

# terrum

Providing analysis, opinion and insight of legal affairs in Mexico. Digital publication by Abogados Sierra

September 15, 2018, year 07 | No. 10

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administration?

by José Manuel Muñoz.

August NEWS on  
Mexican Commercial Law

# sierra

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

## Construyendo México



The Abogados Sierra family has taken the task of building a home in the rural community of Mexicapa located in the State of Mexico. With in-house economic support and donations and with the work of all member of our team and their families. Abogados Sierra paired with Construyendo, a non-governmental organization that aims to reduce poverty in the most needed communities of Mexico, by building homes for families in rural areas to improve their standards of living. Our initial undertaking has provided one family with a home, and this grain of salt, is only the beginning.

Our social responsibility and commitment with helping the most needed communities in our country is our long-term plan. Abogados Sierra will continue to build houses with our hands in the Mexicapa community, and provide homes, classrooms and a better life for a brighter future. One house at a time.

The Abogados Sierra team invites any and all members of society, both in Mexico and abroad that wish to contribute in any way, to please contact Radina de la Peña at [rdelapena@asyv.com](mailto:rdelapena@asyv.com) should wish to come on-board this project.



## New Federal Executive Organization; Could eliminating federal delegates be a legally viable option for the new administration?

by José Manuel Muñoz.

**O**n July 1st, 2018, the general election was held in México, and a new political party took over the country by winning the presidency (as well as majority in both chambers of Congress). These past elections have drastically changed the way in which we know and understand the organization of the Federal Government, or at least it that's what the new president elect Andres Manuel López Obrador has stated multiple times since the beginning of the campaign, and even more so during the past month, sharing some proposals that have being subject to praise, and in some cases, criticism.

*"Article 89 of the CPEUM establishes the different faculties that the President has. In subsection II of this article, the Mexican President has the faculty to "freely remove and appoint ministers, ambassadors, general consuls, high employees of the public finance secretary, and any employee of the union whose designation or destitution would not be determined by another specific procedure established in the constitution or by any other law."*

One of the most controversial initiatives of the new president elect that has recently been the subject of discussion amongst the different governors<sup>1</sup> along the country is the proposal of removing the many federal delegates that each secretariat has in each state, to leave only one federal delegate in each state to represent the entire Federal Government. According to the new president elect, the move is based/related on/to his austerity plan<sup>3</sup> for the administration of the Federal Government.

Some governors stated this measure could not be applied, since it's a clear transgression to the Federal Pact made between each state and the Federal Government, which is established in the Mexican State Political Constitution ("CPEUM"), and to the Organic Law of the Federal Administration, but, is this is true?, Is a constitutional and regulatory law reform made by the new president elect necessary to apply these changes to the federal administration?

*"...article 17 BIS from the Organic Law of the Federal Public Administration establishes the procedure for the creation of delegations, as well as requisites that delegates from the different secretariats must fulfill to be able to assume that position."*

Article 89<sup>4</sup> of the CPEUM establishes the different faculties that the President has. In subsection II of this article, the Mexican President has the faculty to "freely remove and appoint ministers, ambassadors, general

1.- Alfaro rechaza coordinador de López Obrador; habrá trato directo con el presidente. <https://www.animalpolitico.com/2018/07/alfaro-amlo-jalisco/>

2.- AMLO planea sustituir delegados federales por coordinadores estatales. <http://www.eluniversal.com.mx/estados/elimina-amlo-delegados-federales-en-estados>

3.- Plan de austeridad propuesto por Andrés Manuel López Obrador. <https://lopezobrador.org.mx/secciones/boletines/page/2/>

4.- Constitución Política de los Estados Unidos Mexicanos. [http://www.diputados.gob.mx/LeyesBiblio/pdf/1\\_150917.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/1_150917.pdf)

consuls, high employees of the public finance secretary, and any employee of the union whose designation or destitution would not be determined by another specific procedure established in the constitution or by any other law". In terms of the constitution, it seems that the new president elect could make these changes discretionally without the need for any constitutional reform, but it is important to mention that this article limits this faculty by stating that the president could appoint or remove any employee of the union if there isn't any law that stipulates any special procedure.

