

CITIES ARE THE FUTURE OF INDUSTRY. LET US BUILD IT.

GUEST WRITERS

- ▶ Thriving cities, cities with talent – Hector M. Lucero
- ▶ From nearshoring to ALLY SHORING - Enrique Perret

UPDATES:

- ▶ Three approaches to the new outsourcing scheme
- ▶ Legislative liaison

Consejo Nacional
de la Industria Maquiladora
y Manufacturera de Exportación



index

“Cliches became cliches for a reason; that they usually hold at least a modicum of truth, and the following cliché is truer than most:

You can't know where you're going if you don't know where you've been.”

- William Gibson, Neuromancer



TIERPLUSMX

INDEX NATIONAL PRESIDENT
Luis Manuel Hernández

**GENERAL MANAGING
DIRECTOR**
Juan Antonio Vázquez Durazo

**PUBLIC AFFAIRS AND
OPERATIONS DIRECTOR**
Paulina Núñez Román

**MANAGEMENT AND DEVELOPMENT
TIER PLUS MX**

3 1 + 1

Pensamiento Político

31mas1.mx

DIRECTOR
Julián León Manjarrez

PUBLISHER
Benjamín Castro

EDITORIAL STAFF
MÍNIMO • NECESARIO
minimonecesario.com.mx

TIER PLUS, monthly magazine
sponsored by Consejo Nacional de
la Industria Maquiladora y Manu-
facturera de Exportación | Ejército
Nacional 418 Piso 12, Chapultepec
Morales, CDMX, CP.11570

CONTACTS
julianleon@31mas1.mx
bcastro@31mas1.mx

CONTENT

- 4** **Cities are the future of industry.
Let us build it.**
- 6** The essence of the issue
- 8** Trends
- 10** Entry points for public discussion
- 11** **Guest writers**
- 12** Thriving cities, cities with talent– Hector M. Lucero
- 14** From nearshoring to ALLY SHORING – Enrique Perret
- 16** **Updates**
- 17** Three approaches to the new outsourcing scheme
 - Employment approach
- 18** Fiscal approach
- 19** Social security approach
- 20** Legislative liaison
- 22** **Our team**

Legal notice

This material, or any part thereof, may not be reprinted, sold or redistributed without the written consent of index Nacional. The author(s) are primarily responsible for the preparation of this material. This material has been prepared for informational purposes only and is based on public information as of the date specified.

A blurred city street scene with a green overlay. The text is centered in the upper half of the image.

Cities are the future
of industry.
Let us build it.

Manufacturing and cities are intimately linked: one cannot advance without the other. How can we make this relationship symbiotic? By letting cities grow and creating institutions that promote investment and talent. With a few changes, Mexico can accelerate the process.

INTERDISCIPLINARY PUBLIC RESEARCH TEAM¹

Some argue that contemporary cities are the foundation of economic progress², not only because of the large factories, skyscrapers, transportation and jobs that are inaugurated every year, but also because of the dynamics that manufacturing industry promotes in metropolitan inhabitants, including innovation and speed. In cities, men and women create value faster; the agglomeration of talent allows new technologies and ways of working to be constantly created, adopted and disseminated, and industrial production is at the heart of these processes. Factories are the creative centers par excellence.

It is a symbiotic relationship. The growth of cities goes hand in hand with manufacturing and vice versa; we can even think of cities as historical

records of their industries. What was once a paper factory becomes an office center, a shopping mall, a public park or a vacant lot, depending on its destination. There are as many possibilities as there are people, companies and processes that can coexist in a given geographic space. How can we make them tend to improve the lives of an ever-increasing number of people?

In this edition we analyze the global metropolitan phenomenon because we want Mexico to take advantage of it. Cities promote collaboration, generate shared knowledge and this makes them “the most important creation of humanity”³.

Let us build them well.

¹ Meet our team in the last page.

² See Jacobs (1984) and Gleaser (2011).

