration.

3. Hydroelectric power

Pursuant to the National Water Law of December 1992, as amended on April 2004, and its regulations, private parties are entitled to obtain a concession for the utilization of national water. The National Water Commission (CNA) is empowered under the Law to grant concessions for a period no less than five years and no more than 50 years. Concessions may be renewed for the same period that the concession was granted, and the renewal must be filed with the CNA within the last five years of the concession.

National Water is defined by article 27 of the Mexican Constitution as all lakes, springs, surface and underground rivers, including direct or indirect waterways. The main obligations of the concessionaire are the following:

(i) Execute the construction works related to the utilization of water to prevent negative effects to third parties and to water development,

(ii) Pay the water rights fees,

(iii) Comply with the water security regulations and the environmental law,

(iv) Give access to the CNA authorities to inspect the construction works related to the utilization of water including drilling and lighting of underground water,

(v) Comply with other obligations established in the law and its regulations.

Concession titles related to the utilization of national waters can be totally or partially transferred in accordance with the following: if the title of the concession is transferred without any amendments, the transmission will take place with a simple notification to the Public Registry of Water, approval from the CNA is required if the title of concession is intended to be transferred with amendments.

The CNA controls a Public Registry of Water in which all concession titles, agreements related to the transfer of titles, and amendments to the authorizations contained in the titles, must be recorded. Third parties are entitled to obtain a certificate issued by the Public Registry of Water containing the status of a concession title, the owner of the concession, along with other registrations related thereto.

Also, water may be supplied from the municipal authorities, which is regulated under the corresponding municipal laws. Such laws include domestic, commercial and industrial uses.

4. Mexican deep waters and the oil and gas industries

During the next 15 years an outstanding investment in the development of new marine regions is expected. In fact, it will be the largest investment in the sector's history. Accordingly, there is an impressive range of business opportunities regarding the supply of platforms, ships and offshore services in general. Nowadays, the marine regions contribute with more than 80 percent of the hydrocarbons production in Mexico and this will increase substantially in the near future.

As a result of Cantarell's decline (Cantarell is the world's 6th Super Giant Field - it is now on the stage of maximizing the production by horizontal drilling), PEMEX Exploracion y Produccion (PEP) has focused its initiatives in identifying new production fields at sea, in which deep waters are of course one of the main sources (in Mexico, 500 meters depth is considered deep waters), as well as some adjacent fields to those which are today on production. In 2006 the following deep water fields have started some production and continue to be explored: Noxal at 936 meters; Lakach at 983 meters; and Leek at 988 meters. The complete identification and exploration and production plan will lead to an unprecedented volume of work for marine contractors. PEP's activities and investment during the last 6 years has taken the level of reserves replacement rate from approximately 20 percent to nearly 60 percent. The plan is to increase this rate substantially in the next 15 years.

Among the major deep waters projects, Golfo de México Sur, Area Perdido and Golfo de México B are noteworthy. These main projects and the related adjacent projects will require an investment of over 30 billion dollars during the next 15 years, taking into account the maintenance of the infrastructure to be built.

Nowadays, PEP is one of the most dynamic oil companies operating offshore, with a network of more than 100 drilling contracts. Approximately 25% of the wells are run directly by PEP, and there is a clear trend towards subcontracting by using foreign companies and equipment.

Today, in addition to approximately 80 drilling units, there are more than 150 ships (both, conventional and new generation) in the area, including supply vessels, passenger ships, construction and crane vessels, tugs, seismic research, collectors, well stimulation boats, process ships, fire control, flotels, heavy lifting units, among others.

According to PEP's reports, as well as exploration production programs and private forecasts of all Mexican marine regions (including deep waters), over 25,000 new wells will be needed by PEP during the next 15 years. That amount is the equivalent of all wells developed in PEMEX's history. The needs to meet this program are truly high. At least in oil rigs, vessels and industrial equipment in general, the demand is expected to double, to say

the least.

PEP's contracts are awarded through public bidding procedures described in Section V. The legal regime for vessels engaged in offshore activities is explained below.

a) The multiple services contracts and the new execution model

Having a high number of marine contractors directly dealing with PEP has caused a number of difficulties, among them: (i) an increase in operative costs; (ii) a lack of effective supervision; (iii) higher accidental (injury) rates; and, (iv) a decrease in efficiency.

In part as a result of such deficiencies, the Multiple Service Contract Model was developed by a group of operation experts, finance staff and lawyers during 2001-2002. The MSC model was meant as a tool to reduce the importation of natural gas by increasing the production through contracting private contractors and aimed at transforming Mexico into an exporter of natural gas. MSCs are generic works contract based on unit prices and a predetermined duration (20 years, which is much larger the regular duration of a works or services contract). The main features of the MSC model are the following:

- It includes all the services necessary for the exploitation of a well, which have been contracted separately in the past;
- The reservoirs continue under the exclusive ownership of the State and the production remains the sole responsibility of PEMEX;
- Contractors do not participate in the profits of PEMEX;
- PEMEX pays for all the works and services, which are its property; and,
- PEMEX shall approve all the programs and supervise the works and operations.

According to PEMEX, the most attractive features of the MSC Model for the international oil companies are the following:

- Due to the unit prices, the contractor profits from his efficiency in the performance and operation of the projects;
- The works are performed in zones where there are proved existing reservoirs;
- Initial investments are low; and,
- Investments may be recovered quickly if there is a quick drilling process. Due to the unit prices, the contractor profits from his efficiency in the performance and operation of the projects;
- The works are performed in zones where there are proved existing reservoirs;
- Initial investments are low; and,

MSCs have already been tested in the exploitation of natural gas in the Burgos Basin, notwithstanding the political pressure and legal claims in the sense that they oppose to the State's exclusivity for the exploitation of hydrocarbons.

The political and judicial fight regarding the constitutionality and therefore feasibility of “MSC” took place since 2002. The Fiscal Superior Auditor, an entity within the Congress, performed a study regarding the CSM in 2003 and made some recommendations in order to modify any type of clause that may be misleading regarding the activities on exploration and production of hydrocarbons that are exclusive of the State as per the article 27 of the Constitution and to clarify to a certain extent which activities should be deemed as ordinary services (assignable to third parties) and which should be deemed as strategic activities (exclusive of the State), The result of the recommendations was an amended CSM model called the New Execution Model, which contains more equitable obligations for contractors. It is expected that this new model will be used in respect of the marine regions as of 2007 and that it includes mechanisms to finance drilling in oil fields, among other features.

B. Transportation

1. Maritime activities

a) The new regime

The new Navigation and Maritime Commerce Law (LNCM) was approved by the Mexican Congress on April 2006, after nearly six years and 11 parliamentary sessions. Upon its promulgation the LNCM entered into force on June 30, 2006. The LNCM abolished the 1994 Navigation Law, as well as the title on Marine Insurance of the 1963 Navigation and Maritime Commerce Law.

Although Mexico is not a relevant player in the maritime industry as a whole (tonnage of approximately 1.2 million in 2005), its oil and gas offshore industry is one of the major markets worldwide for multinational marine contractors, using all types of equipment for PEMEX Exploration and Production (PEP), the most active subsidiary of the state-owned oil company.

Furthermore, Mexico is still the first destination for liner cruises, with more than 50 percent of the world's total.

The new LNCM aims to grant legal certainty to the industry in two directions:

(i) by updating and creating a number of substantive rules, such as marine insurance, maritime sales, and coastal trade regime; and (ii) by establishing a full set of new proceedings specially designed for maritime claims. The LNCM, as well as other public policy mechanisms, intend to foster both foreign and Mexican investment in the Mexican maritime industry.

The LNCM is segmented into ten titles: (i) general rules, (ii) merchant marine, (iii) navigation, (iv) ownership, (v) contracts for the use of vessels, (vi) perils of the sea and marine accidents, (vii) marine insurance, (viii) maritime sales, (ix) procedural rules, and (x) sanctions. Although there are various renovated features within the LNCM, we will only focus on those which are relevant and effectively innovative as compared to the 1994 Navigation Law.

A key element in the new LNCM is the temporary cabotage permits regime, which has a relevant financial implication in the maritime industry. According to this regime, and provided that no Mexican flagged vessels exist, extraordinarily specialized foreign vessels are entitled to operate in Mexican waters without any time limit, whereas non extraordinary units must not remain in Mexico more than two years.

The economic rational behind the cabotage regime consists, on the one hand, of PEP's need to operate with state of the art vessels and naval artifacts, at an international hire rate. On the other hand, the regime represents the strong push by Mexican shipowners to share a fair portion of the market using Mexican vessels and Mexican crews. Indeed, most of the ships are currently foreign flagged, with very limited benefit for the Mexican industry. It is expected that the Regulation to the LNCM will have an objective and clear approach as to detailing the characteristics by which an extraordinary specialized vessel should be regarded as such. It is expected that oil rigs will be considered unique equipments, thus allowing them to operate in Mexican waters without limit. The Regulations will be issued until early next year.

Marine insurance, which is another title of the LNCM, is another innovation of the new legislation as compared to the 1994 Navigation Law. The title's main effect is to update the Mexican legislation with the international marine insurance practice. Accordingly, the international policies of relevant organizations, such as those of the Institute of London Underwriters (1982 and 1992), are an important sources for the new law. In addition to hull and machinery, cargo, protection and indemnity, and other types of insurance, certain rules on minimum coverage, additional coverage, and insurable interest, are also developed in the new text.

Maritime sales are also an innovation of the LNCM. In this regard, the objective of Congress has been to update the law according to international practice. Therefore, the

main source of the title on this subject is the 2000 INCONTERMS. Some of the topics discussed are those related to customs, inspections and packing obligations.