*"Taking this into account when analyzing the proposal made by the president elect of Mexico, it seems to be legally non-viable for him to concentrate all federal delegations from all the federal secretariats on one person for each state. The law establishes that each secretariat should create their delegations and appoint someone who fulfills the specific requirements stated by the law, to be the head of the delegations created..."*

Moreover, article 17 BIS from the Organic Law of the Federal Public Administration<sup>5</sup> ("*Ley Orgánica de la Administración Pública Federal*") establishes the procedure for the creation of delegations, as well as requisites that delegates from the different secretariats must fulfill to be able to assume that position. According to this article, the requisites and the procedure is as follows:

- I. The Secretariat of Federal Public Administration would have the attribution, in accordance with their internal regulation or organic law, to settle delegations in the different entities of the country, as long as these delegations are strictly necessary to provide services or conduct procedures aimed towards the accomplishment of the diverse programs from the secretariat.
- II. The people in charge of this delegations should be appointed by the head of each secretariat, and they should have the attributions indicated on the internal regulation or organic law of each secretariat.
- III. Delegates should fulfill the following prerequisites:
  - a. Being Mexican by birth and being in full capacity for the exercise and enjoyment of their civil and political rights.
  - b. Have the necessary academic studies on the specific subject for which the delegation was created.
  - c. Have previous high-level positions in which experience in administrative subjects was needed.
  - d. Not having been convicted of any patrimonial crime, and not being disabled to work in a public office.

Taking this into account when analyzing the proposal made by the president elect of Mexico, it seems to be legally non-viable for him to concentrate all federal delegations from all the federal secretariats on one person for each state. As we mentioned above, the law establishes that each secretariat should create their delegations and appoint someone who fulfills the specific requirements stated by the law, to be the head of the delegations created, so in order for the new president elect to apply his proposal, it would be necessary to reform the Organic Law of the Federal Public Administration, otherwise it would be nonsensical for one person to be appointed by all secretariats as a specialist in all subject areas as required by the law.

So, it is possible that this could be one of the first reforms of the new federal administration in Mexico?

5- *Ley Orgánica de la Administración Pública Federal*. [http://www.diputados.gob.mx/LeyesBiblio/pdf/153\\_150618.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/153_150618.pdf)

**Mexico's Lopez Obrador pledges more than \$11 billion for refineries.**

Mexican President-elect Andres Manuel Lopez Obrador said on Monday his administration will invest more than \$11 billion to boost refining capacity in order to curb growing fuel imports. His government plans to invest \$2.6 billion to modernize existing domestic refineries owned and operated by national oil company Pemex, and spend another \$8.4 billion to build a new one within three years. [www.reuters.com/article/us-mexico-oil/mexicos-lopez-obrador-pledges-more-than-11-billion-for-refineries-idUSKBN1KY2C1](http://www.reuters.com/article/us-mexico-oil/mexicos-lopez-obrador-pledges-more-than-11-billion-for-refineries-idUSKBN1KY2C1) 13/08/2018.

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**Cancelling airport project would cost 170 billion pesos; binding vote planned.**

Canceling the new Mexico City International Airport (NAICM) project and adapting an existing air force base for commercial aviation instead would cost 170 billion pesos (US \$9 billion), according to the transportation secretary, who explained that 100 billion pesos would be lost due to the cancellation of the airport currently under construction at Texcoco, México state, and that a 70-billion-peso investment would be needed to build two additional runways and other new infrastructure at the Santa Lucía Air Force Base in the same state. <https://mexiconewsdaily.com/news/cancelling-airport-project-would-cost-170-billion-pesos/> 18/08/2018.

**Mexico far from goal on Alibaba e-commerce deal: official.**

Mexico's deal with China's biggest e-commerce company, Alibaba, to increase online business for exports like avocados and tequila needs the participation of dozens more companies to make it successful, an official at Mexican trade group Promexico said in an interview. The Mexican government signed a deal with Alibaba last September to help small- and mid-sized businesses enter Mexico's nascent e-commerce industry alongside mega players including Wal-Mart de Mexico and Amazon Inc. [www.reuters.com/article/us-mexico-alibaba/mexico-far-from-goal-on-alibaba-e-commerce-deal-official-idUSKCN1L924H](http://www.reuters.com/article/us-mexico-alibaba/mexico-far-from-goal-on-alibaba-e-commerce-deal-official-idUSKCN1L924H) 24/08/2018.

**Mexico economy shrinks slightly more than forecast in second quarter.**

Mexico's economy shrank by 0.2 percent in the second quarter from the previous three-month period, one tenth of a percentage point more than initially forecast in a preliminary estimate, data from the national statistics agency showed on Friday. Mexico's central bank said early this month it believes economic growth will likely come in at the lower end of its forecast for expansion of between 2 and 3 percent this year. [www.reuters.com/article/us-mexico-economy/mexico-economy-shrinks-slightly-more-than-forecast-in-second-quarter-idUSKCN1L91ES](http://www.reuters.com/article/us-mexico-economy/mexico-economy-shrinks-slightly-more-than-forecast-in-second-quarter-idUSKCN1L91ES) 24/08/2018.

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