³ Edward Gleaser, *Triumph of the city: how our greatest invention makes us richer, smarter, greener, healthier, and happier*, Penguin Books, USA (2011), p. 247.

THE ESSENCE OF THE ISSUE

The evidence is clear: we cannot expect sustained long-term manufacturing growth if cities are not developed simultaneously. On average, if the proportion of a country's urban population increases by 10%, its per capita income increases by 30%. More citizens in metropolises means more available talent and more consumption: talent, wealth and cities go hand in hand. What direction should these cities take? Is it possible to do anything for them or are they simply autonomous "entities" that grow out of control?

Under an economic lens, contemporary cities "are the absence of physical space between people and companies,"⁴ simply places that bring consumers and producers together, but they are also much more: cultural nodes, stories in progress, sites of conflict or degraded habitats, depending on the perspective. With what lens can we see them well? With one that recognizes them as places that concentrate the majority of the planet's people - as of 2007, urban areas surpass rural areas and are now home to more than 4 billion people. In Mexico, more than 80% of the population lives in cities. We emphasize the term "people" because ultimately all public analysis is for them. Manufacturing, metropolitan and economic efforts seek to improve the lives of people who live, work and think together.

Moreover, the essential characteristic of cities is density, for they make everything close together: people and those who require their talents, products and those who buy them, needs and the services that serve them. Cities attract and concentrate, and this makes them significantly more productive than any other form of social organization, even with all their problems. It is easier

to produce where ideas find investment, work, transportation, customers and a shared history that brings together the experiences of others. In short, the economy happens where there are markets, and these are agglomerated in cities. Thus, the great challenge before us is to improve the spaces we cohabit, so that they are increasingly comfortable, safe, sustainable and productive. To achieve this, we propose the paths of innovation and speed.

Innovation

A first approach to improve cities is to let them develop organically and interfere little with them. Planning, yes, but without restricting the initiatives of their own citizens or of those who decide to invest in them. Because of their agglomeration, cities produce economies of scale - companies reduce their production costs as they expand - because they facilitate access to more markets and reduce transaction costs. In addition, cities also offer broad positive externalities, such as highly skilled labor markets, synergies between different firms, and stronger institutions. From this point of view, it is the "greatest invention of mankind"⁵, even with the stigmas attached to it.

To remain in this dynamic, cities need to innovate constantly, moving away from commodification and towards complex economic activities. Manufacturing is critical in this in at least two ways. The first is by supporting the most basic industries that do not require so much development, because they can be eventual local suppliers of their more complex activities. The second is by promoting the development of infrastructure that is directed toward production centers, thus strength-

⁴ Ibid. p. 6

⁵ Ibid. p. 320

ening the links with the most important logistics chains in the world. Manufacturing creates such linkages by the very nature of its activity.

Speed

How to achieve results in a short period of time? By competing. As with companies, it is good for cities to compete with each other to attract investment and talent. This helps them to offer better services and reduce the costs of living in them. In this sense, each city must focus on developing competitive advantages that are difficult to imitate: clusters, infrastructure, transportation, geographic position, better educated citizens, cultural life, etc.

The world's most successful cities - London, Bangalore, Singapore, New York - attract multinational companies linked to global value chains. The migration of people, ideas and the bustle of business activity make them grow. People working in cities are significantly more productive than those in the countryside, and that is what drives wages higher. Productivity is thus linked to speed: doing more in less time, which is why the highest earners are in the cities.

This should lead us to question the discourses that advocate, without further ado, higher taxes on those who have more income, because, indirectly, they represent a tax on cities; these are also unequal places, but they promote a way out of poverty much better than other types of settlements: that is why migration from the countryside to the city is increasing. Cities are also highly resilient despite their multiple challenges. If trade and financial markets contract, urban areas suffer. When taxes go unpaid, cities struggle to provide services. When employment is lacking, political problems deepen. But these processes are often transitory, and history supports this: neither the Great Depression (1929) nor the more recent financial crisis (2008) or COVID-19 have caused cities to decline. On the contrary, their rise has not ceased.