Procedural rules are probably one of the most notable features of the new LNCM, as this is the first piece of legislation in Mexican history dealing with special rules for maritime activity. There are a number of specific proceedings, including attachment and retention of cargo, enforcement of maritime mortgages, claims resulting from collision, general average, salvage remuneration, and limitation of liability. **In** addition, there are other procedural rules regarding the treatment of foreign crew members on board foreign flagged vessels that are abandoned in Mexican waters by shipowners.

Although the rest of the LNCM is based on the current 1994 Navigation Law, there are stricter rules regarding a number of items. For instance, a shipping company is obliged to own at least a 500 ton vessel; the criteria for flagging the vessel as Mexican has become stricter regarding the acceptability of financial leases entered with foreign entities; the shipping agents are now considered co-obligors of the shipping lines that they represent in a given port; and the pilot's regime is also reinforced in order to better assist the Mexican maritime authority in their role within inner port waters.

The day-to-day PEP operation involves more than 200 vessels, most of which are foreign-flagged. With the exciting new trend of the Mexican maritime industry, the exploration and production of oil and gas in deep waters will require an increasing number of highly specialized vessels, thus creating interesting business opportunities for both Mexican and foreign investors.

b) Foreign participation

International maritime transportation and ocean towage is open to foreign shipowners and foreign vessels (provided there is reciprocity). Also, the operation and management in Mexican maritime zones and inland waters of tourist, sport and leisure vessels, as well as dredges, may be carried out by foreign shipowners or managers with foreign vessels or naval artifacts.

Additionally, the operation through inland waterways and coastal trade is reserved to Mexican shipowners with Mexican vessels. However, if there are no Mexican-flagged vessels available, foreign-flagged vessels may engage in cabotage trade in Mexico under temporary (cabotage) navigation permits granted by the Ministry of Communications and Transportation. It must be noted that nearly 500 navigation permits are granted and renewed every year.

Cabotage, or coastal trade, is defined as the navigation between two ports or spots within Mexican maritime zones. Temporary navigation permits are granted through a special bidding procedure comprised of two stages in which bidders must compete in equal technical conditions. In the first stage, only Mexican shipowners may participate and the priority ranking is as follows:

(i) Mexican shipowners with foreign vessels under a bareboat charter (under this assumption the whole crew must be Mexican);

(ii) Mexican shipowners with foreign vessels under any other charter agreement (under this assumption priority is given to the vessel having a higher number of Mexican crewmembers).

In the event that no vessels are available under the above assumptions, the second stage of the special bidding procedure begins and foreigners with foreign vessels may participate.

Temporary navigation permits are granted for three-month periods and can be renewed only seven times. Thus, the maximum period for foreign vessels to operate under these permits is two years, after which, vessels must be flagged Mexican in order to continue operating in cabotage trade. As explained above, this rule does not apply to extraordinarily specialized vessels, as temporary navigation permits for the 1atter may be renewed an unlimited number of times.

Of course, the sensitive issue is to determine the extraordinary component. At this stage, it is not expected that the maritime authorities attempt to draft a list of extraordinary

equipment whatsoever, but simply consider neutral technology, as the technology will always supersede any legal list. The new regulations for the LNCM will further create a technical commission that will determine in a case by case basis if a vessel is of extraordinary specialization.

As per the Foreign Investment Law, the maximum foreign participation in the capital stock of Mexican shipping companies engaged in cabotage trade and navigation in internal waters is 49 percent.

Mexican shipping companies engaged in international navigation or providing port services, such as towage, launching, and line handling, within a Mexican port, may exceed the 49 percent foreign participation limit upon favorable resolution of the Foreign Investment Commission.

Masters, pilots, engine room and deck hands, and all personnel onboard any Mexican-flagged vessel, must be Mexican by birth. Crewmembers carrying out instruction, training, administration or supervision tasks may be foreign. Shipping agents must be Mexican citizens or Mexican companies, and shall be duly registered in the Mexican Shipping Registry. A shipping agent company may be 100 percent foreign owned.

c) Regulatory considerations

The maritime authority in Mexico is the Ministry of Communications and Transportation (SCT) through the General Directorate of Ports and Merchant Marine and the Harbor Masters.

Mexican individuals or entities may flag Mexican vessels owned by them or in their possession under a financial lease agreement executed with a Mexican or foreign authorized financial leasing company.

The requirements to be a Mexican shipowner are the following:

(i) Be a Mexican citizen or a company formed as per Mexican law,

(ii) Have a domicile in Mexico,

(iii) Be registered in the Mexican Shipping Registry, and

(iv) Own or possess one or more vessels of at least 500 GRT.

The requirement in (iv) above is not applicable to shipowners of fishing and passenger vessels operated in internal waters, or to shipowners of minor sport or pleasure vessels rendering services to tourists.

The registered shipowner of a Mexican-flagged vessel is strictly liable for her operation and management, except in the case of vessels operating under a charterparty agreement. In the 1atter case, an annotation must be made at the Mexican Shipping Registry indicating which party to the agreement shall be responsible. In the event that no annotation is made to this effect, both parties thereto shall be jointly responsible. Either party to the charterparty agreement may make the annotation in the Mexican Shipping Registry.

"Vessels" are defined as any construction designed to navigate over or under waterways. "Naval artifacts" are subject to the same legal regime as vessels, and are defined as floating or fixed structures that can move over water, either by themselves or by another vessel, even if not purposely designed or built to navigate, or built on water for the fulfillment of their operative purpose. Immobile and mobile oil rigs are among such "artifacts."

Under Mexican law, it is not possible to detain a vessel or artifact (regardless of its nationality) located within Mexican territory unless an order has been issued by a court of law. Such detention can only occur as a result of a final decision of the court or as a result of a court order as a "precautionary measure" during the trial.

The LNCM provides for maritime liens on vessels, naval artifacts, or cargo, which grant creditors priority to collect over subsequent creditors. Liens are granted to creditors in the following order of priority:

(i) Salaries and other amounts payable to crew members in connection with their work, including any expense for their return to their country of origin and social security fees payable in their name;

(ii) Amounts due as indemnification for death or injury occurred on land or water,

arising directly from the use of the ship;
(iii) Salvage rewards;

(iv) Fees for the use of port infrastructure, navigational aids, or pilotage services;

(v) Compensation due for damages or losses caused by oil pollution or by the toxic, explosive or radioactive properties of nuclear fuel, or radioactive waste or products; and,

(vi) Compensation due to third party liability, where loss or damage is caused by the operation of the vessel, excluding loss or damage to freight onboard the ship and passengers' effects;

Liens over goods carried by sea are granted in the following cases:
(i) Fees for handling, loading, discharging and storage of cargo,
(ii) Rewards for the salvage of cargo.

Maritime liens arising out of the last voyage have priority over maritime liens arising from previous voyages. In order to benefit from maritime liens, a suit must be filed with a federal court.

Finally Mexico is a party to the following maritime conventions containing limitations of liability:
- The Hague-Visby Rules;
- International Convention on Civil Liability for Oil Pollution Damage, as amended by its 1992 Protocol;
- The 1972 Convention on Limitation of Liability for Maritime Claims.

2. Trucking

Mexico has been significantly deregulated since 1989. Prior to the last decade deregulation process, motor carrier transport was permitted only under concessions and permits that gave carriers exclusive routes and fixed tariffs. Deregulation ushered in an era of greater facility in the administrative process of granting operating authorizations via non-exclusive permits. The establishment of rates is now entirely governed by the supply and demand of the marketplace.

Trucking remains the main mode of transportation in Mexico with primarily small and medium-sized companies, which are being forced to overcome problems that are associated with costly financing and outdated operating procedures.

The era of deregulation brought greater competition, which is has resulted in modernization in all aspects of motor carrier transportation. The Federal Highways, Bridges and Motor Transportation Law of December 1993, governs the granting of operating permits and the rights and responsibilities arising therefrom.

a) The Federal Highways, Bridges and Motor Transportation Law

Motor carrier transportation regulated under the Law is defined as the carriage of merchandise for third parties on roads of federal jurisdiction.

The Ministry of Communications issues permits to operate motor carriers and haul large loads. The permits are granted for an indefinite period of time to Mexican individuals and entities. The Ministry of Communications must resolve an application for an operating permit within 45 calendar days from the date it is deemed filed and complete.

Vehicles employed to render motor carrier transportation services may be leased or owned, but in any event, must be duly inspected and licensed. The carrier must comply with weight and load rules.

Motor carrier transportation is currently among the six economic activities exclusively reserved under FIL to Mexican investors and Mexican entities containing a foreigner-exclusion clause. The reservations made by Mexico to NAFTA include the limitation that neither foreign persons or entities, nor Mexican companies in which foreign capital participates, may provide domes tic motor carrier services between two points within Mexico.

b) Participation in the Mexican market under NAFTA

NAFTA provides for a gradual opening of the Mexican border to U.S. and Canadian motor carriers transporting cargo to and from Mexico. According to NAFTA, U.S. carriers are allowed to provide cross-border truck services to and from the Mexican territory, and also provides for gradual investment in Mexican companies engaged in the transportation of international cargo between points in Mexico.

NAFTA originally called for access by Mexican and U.S. trucking beyond each country's border states by January 2000. However, U.S. carriers have not been allowed to provide and cargo cross-border services beyond the border zone (twenty kilometers south of the border), mainly due to lobbying from unions in the United States and a lack of reciprocity. Canadian carriers are allowed to provide cross-border services as set forth in NAFTA. Therefore, Canadian subsidiaries of a U.S. company would be able to benefit from NAFTA in this regard.

In February 2001, a NAFTA arbitration panel concluded that the United Sates was breaching its NAFTA transportation related obligations. Later, the Bush administration announced it would fully comply with NAFTA obligations regarding Mexican truck and bus access.