**Other important issues:
sustainability,
transportation,
transparency,
and governance.**

TRENDS

Cities will not stop growing and their behavior is very different from region to region. Africa and Asia-Pacific will be the most expansive regions of the century, Eastern Europe will remain stable and Latin America, Western Europe and the United States will grow, although at lower rates (see graph 1). Mexico is striking, as it has 54 metropolises distributed throughout the country and participates in two megaregions (CDMX and Tijuana-Los Angeles). By 2035, 2 cities are expected to exceed 5 million inhabitants and 9 more are expected to exceed 1 million inhabitants. Let us make two considerations:

- ***The world belongs to the metropolises.*** In 2020, 1,934 metropolises with more than 300,000 inhabitants were registered. This represents approximately 60% of the world's urban population. In net numbers, that's more than 2.6 billion people, or about one-third of the world's population⁶. Broken down, the world has 34 cities with more than 10 million inhabitants; 51 have between 5 and 10 million; 494 have between 1 and 5 million; and 1,355 have between 300,000 and 1 million inhabitants⁷. The trend is increasing in each of these cities (see graph 1). Mexico could take advantage of this with more innovative industries.
- ***Sustainable development depends fundamentally on the good management of cities.*** We know that the urban population increases as new cities emerge, which implies a greater demand for public services, infrastructure and goods. At first glance, this may seem alarming. However, we must overcome the view that cities are only pollution hotspots and that their growth must be halted in order to preserve "green spaces". It is more appro-

priate to adopt a systemic vision that takes into account the collateral effects of popular conservationist policies, which make spaces close to the city center more expensive and migration to the periphery, causing people to drive more and other ecosystems to be denigrated. There are no single answers, but if we fail to properly align incentives, policies could generate even worse environmental problems.

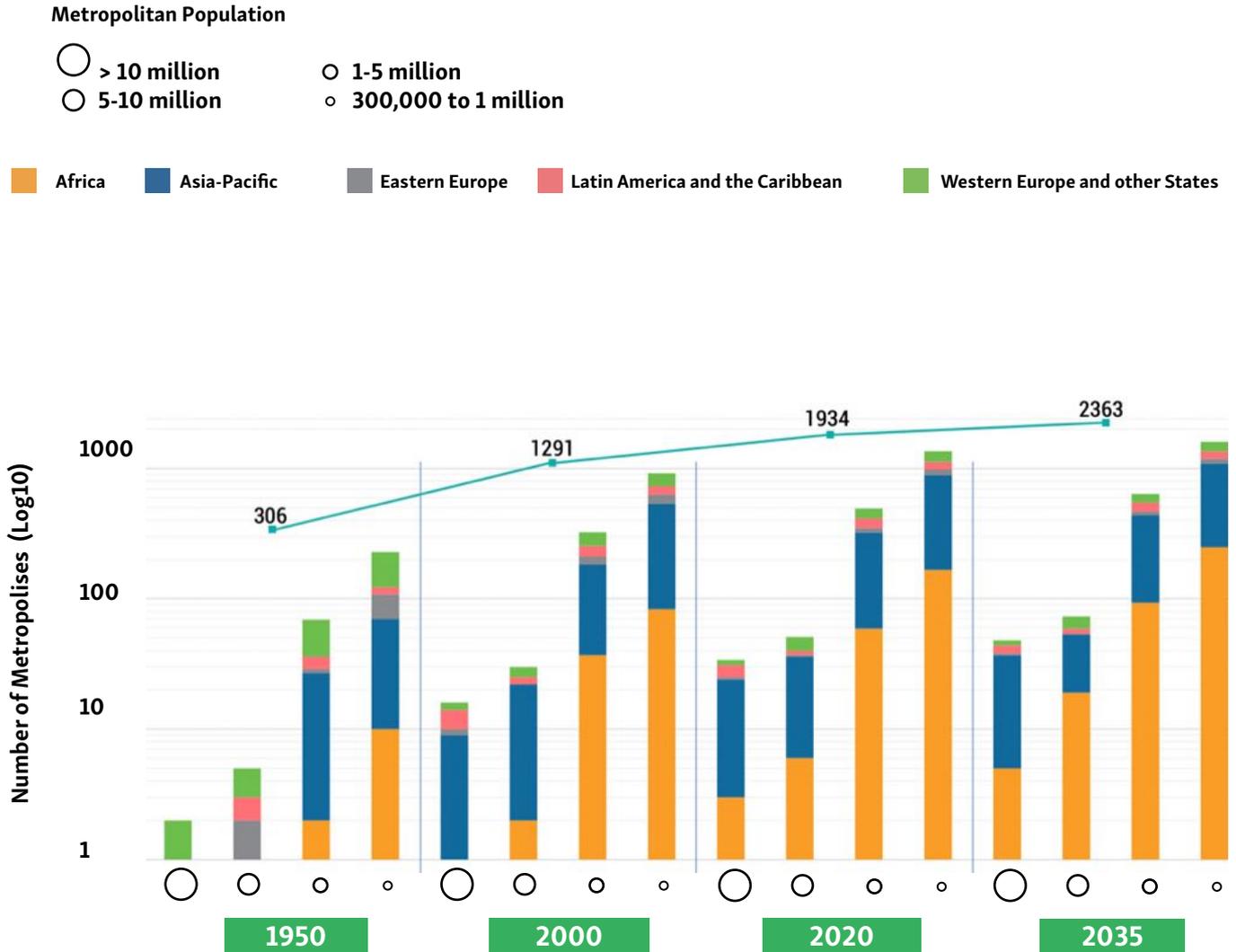
Thus, the manufacturing industry will continue to grow, but its great challenge is to do so sustainably.

6 Hannah Ritchie y Max Roser, Urbanization, online on Our World in Data. Available in <https://ourworldindata.org/urbanization>

7 Global State of Metropolis 2020 – Population Data Booklet, Nairobi, UN – Habitat, 2020. Disponible en https://unhabitat.org/sites/default/files/2020/09/gsm-population-data-booklet-2020_3.pdf

Figure 1.
Estimated metropolises from 1950 to 2035

Number of World's Metropolises from 1950 to 2035



The figure shows a historical record and a projection for the next forty years. Metropolises will continue to grow in number of inhabitants and multiply. The Latin American and Caribbean region will grow at rates slightly above the world average, but significantly below those of Africa and Asia Pacific. These markets will provide great in-

vestment opportunities for the foreseeable future. The expansion of the megaregions, i.e., those with more than 10 million inhabitants, is also notable. These are where the major innovations will take place and where the highest-paying jobs will be concentrated.

ENTRY POINTS FOR PUBLIC DISCUSSION

When public policies for cities are discussed, top-down solutions are usually proposed: general plans that change according to administrations. Such an approach should be replaced by one in which communities participate and decide on public spending, while providing continuity to projects even when representatives change. The interests of the residents, be they neighborhood communities or industrial centers, should actively engage politicians.

- *Letting investments detonate.* The inefficiency of a “central planner” in charge of guiding companies, regions or cities has been shown time and again. A better option is to let them -through their employees and citizens- steer their own course and promote their own growth. We must remove barriers and prevent market frictions; it is better for cities to grow upwards and provide them with excellent transportation, cleanliness and security services. We should not invest in places where economic activity is in decline, arguing for “bailouts” and building new pieces of infrastructure⁸. It is much better to invest in people so that they acquire skills that make them attractive to the labor market.
- *Making environmental policies that create the right incentives.* If we want the future to be greener, then it has to be more urban. How can this be achieved? There is no clear solution to this issue, but what we do know is that until we can produce more efficient clean energy, dense cities drive a way of life that, counter-intuitively, demands less energy; compared to those living in rural areas, metropolitan

dwellers drive less and their homes have lower cooling demands. Agglomeration generates smaller carbon footprints.