U.S. congressional concerns regarding safety compliance and monitoring of Mexican vehicles were resolved by the Transportation and Related Agencies Appropriations Act, which President Bush signed on December 2001, and went into effect in 2002. By the middle of 2002, the U.S. announced its commitment to open the border to Mexican vehicles and to implement a set of rules to ensure safety. On March 2002, the *V.S.* Department of Transportation (DOT) issued safety rules for Mexican trucks and buses operating in the United States under the provisions of the North American Free Trade Agreement. However, there Mexico alleged that the aforementioned **DOT** rules were discriminatory and violated NAFTA provisions.

Even before NAFTA was signed, Mexican trucks were allowed into the "commercial border zone" in the United States to deliver freight. Likewise, U.S. trucks have customarily been allowed to enter the Mexican border zone and deliver cargo. In order to avoid tension with unions on either side of the border, it is advisable that the truck driver be changed upon crossing.

3. Passenger transportation

With regard to trucking, NAFTA states that U.S. bus operators may provide cross-border services within Mexico and U.S. entities may participate in Mexican companies providing international transportation within Mexican territory. Moreover, both the United States and Mexico have denied permits to bus companies to provide cross border services as mandated by NAFTA. Important joint ventures between leading Mexican and U.S. bus transportation companies have taken place so that passengers on both sides of the border may enjoy efficient cross-border services.

4. Aviation

In 2005 the arrival of the country's first low-cost airlines started and other new no-frill airlines have launched during 2006. In addition, Cintra S.A (now known as Consorcio Aeromexico), a Mexican state-owned airline holding cornpany, has finally sold one of the two top local airlines, Mexicana. The other top local airline, Aerornexico, is still to be privatized by Consorcio Aeromexico. Aeromexico and regional carrier Aeroliteral (both operated by the same consortium) together have a 35 percent market share of the Mexican airline industry.

The Aviation Law, in force since May 1995, regulates air transportation services and simplifies administrative procedures.

The SCT is the authority in charge of issuing concessions to Mexican companies to provide regular domes tic air transportation. Concessions are granted for a period of 30 years and may be renewed. Air transportation service is considered to be regular when it is subject to schedules, itineraries, and flight frequencies.

Other air transportation services are only permitted subject to permits issued by the SCT in accordance with international treaties. Such permits may be issued for the following purposes: to Mexican companies for domestic irregular air transportation; to foreign companies for regular international air transportation; to Mexican or foreign companies for international irregular air transportation; and to individuals and cornpanies, Mexican or foreign, for private commercial air transportation.

FIL limits foreign investment in companies rendering domestic air transportation services to 25 percent. All aircrafts shall comply with the regulations in force regarding insurance policies, airworthiness certificates, and navigation licenses.

Upon prior approval from the SCT, foreign aircrafts rendering private, not commercial, air transportation services, may fly over Mexican territory, and land in and take off from Mexico.

Additionally, the owners or crew of foreign aircrafts rendering private, not commercial, air transportation services, upon request from the SCT, must demonstrate that the crew and the aircraft comply with technical requirements on airworthiness and that licenses are issued by the country of registration.

C. Infrastructure

1. Railroads

a) Regulatory considerations

On March 1995, article 28 of the Mexican Constitution was amended to change railroad services from a strategic activity reserved to the State to a priority area, paving the way for increased private participation in the railroad sector.

Prior to the modifications mentioned above, article 5 of FIL provided that the railroad sector was reserved to the State, but after two amendments to the FIL, article 8 provides that up to 49 percent foreign investment would be permitted in service areas related to the railroad sector, such as construction and operation of railroads, and transportation railroad public services.

With the amendments to the FIL on December 1996, and the Regulations of the Railroad Service on September 1996, the FIL and the specific Regulations became consistent with existing laws that govern this privatized area.

b) Concessions

The Law provides that foreign investment may participate in up to 49 percent of the capital of Mexican companies engaged in such activities, with the possibility of 100 percent foreign participation subject to approval from the Foreign Investment Commission. The SCT may grant concessions for the following activities:

(i) Construction, management, and operation of railways that are considered common thoroughfares (those which connect states); and,

(ii) The provision of public rail service, which encompasses both passenger and freight traffic.

The concessions are granted for a maximum of 50 years, and may be renewed several times. However the total time period may not exceed an additional 50 years. Those

companies receiving concessions will have the right to subcontract with third parties for the construction, maintenance, and conservation of railways covered under such concession. However, in the eyes of the Mexican government, the company receiving the concession will be held solely liable for any breach of obligations contained in the concession.

In addition, concession holders will have the right, upon approval of the SCT, to encumber the rights derived from the concession; but without exception, the concession holder will not be able to encumber railways, rights of way, communication centers, or switching equipment. Concession holders will also have the right to assign part or all of the rights granted under the concession provided that the assignee agrees to carry out the pending obligations and assume the conditions imposed by the SCT.

Moreover, upon termination of the concession, the related common thoroughfare, and all property transferred thereunder, will once again become part of the federal public domain. During the term of the concession, holders will be allowed to replace assets if they should be replaced by virtue of the use or nature of the asset.

c) Permits

The SCT may grant permits to provide auxiliary services. The law defines auxiliary services as passenger or freight terminals, the transshipment or transfer of liquids, repair shops for railroad equipment, and the supply centers for the operation of the equipment. The law also provides that permits must be granted to construct access ways, crossing or signal gates in the right of way of the respective railway, as well as to place any type of promotional billboard or advertisement along the right of way. In addition, the concessionaire must also request and receive a permit to construct and operate bridges. Foreign investment is allowed to participate in up to 100 percent of the capital stock of a Mexican company rendering services subject to the aforementioned permits.

2. Airports

The Mexico City International Airport has started a series of improvements and constructions in the last years (including the construction of a new runway and a second terminal to be connected to the first terminal through a state-of-the-art Automated People Mover system) in order to maximize its capacity. However, the congestion and saturation of the airport will not be totally solved by those measures due to the expected increase in the demand of air transportation services in the center of the country. Therefore, the SCT has launched a project for the creation of a multi-airport system, which includes the development of several airports in the region, such as those in the cities of Toluca, Puebla and Queretaro, as well as the development of passenger and cargo regional hubs at other major cities such as Guadalajara, Monterrey, and Cancun.

The Airport Law was published on December 1995, and contains the terms and conditions by which the Ministry of Communications grants permits and concessions related to administration, operation, exploitation, and construction of air terminals.

Air terminals are classified by the law for either public or private service. Public service terminals are subdivided in airports to provide for: (i) general and supplementary services to the public, and (ii) general service terminals which provide more comprehensive services other than airports, such as aircraft maintenance, passenger facilities, irregular cargo, and aerial mail transportation (such as private package services), as well as private commercial and noncommercial transportation.

A concession for the administration, operation, exploitation, and construction of airports, can be obtained by a Mexican company through a public call for bids. Concessions will be granted for a maximum period of 50 years, and may be renewed several times, but the total time may not exceed an additional 50 years.

The Airport Law also provides that a concession may be granted to a private party without carrying out a public bid if: A permit holder of a general service air terminal, in

operation for the last 5 years or more, intends to provide public airport services, and if the proposed change from general to public service complies with programs and policies for the development of national airports.

An airport concessionaire may require a supplementary airport in order to satisfy increased demand. Increased demand and the need to acquire the supplementary airport must be proven. Operating both airports must be more cost-efficient than other options.

Permits for the administration, operation, exploitation, and construction of air terminals to provide general services can be requested by a Mexican company through direct application to the SCT. Permits may be granted for a 30-year term, which may be renewable.

The Foreign Investment Commission may authorize foreign investment in the capital stock of Mexican companies in activities related to the administration of air terminals. If an individual or company is a stockholder or partner of a company that holds a permit or concession related to air terminals and has more than 35 percent ownership, the SCT must be notified of the holding.

3. Ports

a) Regulatory considerations

The Law of Ports was enacted on July 1993, and regulates ports, terminals, marinas, and port facilities, including their construction, use, beneficial utilization, exploitation, operation, and manner of administration. The Law also regulates the provision of auxiliary port services.

The SCT is empowered under the law to grant concessions or permits for the exploitation, use and beneficial utilization of property within the federal public domain. The federal public domain is defined as the lands and water which are part of the harbor enclosure and the works and facilities acquired or constructed by the Federal government when located within harbor enclosures. Concessions are granted for integral port administration and the construction, operation, and exploitation of terminals, marinas, and port facilities. Permits are granted for the rendering of port services which are defined as those services rendered at ports, terminals, marinas, and port facilities to serve vessels, as well as those rendered in the transfer of people and goods between ships, to land, or to other means of transportation. In addition, a permit is required to build piers, wharves, launching docks, and other similar facilities on the general waterways outside of ports, terminals, and marinas.

Under the Law of Ports, concessions for integral port administration may be granted to Mexican companies when the planning, programming, development, and other actions relating to the property and services of a port are entrusted wholly to a corporation, for the use, beneficial utilization, and exploitation of the respective property and services. Equity initially will be underwritten by the government and through an international public bidding process, and its divestiture will follow.

b) Foreign investment

The Law of Ports also provides that concessions and permits shall only be granted to Mexican nationals and Mexican corporations, and that foreign investment in port activities shall be governed by FIL. It provides that up to 49 percent foreign investment is permitted in integral port administration and piloting services related to internal navigation. It also declares that upon favorable resolution of the Foreign Investment Commission, foreign participation may exceed 49 percent in companies providing port services such as towage, launching, and line handling. Foreign participation may obtain more than 49 percent ownership in Mexican companies that carry out the activities covered by the concessions and permits mentioned above, unless limited by FIL as mentioned hereinabove. Integral port administration requires a concession, while all other services and activities, including

piloting, only require a permit. As a result of the Law of Ports, Mexico has today a modern and efficient port system, that still needs further investment.

Nowadays Mexican ports have position themselves as an alternative to the saturated US ports in the Pacific coast. Investment in Mexican port infrastructure has increased drastically in the last decade regarding all types of terminals, including LNG and container major facilities. Moreover, Punta Colonet in Baja California is expected to be one of the largest ports worldwide, serving both, Mexico and the USA west coast.

Upon request, the SCT may grant authorization for the assignment in full of all the obligations and rights resulting from the concessions, provided the concession has been in effect for a term not less than 5 years, the assignor has complied with all his obligations, and the assignee meets the same requirements existing at the time the concession was granted.

Concession holders shall have the right to create liens and encumbrances on the rights conferred under the concession and property related thereto, including buildings thereon and appurtenant facilities, as long as the liens and encumbrances are not executed with foreign governments or states. Buildings and port facilities built on public property by concession holders shall be considered to be the property of the concessionaire during the effective term of the concession. Upon the termination of the latter concession, or of any extension thereof, only those works and facilities permanently affixed to public property shall become property of the Nation. The process will occur at no cost and the property will be free and clear of any lien. Finally, it is expected that the Law of Ports will be modified in order to foster investment of the terminal operators already established in Mexican ports.

4. Tourism

Tourism has long been an important aspect of the Mexican economy. According to Bancomext, the Mexican bank for the promotion of foreign in vestment, tourism currently ranks as the country's fourth largest foreign currency generating activity, after oil, remittances of Mexicans living abroad, and manufactured goods. Mexico offers vacationers a wide range of attractions, including beautiful beaches; fascinating archeological sites; quaint colonial cities; fishing, diving, and other water sports; beautiful jungle, mountain and desert landscapes; diverse wildlife; rich cultural heritage; and many opportunities for nature and ecotourism. It is no wonder that by the end of 2005, Mexico had become the world's eighth most popular tourist destination, and easily the first in Latin America. For instance, in 2005, the Ministry of Tourism registered 21,915,000 visitors that spent 9 billion dollars in the country.

The Mexican government is vigorously promoting tourism development, and the Ministry of Tourism registers that the tourism sector is employing 1,867,000 persons as of April 2006. Beach areas are the most popular destination for foreign investment projects, particularly on the Yucatán Península in what is called the Mayan Riviera along the Caribbean coast. Other areas of the country, however, are also attracting substantial foreign investments in tourism development, such as the Cortes Sea Project along the Californian Golf, or the Copper Canyon Project being developed in the mountainous area from the State of Chihuahua. These projects are benefiting from the financial and organizational support of the National Institute for the Promotion of Tourism (FONATUR).

a) Tourism Law

The federal Tourism Law was enacted on January 1993, and last amended on June 2000, to promote and facilitate investment in the tourism sector. The purpose of the law is to define a legal framework for providers of tourism services, which will create employment, encourage an increasing inflow of foreign currency, improve the quality of tourism services, and introduce modern technologies in management, communication, and commercialization of services.

The Law provides for the coordination of activities of the federal government, state governments and municipalities to avoid duplication of procedures. The Law focuses mainly

on guaranteeing the physical security of tourists, respecting terms of reservations and of contracts executed between the provider of tourism services and the client.

Prices and tariffs are no longer fixed by the state. Rating of tourism services will no longer be carried out by the Ministry of Tourism, but by public and private consultation committees. Promotion of low-budget tourism accessible to persons with low incomes is also envisaged through the construction of vacation resorts.

Foreign investment may participate without limits or restrictions in the following tourism services: hotels, motels, parks for camping and recreational vehicles, travel agencies, tour operators, tour guides, restaurants, cafeterias, bars, tourism exchange service companies, scuba organizers, car rental, ports, and marinas.

b) Casino gaming

The applicable law on casino gaming in Mexico is the Federal Law on Games of Luck and Betting, which entered into force on December 1947. Although this law forbids casino gaming in Mexico, the issue of permitting gambling is periodically discussed. There are estimates that just one casino permitted to operate in Mexico could generate more than 35 million dollars annually in salaries, which makes the idea very attractive.

Opponents to casino gaming suggest that the corruption and lack of enforcement in many other areas of government regulation indicate that any attempt to regulate casinos would ultimately fail.

A governmental regulation implementing the Federal Law on Games of Luck and Betting entered into force in September 2004, separating games of luck and betting that are forbidden, and permitting games of ability and handedness. Under this regulation, the government has issued a number of permits allowing the establishment of game rooms in the country.

With or without gaming, however, large entertainment complexes combining hotels, movie theaters, restaurants, and other attractions, are becoming popular in Mexico. Development of this type of aggregate entertainment center is expected to continue vigorously.

c) Time-share

Time-share projects are another are a open for foreign investment. A compulsory technical standard enacted on January 1999, which has been revised by the Federal Consumer Agency (PROFECO), contains rules for suppliers and users of time-share facilities. Persons dedicated to the commercialization of time-share projects, and/or the rendering of this type of service, must notify the Ministry of Tourism before initiating the sale of time-shares.

The service provider must be domiciled in Mexico or must have a representative, subsidiary, or branch office. The contracts for the sale of time-shares must be recorded at the Consumer Protection Agency. Hotel service providers must have civil liability insurance for the protection of tourists and guests. The insured amount depends upon the number of rooms in the hotel. Likewise, intermediary providers who try to make regular affiliation or membership collections should prove that they have sufficient guarantees to secure their obligations.

It is possible to commercialize foreign time-share projects as long as there is compliance with the legal requirements. In recent years, the time-share sector in Mexico experienced a steady growth, culminating with 1.36 million owners of time-share facilities registered in 2005 by the Mexican Association of Tourism Development. Likewise, this sector is directly generating 350,000 direct employment positions and permitting the entry of 2.1 million dollars of foreign currency in the Mexican territory in 2005.

5. Construction

As in other countries, the construction industry in Mexico is particularly vulnerable to economic cycles. Although construction is one of the areas of the economy most affected by recessions, it expands more than most industries during cycles of general economic growth. **In** Mexico, much of the construction industry is dependent upon government expenditures. The Fox administration has been most active on the sector and it is expected that new President Calderón will continue this trend.

The National Construction Industry Survey for April 2006 evidenced that construction activity increased compared to the previous year. For example, a 5 percent increase occurred in the construction industry's personnel sector in April 2006, compared to the same period in 2005. General construction, including housing, schools, industry and office buildings, hospitals, and entertainment centers, comprises the primary sector of construction with about 50 percent of the total constructions. The sector of transportation arrives second with 16.7 percent of the total construction, while constructions in the field of petroleum and petrochemicals represent 13.4 percent of the total industry. Infrastructure construction for water supplies and irrigation has slightly decreased since 2005.

According to the aforementioned survey, the states that attracted the majority of the construction projects during the considered period are the Federal District and the state of Nueva León.

a) Private construction

Private construction represented 55.8 percent of the total of the construction in April 2006. In the housing sector, the federal government stated that almost 46 billion dollars have been invested between 1999 and 2005 in the construction of new houses, which represents an increase of 43 percent compared to the 6 previous years. Moreover, 80 percent of that amount originated from the private sector.

The Ministry for Social Development stated that in 2006, Mexico will experience a shortage of 1.13 million constructions in the field of housing, including 735,000 new houses and approximately 400,000 renovations of existing houses. It is expected that until 2010, the demand of housing constructions will amount to an average of 1.2 million constructions per year. Private construction industry is therefore expected to develop its activity in the coming years.

In order to facilitate the acquisition of real estate or the renovation of houses, the Ministry for Social Development has created different credits such as CONAVI, FOVISSTE or FONHAPO, among others. Such credits permit to customers to purchase residential real estate on more favorable terms, and should encourage the development of the private construction industry.

b) Social interest housing

Mexico's government has looked for the consolidation of urban development in cities that, from a national perspective, present alternative investment and residential options for the population. This has been be accomplished by promoting decentralization and the development of medium-size cities, with the goal of a more balanced demographic distribution. The focus of the federal government has been on promoting and coordinating the efforts of private, public, and social sectors, for the construction of houses for urban and rural families. Administrative procedures have been simplified to better meet housing demands. Innovative building methods and materials have been promoted and used in order to provide better results in terms of quality and price.

Government-backed credits are available for the purchase of low-income housing, which construction has boomed in the last years. Both Mexican and foreign construction firms may apply to government agencies for approval of their housing construction projects for the credit. The credit does not finance the construction, but rather covers the resale of individual low-income residential units to the public, helping the developers sell the

completed project more quickly.

c) Public works in general

The Mexican government is focusing on promoting extensive participation of foreign and domestic private investment in infrastructure because of the limited resources of the public sector. The National Development Plan of 2001 to 2006 foresaw the participation of the private sector as a fundamental actor for the development of the different regions of the country. It is expected that the Calderón administration will continue this view.

The SCT is promoting new public-private partnerships for the construction of road infrastructure. These partnerships are framed to enable the participation of private investors in order to collect sufficient funds to the build roads and highways the country needs. The partnerships consist principally of the concession of highways or roads to the private sector in order to collect funds to build or modernize other roads.

To increase the country's industrial development over the coming years, emphasis on investment in the public works projects is essential. Improvement of the country' s infrastructure is necessary to strengthen development of the most underdeveloped areas. Concerning road infrastructure, the SCT has stated that 3.5 billion dollars of public funds have been invested in 2005 to modernize and build new roads throughout the country.