- *A competent public sector.* The themes are well known - accountability, protection of private property, attracting talent, promoting savings and good education - but they are rarely executed through public policies that deliver results. It requires a public sector that makes good decisions with public resources and uses them to build the “key” elements of the city: safe streets, traffic-free avenues and good schools. In short, turning them into attractive settlements for families and high-profile professionals, such as those in advanced industries.
- *Sound industrial policies.* Evidence has shown time and again that investing public money in decadent sectors or incompetent companies is nothing but a cost to society. Subsidies to certain industries or the formation of state monopolies only hinders the development of cities. A better way is, once again, to promote competition, based on an institutional floor that promotes a level playing field.

Each of these points can trigger plans to improve the more than 9 Mexican cities that will have more than one million inhabitants in the next decade.

⁸ Gleaser, *ibid.* P. 53

GUEST
WRITERS



THRIVING CITIES, CITIES WITH TALENT

By **Hector Manuel Lucero**
Architect and urbanist (USC).

Constant change is a fundamental characteristic of any city. That is why a city is compared to a living organism that changes due to multiple factors, whether planned or random. Experience tells us that a city's ability to mold, adapt or evolve is key to staying relevant, productive, and providing quality of life for its inhabitants. Although this premise is universal and can be applied to cities of all times, it is also true that there are factors that make this capacity to adapt and evolve different. Over the course of history, changes and the time to respond to them have accelerated exponentially: the speed and dynamism we see today were unimaginable just a few decades ago.

Originally founded in regions of high fertility as centers of trade and commerce, cities were home to a very small percentage of humanity until the beginning of the 20th century. Today more than half of the world's population is urban, a trend that will continue to intensify for the foreseeable future. Our world is urban and there is no turning back. The United Nations World Urbanization Prospects projects that by 2030 there will be 8.5 billion people on the planet and megacities will continue to grow, especially those in the developing world. The agency projects that by that same year the three megacities with the largest populations will be Tokyo, Delhi, and Shanghai, with 37, 36 and 30 million inhabitants, respectively. Mexico City appears in 10th place and is the only one in the Americas. However, despite the undeniable importance of megacities for the future of the planet, it is estimated that it is not necessarily these that will concentrate the greatest population growth, but rather the medium-sized cities. In many cases, these cities are already more attractive for investment, a trend that has been and

can be taken advantage of by those that manage to reinvent themselves and become centers of innovation that attract new industries.

The industrial revolution expanded the sphere of influence that a city could have over the territory and resulted in the ability to move materials and products being the key to its success and development. Since then, the need for cities to adapt to the changing demands of the global economy has been a constant. This shift, as is well known, is characterized by a decrease in the commodity importance of raw materials and an increase in the importance of talented people. The COVID-19 pandemic accelerated something that was already clear before it began: in the interconnected world in which we live, the most talented and best educated people can live wherever they want. It is not enough just to attract manufacturing jobs in a city, but to attract and retain talented people who want to live, work and learn in that city. Cities generate most of a country's tax revenue; therefore, high-performing cities are required in a wide range of areas to remain attractive.

Access to housing, reliable and efficient mobility, a robust labor supply and access to quality education are some of the characteristics that provide a favorable environment for attracting and retaining talent. Another important characteristic that is becoming more important every day is the environmental condition of a city, not only in relation to its level of competitiveness in attracting companies to set up operations there, but also in relation to its ability to attract the best talent.