As explained in the relevant section, the Mexican constitution requires that public works projects be awarded through a public bid process. The law regulating the bid process is the Law of Acquisitions and Public Works. The process begins with a call for bids, which is published in the Official Federal Gazette. In addition, the calls for bids for different projects can be obtained on the internet through the Compranet system at http://www.compranet.gob.mx

An invitation to bid must contain (i) the name of the procuring entity ; (ii) the address, date, and schedules for obtaining tender documentation and its cost and terms of payment; (iii) the address, date, and time for reception and opening of tenders; (iv) a description of the public works project or products or services; (v) the starting and completion dates for the delivery of goods or services; (vi) a statement as to whether the tender is national or international, or under terms of a treaty, etc.; and (vii) the language or languages in which the bids may be submitted.

The procedure for open tendering may be national or international. It is national when only Mexicans or Mexican companies, including 100 percent foreign-owned Mexican companies, may participate. International tenders permit foreign or Mexican participation, and occur under one of the following circumstances: (i) when mandated by a free trade agreement, (ii) when financing is provided by international financial organizations, (iii) when national bids cannot fulfill the technical requirements, or (iv) when necessary because of price considerations.

Bids are submitted in two sealed envelopes which are delivered simultaneously. One envelope must contain the technical specifications of the bid, while the other contains the price bid. The opening of bids occurs in two stages. First, the technical portions of the bids are opened, and the bids that do not conform to all technical conditions set in the invitation for bids are rejected. The bids that pass the technical stage are then reviewed in a second stage for price.

A system of preferences exists in awarding contracts if two bids are similar. Under equal circumstances, in the case of public works bidding, if two bids are technically similar, the lower price will win. When Public Services are concerned, the best price or the best evaluated bid will win. Free trade agreements to which Mexico is a party call for national treatment of bidders from member countries. If two similar bids come from a Mexican company and a foreign company from a treaty partner country, and if the project or service is not covered or is specifically excluded under the terms of the treaty, preference will go to the Mexican company. If similar bids come from two foreign companies, one of which is from a country with which Mexico has a trade treaty and the other from a country with no trade treaty with Mexico, the foreign company from the treaty partner country will get preference in bid awards.

Plans are in the works to develop a completely electronic bidding process for public works and all government procurement. **In** this electronic process, bids can be submitted and contracts can be awarded electronically by computer.

d) Industrial facilities

There are investment opportunities in both building industrial development parks and in locating plants within them. As of 2006, there are approximately 340 industrial parks in Mexico. Figures from the federative entities of Mexico indicate that the majority are located in the states bordering the United States, such as Chihuahua and Sonora. However, the leading state is Baja California, which welcomed 86 industrial plants concentrated in Tijuana and Mexicali. The Federal District and the State of Mexico have also attracted numerous industrial parks and zones.

Industrial parks usually have optimal conditions of location, infrastructure, and services, and therefore, are considered the best option for establishing an industrial plant. Industrial parks are usually oriented toward small and medium-size industry, and offer favorable atmospheres for industrial activity.

Selecting a location for a manufacturing industry with export capabilities is a major decision requiring an analysis of many factors, including human resources, physical infrastructure, access to markets, living standards, economic conditions, technological development, suppliers and services, market conditions, and government incentives to invest.

D. Natural resources

1. Mining

The Mexican Mining Law regulates article 27 of the Mexican Constitution in the mining sector, and establishes the requirements that must be complied with in order to obtain a concession for exploration and/or exploitation of minerals and substances listed in the law.

The law establishes that concessions to perform the aforementioned activities may be granted by the Ministry of Economy to Mexican individuals, Mexican companies, and agrarian communities. Although exploitation of natural resources has traditionally been a cornerstone of statist and nationalistic policy, foreign investment may now participate up to 100 percent in the capital stock of mining companies.

The concessions for exploration and/or exploitation are given on "free land" to the first applicant if the conditions and requirements of the Mining Law are fulfilled. The applicants offering the technical or economic conditions for the public interest shall have preference over other applicants.

The law defines "free land" as all Mexican territory, except for: (i) islands, keys, reefs and seabeds; (ii) national mining reserves; (iii) lands covered by a prior concession; (iv) lands covered by a concession in process; (v) concessions granted through a public bid that are later canceled; (vi) concessions substituting for other concessions previously granted in a public bid that are later canceled; and (vii) land in which no concession for exploration was granted because bidders did not comply with the public bid requirements.

The mining concessions grant the holder of the concession rights to explore and exploit all minerals and substances covered by the concession, and grant the right to sell the minerals.

In 2006, a reform to the Mining Law was introduced to allow the holders of mining concessions for the exploitation of natural carbon to make use of the methane gas emanating in the course of the exploration. After obtaining the authorization of the Ministry of Energy, the holder of the concession may exploit the gas for its own purposes or furnish it to PEMEX.

Exploration concessions are granted for a period of six years and are non-renewable.

They can, however, be replaced by a new concession. Exploitation concessions are granted for a period of 50 years, which shall be renewable. The term of each concession commences upon registration of the concession in the Public Registry of Mines. Among the most important obligations that the holder of this type of concession must comply with are the following:

a) To execute the works of exploration and/or exploitation;

b) To pay the fees imposed by the Mining Law;

c) To advise if radio active minerals are discovered;

d) To provide the statistical, technical, and financial information of the company to the Ministry of Energy; and

e) To permit inspection visits by the Ministry of Energy to the mining site. Mining activities performed on lands assigned to PEMEX require prior authorization of the Ministry of Economy and a favorable resolution by the Ministry of Energy, which shall establish the technical conditions to be followed.

Mining concessions can be totally or partially pledged or transferred to third parties. The pledges and transfers have to be registered at the Public Mining Registry to have legal effects against third parties.

As suggested above, the Mining Law has recently been amended in order to allow mining companies, under certain conditions, to profit from the natural gas (fire-damp) associated to the exploitation of mineral coal mines either by self-consumption or by carrying it and delivering it to PEMEX.

2. Fisheries

The Fishing Law entered into force in June 1992, and was complemented by a regulation on fishing as of September 1999. The aforesaid legal framework was implemented to contribute to the construction, improvement, and equipment of ships and tools for fishing; to build infrastructure to promote the use, transformation, distribution and commercialization of aquatic natural resources; to promote the development of fisheries; as well as research and study. Foreigners may request permits to conduct scientific expeditions and explorations.

A permit is needed to fish for commercial, research, or sporting purposes, including fishing activities necessary to support application for a commercial fishing concession, and for foreign vessels fishing in waters within the exclusive economic zone. A concession, permit or authorization is required to capture, extract, or cultivate aquatic natural resources, except for sport fishing and cases where fishing carried out by the residents of the Mexican coast for their own consumption.

Concessions or permits may be granted to interested persons, Mexican individuals, or companies. As per FIL, foreign investment may participate in up to 49 percent of Mexican companies engaged in fishing activities. Concessions or permits to operate manufacturing-ships and floating plants may be granted to Mexican individuals or companies.

Aquaculture, another major area for development, consists of cultivation of water species by using methods and techniques for their controlled development in all types of biologic and water environments and in any type of installation. The Federal government, through the Aquaculture Centers (Centros Acuícolas), is promoting the development of this activity by rendering advice on the construction of necessary infrastructure and for the acquisition and operation of plants for industrial conservation and transformation. Unless these activities occur in federal waters, there is no need for a permit or concession. An authorization is needed only to collect seeds and other natural products from the environment to be used in this activity. Foreigners may invest in Mexican companies engaged in aquaculture up to 100 percent.

3. Agricu1ture and agribusiness

The Amendments to article 27 of the Mexican Constitution and the enactment of the Agrarian Law of 1992, as amended in July 1993, constitute the actual legal framework for the ownership of agricultural land in Mexico. The new rules repeal legislation regulating private investment in agricultural, livestock, and forestry activities.

One of the causes of the Mexican Revolution of 1910 was the unequal distribution of land among peasants. Consequently, the Constitution of 1917 empowered the executive branch to distribute land to any newly formed "commune." This distribution could be executed by the executive branch ordering the expropriation of land from private owners whose land exceeded the constitutionally defined "individual landholding," and through land grants, constituting *"ejido* communes."

An extension of *ejido* land may be worked collectively by a group of *ejidatarios,* or each peasant may work his designated parcel.

To protect lands of the *ejido* and to ensure that large landholdings were not formed, the existing legal framework did not permit the sale, leas e, or mortgage of tracts of *ejido* land; the peasants or ejidatarios could not execute contracts with other *ejidatarios,* private farmers, or companies; and *ejido* land could not be used as collateral for loans. **In** addition, stock companies could not own or manage agricultural land for these purposes.

These restrictions resulted in factors which restrained the *ejidatarios* from progressing efficiently. Furthermore, they did not guarantee certainty for producers to invest and for financial institutions to provide credit, resulting in limited opportunities, low levels of investment and productivity, and the utilization of old technology.

The 1992 amendments to article 27 of the Constitution provide the framework for security in land ownership for the *ejido* and private landowners which encourages investment and productivity. The Agrarian Law also eliminates the previous governmental excessive intervention in the process of the farmers' decision-making, and recognizes the peasants' liberty to produce and organize themselves in the manner they consider most advantageous. This enables the peasants to buy, sell, or rent land, to hire labor, or to associate with other producers and with third parties. Furthermore, the new framework provides that peasants may enter into any type of association or contract including joint-venture schemes, with domestic or foreign private investors, through renewable contracts of a maximum duration of 30 years.

Moreover, upon a resolution of an *ejido* meeting, the *ejido* may give the use of their land as guaranty to Credit Institutions or third parties with commercial or association relationships. The guaranty must be executed before a Public Notary and registered at the National Agrarian Registry. However, after an *ejido* privatization procedure, the individuals may sell their land.

Any Mexican company may own land for agrarian, livestock, or forestry purposes, with a maximum extension of land equivalent to 25 times the individual landholdings limit.

Companies investing in land for agrarian, livestock, or forestry purposes, must issue a special series of shares or partnership interests, identified with the letter "T," which represents the capital invested in the acquisition of land or the value of the land contributed. Foreign individuals or companies may not acquire more than 49 percent of series "T" shares or partnership interests. In addition to series "T" shares, or partnership interests, companies may issue an unlimited number of common shares or partnership interests through capital contributions which may include 100 percent foreign participation.

The agrarian sector with the reformed legal structure represents an opportunity for foreign investors to enter into joint-ventures with farmers, either private or communal *(ejido),* and with domestic companies. With growing export opportunities, projects to raise animals or produce cereals, fruits, vegetables, and other agricultural products, have been successful.

A project to reform the Agrarian Law has been presented to Congress, but is yet to be adopted due to many controversies in the rural sector. The project aims to facilitate the selling of *ejido* lands, and to promote the privatization of these lands.

The modernization of the agricultural sector is under way and Mexico is looking towards

the creation and solidification of the conditions necessary for an efficient allocation of resources and increased investments.

4. Forestry

On December 1992, a new Forestry Law was enacted to regulate the conservation, protection, restoration, use, management, harvest, and production of forest resources. On February 2003, the Law on Sustainable Forestry Development carne into force, replacing the Forestry Law of 1992.

An authorization is required from the Ministry of Environmental and National Resources to carry out lumbering activities in forest areas or areas suitable for forestation. The application must contain a program describing the management of the lumber resources, such as the general purposes, the duration of the program, the location of the land in which the activity will take place, and reforestation commitments. If the forest are a is smaller than or equal to 20 hectares, the program shall be simplified. However, it must be more detailed if the area is between 20 and 250 hectares, or of more than 250 hectares.

To be granted the authorization, an environmental impact assessment shall be presented by the entities who wish to carry out lumbering activities of more than 20 hectares in tropical forests, areas with species that are hard to regenerate, and in protected natural areas. A simple notification to the Ministry of Environmental and National Resources is sufficient for non-lumbering activities. Such activities must comply with technical standards, however, if the activities are for commercial purposes.

Commercial production involving a surface area smaller than or equal to 800 hectares requires a simple notification to the authorities containing a commitment to comply with the environmental requirements established in the environmental legislation, the location in which the activity will take place, and other minor details. For production within a surface area of more than 800 hectares, the application must contain, among other requirements, the potential physical and biological impact on the forest ecosystem, socioeconomic description of the area in which the activity will take place, and other environmental information.

Exploitation of forest areas for commercial purposes is not allowed when the original vegetation is substituted unless studies show that biodiversity is not at risk, the original vegetation only has a small commercial value, or the new biodiversity improves the environmental conditions of the area.

Companies investing in land for forestry purposes must issue a special series of shares or partnership interests, identified with letter "T," which represent the capital invested in the acquisition of land or the value of the land contributed. Foreign individuals or companies may not acquire more than 49 percent of series "T" shares or partnership interests.

E. Telecommunications

The first Federal Communications Law entered into force on June 8, 1995, and was last amended on April 2006. The purpose of the law is to promote efficient development of telecommunications and to foster healthy competition to provide better prices and diversity in quality of service for users without conceding the regulatory role of the state and its dominion over the electromagnetic spectrum.

The Federal Telecommunications Commission (COFETEL) was created in August, 1996, and is entrusted with tasks such as the promotion of competition, management of spectrum, as well as supervision of proper interconnection. The SCT requires a favorable opinion from COFETEL in order to grant concessions. Concessions are required with respect to the following:

1. To use, develop, or exploit radio frequencies in Mexican territory;
2. To install, operate, or exploit public telecommunication networks;
3. To occupy geostationary orbital positions and satellite slots assigned to Mexico, and to

exploit the respective radio frequencies; and

4. To exploit the right to send or receive signals through radio frequencies associated with foreign satellite systems that cover and have capacity to render services in Mexico.

Points 1, 3 and 4 hereinafter are collectively referred to as "concessions of use of radio frequencies".

The grant of concessions occur through a public call for bids in all cases except that of the public telecommunication network, which can be requested through direct application to the SCT.

The concessions of radio frequencies are granted for a specific use and modality covering a limited geographic area. Interested parties may solicit a particular use and geographic are a in addition to those offered from time to time by SCT.

There is a five-year period from the date a concession is granted to place a satellite in orbit. The satellite control center must be located in Mexico. Furthermore, the law specifies a preference that the center be operated by Mexican nationals.

The concessions for commercial use of radio frequencies have a 20-year term, renewable for an indefinite number of additional terms. Concessions for public telecommunication networks are granted for a 30-year renewable term. Successful bidders are required to pay for concessions for the use of radio frequencies.

Concessions and permits may be assigned to third parties with prior approval from the SCT. A period of 3 years must transpire from the granting of the concession or permit before such an assignment can be requested.

The concessions referred to above shall be granted to Mexican individuals or corporations. Foreign investment is permitted in up to 49 percent of the capital stock of such corporations, except for cellular telephone services where foreign participation of more than 49 percent of the capital stock is permitted upon prior authorization from the Foreign Investment Commission. A permit is required as follows:

1. To operate as a "reseller" of telecommunication services, without being a public telecommunication network; and

2. To install, operate, or exploit land transmission stations.

A "reseller" of telecommunication services is defined as an entity providing telecommunication services to third parties through the use of the capacity of a concessionaire of a public network without itself owning or possessing transmission infrastructure. A concessionaire of a public telecommunication network cannot directly or indirectly own an entity authorized as a reseller without prior authorization from SCT.

The parameters to establish and operate as a reseller will be described in the regulations. A permit is not required for installation, operation, or exploitation of downlink satellite earth stations, or for rendering value-added services. In these cases, only registration with the SCT is required.

Private networks for intra-company communications do not require any authorization except when using a frequency band that is not considered as free use or official spectrum.

Telecommunication tariffs can be fixed freely by the corporations holding concessions or permits with the only requirement being registration of the tariff with the SCT.

The concessionaires of telecommunication public networks must adopt adequate network designs to allow interconnection by third parties to permit the development of new telecommunication services on a non-discriminatory basis.

Concessions do not grant holders exclusive access to rights of way such as electric and telecommunication power, cable ducts, and other public networks. Further, interconnection agreements with other countries can only be established through prior authorization from the SCT.

As per the Resolution for Long Distance Interconnection of Networks published on July 1994, concessions for public networks of basic long distance telephone services were granted beginning August 1996. Operations for interconnection to the TELMEX public network to render national or international long distance telephone services were granted beginning January 1997.

Rules have been issued pertaining to public telephony, local service, and satellite communications. Since 1996, Mexico started to auction several spectrum frequencies, including paging services, trunking, pcs, wireless, local loop, and one-way restricted pay TV

or mmbs. Mexico has also signed two important satellite agreements with the *V.S.* to provide fixed and mobile satellite services.

Chapter XIII of NAFTA refers to telecommunications and ensures that Parties have access to, and use of, any public telecommunication transportation network or service (including private leased circuits) offered in its territory or across its borders, for the conduct of their business on reasonable and non-discriminatory terms and conditions.

Each NAFTA Party shall ensure that any licensing, permit, registration or notification procedure that it adopts or maintains relating to the provision of enhanced or value-added services is transparent and non-discriminatory, and that applications filed thereunder are processed expeditiously. Also, any measure taken related to standards for the attachment of terminal or other equipment to the public telecommunications transportation networks may only be established to the extent necessary to prevent technical damage to the networks or interference.

When a monopoly exists in a NAFTA Party, such Party shall ensure that the monopoly does not use its position to engage in anticompetitive conduct in the market.

Finally, a recent regulatory development that most likely will attract investment is the Convergence Agreement on restricted domes tic telephone and/or audiovisual services to be provided by wire and wireless public networks. The agreement carne into effect on October 2006, based on neutral technology, due to the need of interoperability and interconectivity of networks among the service providers. The Agreement aims not only to authorize providers of local telephone services to offer radio and television services, but also to foster the market viceversa.

F. Automotive industry

1. General considerations

As a countermeasure to the former restrictions to foreign investment in the auto motive industry, the Mexican government passed the Decree for the Development and Modernization of the Automotive Industry, and the Rules of Application of the Automotive Industry. This Decree took effect on June 1990, and classified the automotive industry into final assembly plants and auto parts manufacturers. Amendments were passed in 1995 and 1998 to reflect the provisions of the Foreign Investment Law and Mexico's commitments under NAFTA. Since January 1999, 100 percent foreign investment has been permitted in the Mexican automotive industry.

In line with those commitments, and the ones acquired by Mexico under the Free Trade Agreement with the European Union, the Automotive Decree is no longer effective as of December 2003

Consequently, from January 2004, there are no requirements of national value-added content or a positive balance on foreign exchange accounts, which allowed the final assembly plants to import and sell new vehicles into Mexico.

However, on January 2004, the Decree for the Promotion of the Competition of the Finished Automotive Industry and the Development of the Domestic Automotive Market entered into force. The decree provides for a registry of industries manufacturing new light vehicles. Upon registration, those industries are granted customs benefits, such as the possibility to import a number of vehicles duty free, and will be classified as manufacturing industries under the Mexican Customs Law.

As of NAFTA's 12 year anniversary, Mexico's automotive industry ranks as one of the world' s largest and strongest, thus proving the adequacy of the provisions adopted by the Mexican Government.

2. Framework for automotive foreign trade

From January 2004, new vehicles (automobiles and buses), from any country in the

world, may be imported into Mexico. For those countries that have a free trade agreement with Mexico, there will be preferential tariffs or imports will be free of duties.

Vehicles from countries with which Mexico has no free trade agreement shall pay customs duties at 50 percent *ad valorem.* In addition, Value Added Tax and New Vehicles' Tax shall be paid on importation.