Establishing an industrial hub in a city or region and attracting the much sought-after talent

working in that industry has led to the emergence of urban centers around the world, centers that thrive in the medium and long term. Recent years have seen major shifts in demographic patterns

around the world that had remained stable over many decades. For these urban centers that desire talent and prosperity these new patterns can be a great opportunity.



FROM NEARSHORING TO ALLY SHORING

By Enrique Perret

Director of the U.S. – Mexico Foundation.



Many of us use the terms offshoring, nearshoring or reshoring with customers every day or to express the needs of global companies in terms of their supply chains. While they are in common, everyday use today, this was not the case just a few decades ago. Nearshoring was coined by a Mexican technology services company that, seeing how many American companies were opting to contract services in India and China, thought of a more efficient process between Mexico and the United States.

The adoption of nearshoring did not happen overnight: first it was necessary to generate a narrative, talk to hundreds of potential clients and generate certainty through strategies. In the end, many companies opted for the nearby option, in the same time zone, with a reliable commercial partner with which they also had a free trade agreement, NAFTA. Several decades have passed,

Mexico has become the number one partner of the United States, even ahead of China and Canada, and manufacturing is the most important engine of Mexico's economy. Just look at the recovery of manufacturing exports in recent months, which even in the pandemic was one of the most resilient industries.

Today, the United States faces one of the greatest challenges in its history: an unprecedented technological race with China. We will see our northern neighbor implement a series of strategies such as investment in infrastructure, ports, airports, broadband and internet for all, investments in climate change and renewable energy, but also in research and development to be at the forefront of major technological processes. Billions of dollars will be earmarked for manufacturing by American companies that decide to invest in North America and leave the Asian country. There is no denying

that the United States depends in many of its production processes on Asian supply chains: the pandemic has put its finger on the sore spot. Although the United States had been building a path to “decouple” from China - remember the tariffs imposed on hundreds of Chinese products by Trump - it had not done so in the accelerated way it will now have to try to do so.

Joe Biden recently issued an executive order for the creation of strategies to enable the U.S. economy to rebuild supply chains at home or in allied countries. The executive order focuses on priority industries such as telecommunications, biotechnology, transportation, pharmaceuticals, renewable energy, semiconductors, water treatment, emerging financial technologies, among others. Imagine the scale of the project to uncouple decades of work among thousands of Chinese companies to rebuild everything in the North American region. Certainly the U.S. cannot do it alone; it will need great allies, logistically close, culturally similar and, of course, ideologically compatible. Hence the ALLY SHORING.

Mexico, if it decides to do so, can play an extremely relevant role. Multiple industries such as automotive, aerospace, electrical-electronics or white goods have already come a long way and a large percentage of the finished product is now built in the North American region. The new USMCA also allows the generation of certainty for thousands of companies that are thinking of relocating or having a new production platform.

The benefits can be enormous for both countries, as an ALLY SHORING strategy:

- 1) Reduces U.S. dependence on priority supplies from China and other nations, as well as exposure to intellectual property and cybersecurity risks.
- 2) Facilitates rapid COVID-19 mitigation and treatment, delivery of vaccines and therapeutics, as well as recovery from the economic and health crisis.

- 3) Makes supply chains more reliable and robust, as well as less susceptible to disruptions and political threats.

- 4) Supports pandemic recovery and protects against recession on both sides of the border by promoting job creation and business growth.

- 5) Fosters job creation and the growth of export industries by developing, prototyping, manufacturing and creating a new range of products, services and technologies.

- 6) Strengthens institutions, reduces corruption and strengthens the rule of law in Mexico to promote greater FDI attraction and increase economic integration with the United States.

- 7) Promotes the building of strategic infrastructure, improves critical trade operations and enables priority supply chains.

- 8) Contributes to the economic and political health of both countries, as well as other democracies around the world.

The technology race between the United States and China brings with it great opportunities, but also challenges for which we must rise to. In the coming months and years we will hear of many new concepts such as Friendly-Shoring or Democratic-Shoring, the truth is that we need to work more closely with our trading partners and create the conditions for a more prosperous and just society.