Notwithstanding the aforementioned requirements, some countries that do not have a free trade agreement with Mexico or a manufacturing plant are subject to unilateral quotas as established by the Mexican government. Under such quotas, unilaterally determined by Mexico, a certain number of vehicles manufactured in such countries, may be imported under a preferential tariff rate.

3. Relevant NAFTA provisions

In accordance with its commitments under NAFTA, from January 2004, Mexico has eliminated all restrictions on the national content and currency balance. **In** addition, a prior import permit is no longer required.

Furthermore, since 2004, new vehicles (automobiles and buses) of a 100 percent NAFTA origin, or classified as a NAFTA product, may be imported into Mexico free of customs duties under the relative rules of origin.

Through Mexican official standards, (known as *"NOM's"* for their acronym in Spanish), Mexico determines the requirements that a vehicle must comply with in order for the vehicle to be classified as new. All such new vehicles will be subject to Value Added Tax and New Vehicles' Tax on importation.

NAFTA provides that Mexico may adopt or maintain measures limiting the importation of used vehicles. Mexico is committed to allowing the import of vehicles that are at least 10 years old on January 2009. For each 2 year period thereafter, Mexico will increasingly open its used car market by providing for the increased import of vehicles via lowering of the minimum age requirement for importation (i.e., on January 1, 2011, Mexico must allow the import of vehicles that are at least 8 years old, on January 1, 2013, six years old, etc.) Thus, Mexico is not committed to allowing the unrestricted importation of used vehicles until the year 2019.

4. Mexico-European Union Free Trade Agreement

Under MEUFTA, the importation of new vehicles from the European Union is restricted by import quota limitations. Such quota limitation is equivalent to a percentage of the total number of vehicles (manufactured and imported) sold in Mexico during the prior calendar year.

As of January 2004, vehicles under the permitted quota may be imported free of duties. Vehicles imported outside of the permitted quota are subject to a 10 percent import duty.

On January 2007, all restrictions and duties on the importation of new vehicles from the EU will be eliminated. From January 1, 2004 until December 31, 2006, the permitted import quota is equivalent to 15 percent of the total number of vehicles (manufactured and imported) sold in Mexico, during the prior calendar year. The vehicles under the quota are allocated between individuals and companies that file the relevant application to be included within the permitted import quota.

Permits are granted in chronological order (on an as received basis), although the Mexican government can distribute the permitted amount of vehicles to be imported per applicant, based on the number of applications filed, and/or in accordance with standard commercial practices.

G. Environment

1. Environmental equipment and services

With a relatively new environmental legal framework, Mexico intends to rapidly implement various regulations for the dynamic commercial and industrial sectors. The laws, regulations, and technical standards are in most cases comparable with those of developed countries, and further changes are foreseen.

The government has created the Ministry of Environment, the National Institute of Ecology, and the Environmental Protection Agency, to formulate environmental policy and enforce the law.

The government is increasing enforcement of environmental laws by assigning more qualified inspectors and broadening the environmental audit program. Under this scenario, environmental compliance has become an important issue for industries searching for improved and expanded environmental services and equipment.

Some of the government's priorities for investment in environmental equipment and services are hazardous and non-hazardous waste collection and disposal, as well as water treatment and supply activities in which foreign investment is permitted. The needs of large government owned companies, such as PEMEX and power generating plants, represent another important area for development of environmental services.

Further environmental infrastructure to handle hazardous waste is urgently needed because only one-third of the hazardous waste generated annually is disposed of in authorized facilities, with the rest being illegally dumped. The law requiring adequate disposal and treatment of hazardous waste creates opportunities for companies investing in commercial recycling plants, confinement facilities, waste stabilization, and treatment facilities and incinerators.

According to U.S. experts, Mexico is failing to treat 85 percent of its industrial wastewater discharge and more than 80 percent of municipal waste water. The Mexican market for water pollution equipment, services, and wastewater treatment plants is expected to grow substantially.

Wastewater treatment and recycling is foreseen as one of the growth areas in the environmental sector. Major producers of wastewater are, among others, automotive parts manufacturers, food and beverage processors, and the mining industry. All of which are already under pressure to comply with the new regulations.

Increasingly stronger regulations and enforcement regimes require companies to update their pollution control procedures, in turn increasing the demand for products and services, such as equipment designed to reduce human error (with the accompanying technical support), equipment designed to reduce the production of sludge, advanced monitors and instruments to measure pollution output, service programs developed to provide companies with waste management plans, and engineering services to assist in the construction of waste treatment plants.

Moreover, important opportunities for environmental services exist in the performance of environmental impact studies, equipment for air pollution control, disposal of state and municipal solid waste, and finally, in alternative energy sources such as geothermic, solar, and wind power. In fact, a new law on alternative energy sources is likely to be a reality in 2007 or 2008, aiming to foster relevant investment in the sector and at the same time helping the CFE to focus on social oriented projects.

2. The Kyoto Protocol and its clean development mechanism

Mexico ratified the Kyoto Protocol in 2000, and its participation sets forth considerable benefits for operators contemplating an investment in the country.

Although the membership of the Kyoto Protocol is open solely for countries that are members to the United Nations Framework Convention on Climate Change (UNFCCC), the opportunities for private investment was not disregarded by the drafters of the Protocol. Indeed, three mechanisms were created to involve private investors in the completion of the objectives of the Convention.

At first, member States listed in Annex 1 to the Protocol, who are committed to reduce their greenhouse gas emissions of an average amount of 5.2 percent compared to their emissions from the year 1990, are assigned a cap of permitted emissions. Within the territory of the listed countries, the cap is materialized by the assignment of quotas, or 'Assigned Amount Units', to each existing operator. If an operator is able to generate less greenhouse gas emissions than permitted under the Assigned Amount Units, it is allowed to sell the difference between amount of emissions permitted and the amount emissions actually generated to other operators less successful in their implementation of the Protocol's obligations.

Secondly, the countries listed in Annex 1 to the Protocol may transfer or acquire from each other 'Reduction Emission Units' (REUs), which are generated when a specific project complies with certain conditions relating to the goals of the UNFCCC. The REUs can be sold to other operators established in Annex 1 countries.

The third mechanism set forth by the Protocol is the 'Clean Development Mechanism' ('CDM'), applicable to the countries not listed in Annex one, which are not committed to reduce their emissions of greenhouse gases. This mechanism sets forth the possibility for an operator established in an Annex 1 country to implement a project in non-Annex 1 countries. If the project complies with certain conditions, it will be granted 'Certífied Emission Reductions' (CERs), that similarly to the REUs, can be sold to other operators of the Annex 1 countries.

The main advantage of the CDM is that it permits developing countries to participate in the sustainable development scheme set forth by the Protocol. It does so by allowing the countries to host environmental friendly projects, while encouraging private investors established in Annex 1 countries to create projects in non-Annex 1 countries. Those projects will permit investors to comply with their obligations under the Protocol in a more cost effective manner than by the establishment of projects in Annex 1 countries. Indeed, complying with the obligations of the Protocol is often costly for Annex 1 countries. **In** addition to the traditional reduction of costs implied by the setting up of a project in a developing country, the CERs provide for an additional advantage to investing in a developing country.

For instance, the establishment of a project to reduce or eliminate greenhouse gas effects with Mexico allows Annex 1 countries to complete their objectives under the Protocol, and allows Mexico to protect its own environment and contribute to its economic and social development. To benefit from the advantages of this mechanism, the contemplated project must be registered with the United Nations. Such registration is subject to the issuance of an acceptance letter from the national competent authority.

In Mexico, the competent authority under the Kyoto Protocol is the Inter-Ministerial Commission on Climate Change. In order to issue the acceptance letter, an investor setting up a project in Mexico shall submit certain documents to this authority, including the description of the project in the form required by the Protocol, and a description of how the project plans to contribute to the sustainable development of the country.

The Inter-Ministerial Commission on Climate Change will issue the acceptance letter if the project provides for sufficient environmental benefits, such as the increase of biodiversity or the reduction of emissions not covered by the Protocol. Furthermore, the project does not need to be submitted to an environmental impact study. The mere guarantee from the operator that the project will not have negative environmental consequences is sufficient.

The second criterion needed to resolve the application is the assessment of the economic consequences of the project. The project must improve, or at least maintain, the economic and competitive situation of the country. The situation may be improved by the direct investment generated by the project or by the local economic growth, among others.

Finally, the social aspects of the project are assessed, such as its ability to maintain the quality of living in the surroundings of the project, or its ability to create employment opportunities.

The Commission has 31 days to resolve the application and issue the acceptance letter. Once this letter is issued, the operator is free to register the project with the United Nations authorities under the Protocol.

In July 2005, Mexico and France entered into an agreement with the goal of facilitating development and setting up CDM projects led by French operators in Mexico (published on June 2005).

About 65 projects in Mexico have already been granted CERs in the fields of hydroelectric energy, cogeneration, and wind energy, among others. Until June, 2006, only India and Brazil have registered more CDM projects than Mexico. It is noteworthy to mention that Bancomext has been designated as the Mexican Financial agent regarding the new market on carbon certificates.

H. Medical services

1. Private hospitals and clinics

The medical services sector in Mexico has been expanding greatly in the last years, and there are now many opportunities for investment in full service hospitals and the medical center field. At present, Mexico City has several private hospitals of first world caliber, including the American British Cowdray and the Angeles.

There are also several good private clinics in the metropolitan area Over the last years, several new hospitals have been inaugurated in Mexico. While the cities of Guadalajara, Monterrey, and Cuernavaca, already possessed good facilities, other states are also starting to host high quality hospitals. New specialized hospitals have been inaugurated in the states of Aguascalientes, Chihuahua, Chiapas, Oaxaca, Guanajuato, Michoacan, Zacatecas and Tabasco. In the last year, Monterrey has positioned itself as a great alternative for US citizens looking for high quality medical services at more affordable prices.