UPDATES

THREE APPROACHES TO THE NEW OUTSOURCING SCHEME

EMPLOYMENT APPROACH

By Alvaro A. Garcia Parga

Director of the Labor Committee of index Nacional.

The rules of the labor game continue to change and present a challenge to manufacturing organizations and executives. Sometimes it seems that changes move faster than the possibility of implementing them. The major reform to the Federal Labor Law (LFT) has not yet been fully implemented and we are already facing a new modification, the third one this year after the telework reform and the reform to article 90 on minimum wage.

For months, legislators from various parties and parliamentary groups presented initiatives aimed at reforming the law on subcontracting. This led the National Council of the Export Manufacturing Industry and the National Labor Committee to participate in forums and open parliaments to present our position in favor of the figure of subcontracted labor previously in force in the law. This scheme provided competitiveness to the sector and generated formal jobs in companies that comply with the standards. The change we have before us today is of great significance, as it eliminates, from one day to the next, a labor regime that has been in place for almost nine years and increases the penalties for companies that do not comply with the new regulations.

All companies are called upon to take action to ensure that our structures and work schemes comply with the new articles contemplated in

the reform, particularly those referring to the outsourcing of specialized services. These should not form part of the corporate purpose or the predominant economic activity of the contracting company. In addition, we must ensure that the contractor is registered in the new public registry of the Ministry of Labor and Social Welfare. The above also applies to complementary or shared services between companies of the same group, commonly known in our industry as shared services.

From the National Labor Committee we have already begun working on materials and training sessions to orient companies and support them with respect to the most recent reform and alert them about its implications. During the following months, particularly the three months indicated in the transitory articles of the approved decree, we will support companies with any doubts that may arise in connection with the new registration or, if applicable, with the processes of employer substitutions, either before the labor authority or the Mexican Social Security Institute.

FISCAL APPROACH

By strategic affiliates and members of the National Fiscal Committee

Luis Carbajo tax practice partner, and **Bernardo Ruschke** tax support specialist, Baker McKenzie, Lawyers.

The labor reform regarding subcontracting entails a tax reform, since it has additions and amendments to several articles of the Federal Tax Code, the Income Tax Law and the Value Added Tax Law. The most important tax changes contemplated are summarized below.

Tax effects on what is prohibited

Payments made for subcontracting cannot be deducted for income tax purposes or credited against VAT when they are related to activities that are part of both the corporate purpose and the main economic activity to which the contractor is dedicated.

On the other hand, the use of simulated schemes for the provision of specialized services will be considered a tax fraud offense. It will also be a crime to continue subcontracting personnel.

Services that would be deductible

Tax regulations allow deducting payments and crediting VAT for specialized services and execution of specialized works. There is no tacit definition of these two concepts. However, under a harmonic interpretation of the norm, they would be those services that are not part of the corporate purpose or the main economic activity of the beneficiary of the service. In addition, it is established as a requirement for the deduction and crediting that the contractor of a specialized service must be registered before the Ministry of Labor and Social Welfare (STPS).

Effects, consequences and concerns

Undoubtedly, an important issue to be clarified with the authorities is those services that are complementary to the corporate purpose or the main economic activity of a contracting party. In

this situation are the submaquila or submanufacturing services defined under the IMMEX Decree and the rework, analysis or inspection services of a product that has been manufactured by an IMMEX company and that is not necessarily registered as a submaquila or submanufacturing under its program. Under this premise, companies would have to request registration before the Ministry of Labor as a first instance to carry out the contracting of this type of services, while clarifications could be requested with the STPS and the Tax Administration Service (SAT).

On the other hand, the deductibility of specialized services or specialized works and the crediting of VAT will be conditioned to requirements regarding the information that the contractor must collect from the contractors, among others: information related to the payment of income tax withheld for salaries, VAT returns and payment of IMSS and INFONAVIT contributions, without forgetting the receipts or CFDIs of the payroll of the contractor's workers with which it provides the specialized service to the contractor.