The Fox administration as well as other state governments have fostered investment on this sector by using "PPP" models. It is likely that the Calderón administration will continue this trend.

2. Mexican Social Security

Unlike in the United States, Mexican Social Security is not limited to the elderly; health care is available to all employees and their families. Although Social Security has always been government run, it has many private suppliers. In addition, with the current trend toward privatizations, it will be interesting to observe whether or not the government carries this trend into what is now public health care. The "PPP" model has also been used in some projects and is likely to be applied in a greater scale in the near future.

I. Education

Although Mexico has an enormous state-run sector for educational services, the General Law of Education permits private entities to render any kind of educational services within Mexico. Foreign investment in this sector is allowed up to 49 percent without any restriction and may be authorized by the Commission for Foreign Investments up to 100 percent.

The Income Tax Law provides for fiscal incentives for educational centers that are authorized by the Ministry of Public Education. If no utilities are distributed to the partners of the center and the center exclusively provides educational services to its members, then it will be exempt from income tax. Furthermore, the inscription fees of students are not subject to value added tax.

J. Electronic commerce

1. General

Electronic commerce has rapidly increased in Mexico. Nowadays, it is extensively used in many sectors, such as banking, aviation and government procurement regarding new bids. It is still a great are a of business development.

In Mexico, law related to electronic commerce, has traditionally developed under legislation governing specific areas such as civil, commercial, financial, criminal, consumer protection, registry law, and civil procedure enacted prior to the advent of e-commerce.

However, in April 2000, part of the Model Law of Electronic Commerce of the United Nations Commission for International Trade Law was incorporated into the Mexican legal system, and in August 2003, the Model Law of Electronic Signature drafted by the same institution was also incorporated.

With regard the field of electronic commerce, the United Nations Convention on the Use of Electronic Communications in International Contracts entered into force in 2005. The first model law incorporated significantly modernized e-commerce law in Mexico by establishing the principles of contract consent and recognizing the evidentiary value of electronic media, such as the Internet. The model law also offered more specific consumer protection for those who execute contracts via the Internet.

Among other things, the Electronic Signature amendment establishes: (i) the characteristics that an electronic signature must fulfill to be considered advanced and trustworthy, (ii) the obligations that the signatory must observe to use the electronic signature properly, (iii) the entities or individuals authorized by the law to render the services of certification, (iv) the characteristics that the certification must fulfill to be considered valid, and (v) the characteristics to determine whether a foreign certificate or electronic signature produces legal effects in Mexico.

2. Jurisdiction

Mexico's Commercial Code provides that foreign merchants doing business in Mexico are subject to the Commercial Code and to other Mexican laws. Contracting parties may validly designate the applicability of a non-Mexican law. If they do not make a valid choice of a foreign law, foreign parties to a contract are subject to Mexican jurisdiction for commercial activities with consequent outcomes in Mexico. Accordingly, if a foreign merchant does business in Mexico via the Internet and has not validly established the applicability of a non-Mexican law to a contract, and related contractual events like payment or delivery of the product take place in Mexico, then the foreigner will be subject to Mexican jurisdiction. Therefore, the foreigner will be governed not only by the provisions of the Commercial Code or the Civil Code, but also by administrative provisions such as those contained in the Federal Consumer Protection Law.

Furthermore, the territorial principle of Mexican law holds that national laws govern all persons within Mexico as well as the acts and events occurring within its territory or jurisdiction. The Internet has generated new issues of Mexican jurisdiction concerning persons and acts that might have a virtual and not a physical relationship to Mexican territory. One may reasonably predict that Internet users physically located outside of Mexican territory and Internet activities originating outside Mexico will be deemed subject to Mexican law, only to the extent that their operations are active in relation to Mexico.

More specifically, any person who owns or operates a website or similar mechanism will likely be subject to Mexican jurisdiction only to the extent that his or her Internet operations are directed to Mexico in a voluntary, continuous, automatic, and indiscriminate manner. For example, a webpage of a merchant domiciled abroad who offers goods or services to consumers in Mexico would be subject to Mexican jurisdiction.

3. Contract Law and electronic signatures

Parties to commercial contracts are bound by their apparent intentions as manifested in the contract, irrespective of whether they have observed specific formalities or requirements. Mutual consent however, must be established for a contract to exist. The moment of consent often is a crucial issue in contract disputes. According to the Federal Civil Code, an offer and acceptance via electronic, optic, or other technological means, does not require any previous stipulations regarding the use of such means before it takes effect. The requirement of a written agreement may be satisfied using any of those technologies, as long as the agreement is attributable to the parties and available for subsequent verification.

In cases in which the law requires that an instrument be executed before a public notary -as in sales of real estate, ships, or airplanes- the parties may send a data message conveying the exact terms to the notary. The notary then integrates the terms into the official document and attests that they are attributable to the parties, subject to his subsequent verification that the terms conveyed in the message conform to the applicable law.

As commented above, electronic signatures have been subject to recent amendments to the Commercial Code. Legal claims arising from electronic signatures have to take into account the following interpretation principles: technology neutrality, autonomy disposition, international compatibility, and functional equivalency of the data message.

The electronic signature certification services may be rendered by public notaries, commercial brokers, corporations, and other public institutions authorized to do so by the Secretariat of Economy.

4. Privacy and security

Protecting confidentiality and maintaining the security of electronic transmissions in the rapidly evolving information age present both a technical and a legal challenge. The strength of Mexico's commitment to privacy is evident by the fact that under the Mexican Constitution, the government may intercept private communications only in criminal cases and only by express order of a federal court. Even in criminal cases, the Constitution bars courts from ordering the interception of correspondence between a defendant and his or her legal counsel.

Apart from federal legislation penalizing certain criminal activity with regard to what have been labeled as "informatic crimes," or crimes related to information systems, Mexico has no laws specifically governing privacy and security in e-commerce.

In the Internet context, confidentiality requires operators of websites to keep from others information about visitors to the website. The obligation of confidentiality may arise contractually or extracontractually, and breach of confidentiality may result in damages. When the obligation to maintain confidentiality arises from a commercial contract that specifies liquidated (or present) damages, a website visitor suing for breach can sue for performance of the contract terms or for the prescribed damages, but not both. If the obligation is not contractual, the breach is considered an illicit act, with damages assessed against the website operator, unless the operator can prove that negligence or fault on the part of the visitor caused the loss.

5. Consumer Protection and E-commerce

The Federal Consumer Protection Law of 1982, as lastly amended on June 2006 specifies consumers' rights when transactions are made by electronic, optical or any other technological means. These laws require as follows:

(i) The supplier treats all information given by the consumer as confidential;

(ii) The supplier utilizes state-of-the-art technology to safeguard confidentiality and reveal to the consumer the characteristics of the technology;

(iii) The supplier informs the consumer of the supplier' s address and telephone number

before entering into any transaction;

(iv) The supplier does not use deceptive commercial practices;

(v) The consumer has the right to all information regarding terms, conditions, costs, additional charges, and forms of payment for the goods and services offered by the supplier;

(vi) The supplier complies with the consumers decision with regard to quantity and quality of the products he or she wishes to receive, as well as any request not to receive commercial advertising; and

(vii) The supplier does not use sales or advertising methods that fail to give the consumer clear and sufficient information concerning the goods and services offered.

When sales are conducted through media in which delivery of a document is impossible and there is no physical contact with the consumer -including telephone, television, or Internet sales- sellers must:

- Ensure that the goods are delivered to the customer' s domicile or that the customer's identity is otherwise established;
- Permit the customer to make complaints and return merchandise by means similar to those used in the sale;
- Cover the costs of transportation and shipping of merchandise in case of returns or repairs covered by the terms of the guaranty, unless there is an agreement to the contrary; and
- Prior to the sale, inform the customer of the price, approximate date of delivery, costs of insurance and shipping, and the brand of the products.

K. Insurance

Under the terms of NAFTA, barriers to ownership of Mexican insurance companies by NAFTA investors have been lifted, and *V.S.* and Canadian investors may now own 100 percent of a Mexican insurance company. Some of the world's largest insurance companies have entered the Mexican market, both by forming their own Mexican insurance company as well as through significant acquisitions and joint ventures with Mexican insurers. Setting up a subsidiary of a foreign insurance company, however, is still subject to foreign ownership restrictions, unless the provisions of a treaty provide otherwise. Mexico's free trade agreements with the European Union, the European Free Trade Association, and Japan, give insurance companies from those commercial areas the same access to the Mexican market as their U.S. or Canadian competitors.

With an estimated 1.7 percent life insurance penetration rate -one of the lowest in the world- life insurance represents a large untapped market in Mexico. Overall, the Mexican insurance market has been estimated to grow at 10 percent to 12 percent per year over the next 10 years.

L. Banking and other financial services

No other sector of the Mexican economy suffered as many changes during the last two decades as the banking sector. After its nationalization in the early 1980s the sector was later reprivatized. In recent years, foreign financial institutions, especially from the U.S.., Canada, and Spain, purchased major Mexican banks. The financial services sector is still in a dynamic restructuring process and new financial institutions are continuously being created. The current economic and monetary stability of the country has been the basis for the current growth in this part of the economy.

Mexican law still provides some restrictions for foreign investment in the financial services sector, but the free trade agreements between Mexico and the U.S., Canada, the EU, and EFTA lifted these kinds of limitations for financial service suppliers in these commercial areas.

M. Outsourcing

Outsourcing has become a dynamic business opportunity around the world. The concept is growing in Mexico for various types of services, as generally explained on the government procurement section.