Recommendations

As of April 24, 2021, the subcontracting of personnel services, as well as internal service providers (insourcing) are prohibited, which means that there will no longer be operating companies without workers, even if they belong to the same business group. Therefore, companies must implement a multidisciplinary strategy that allows them to adapt their operational structure in the country. For this purpose, it is highly advisable to carry out a detailed analysis, adapt the corporate objects and determine which is the predominant economic activity, since a company must have its own workers to carry out such activity in a legal manner.

SOCIAL SECURITY APPROACH

By Santiago Villanueva

Strategic affiliate and member of the Social Security Subcommittee of index Nacional Labor Committee, Senior Associate of Social Security at Basham, Ringe y Correa, S.C.

The labor reform regarding subcontracting modifies several articles of the Social Security Law and the INFONAVIT Law. The most important changes are summarized below.

Social Security Law

a) Joint and several liability. Without establishing a procedure, it declares jointly and severally liable whoever contracts services or executes works with the employer who fails to comply with social security obligations.

b) Submission of information. Every four months the specialized service providers shall provide information related to the contracts they have entered. There is no procedure for submitting such information.

INFONAVIT Law

a) Joint and several liability. The employer replaced by the new employer will be jointly and severally liable for the obligations prior to the entry into force of this amendment. It does not indicate cases of non-compliance or the manner in which INFONAVIT will determine such non-compliance.

Transitory Articles

a) Elimination of the Employer Registration by class. Companies are obliged to cancel their Employer Registration and process a new one that the IMSS will authorize.

b) Employer Substitution. The transfer of em-

ployees between two employer registries will be an employer substitution. This provision is unclear, since in order for the employer substitution to take place, the requirements established in the Social Security Law must be complied with and it must be authorized by the IMSS.

c) Risk premium and classification of the company's activity. The employer will keep the premium with which he has been contributing as long as he is correctly classified. This assumption is not clear, since it does not mention how the correct classification will be verified.

The above modifications must be regulated by the IMSS and INFONAVIT, as the concepts are not clear and it is likely that many employers will challenge their content.

LEGISLATIVE LIASION

Information provided by **Grupo Estrategia Politica**

On April 30, 2021, the second ordinary period of the third year of the LXIV Legislature, which was characterized by the approval of several reforms led by the federal executive, will formally end. Among the most important substantial reforms for the country are the reform to the Hydrocarbons Law, the issuance of the Cannabis Law and the regulation of outsourcing.

It can be said that this closing of the legislature totally served the interests of the federal executive. The following is an account of the legislative projects that were promoted or that advanced in their respective processes during April and that we consider relevant for the sector:

Hydrocarbons Law Reform

At the end of the legislature, one of the legislative priorities for the majority parliamentary group was the reform to the Hydrocarbons Law, which was presented and promoted by the federal executive.

The ruling approved by the plenary session of the Chamber of Deputies and sent to the Senate of the Republic proposes substantial modifications for the energy sector, among which the following stand out:

1) **The extension of powers of the Energy Secretariat and the Energy Regulatory Commission** to temporarily suspend permits in the event that they consider them to be an imminent danger to national security, energy security or the national economy. These concepts are not defined nor are criteria established for their application, which grants discretion to the authority.

2) **Change from *afirmativa ficta* to *negativa ficta* in the resolutions of permit assignment requests**, which reduces the authority's incen-

tives to resolve them expeditiously and prevents economic agents from knowing the reasons why they are denied.

3) **Permits will be subject to the interested party proving that it has the storage capacity determined by the Energy Secretariat**, which will reduce the number of competitors and supply. Although having sufficient storage capacity is necessary for competition in the production chain, requiring proof of such capacity prior to the granting of the permit generates a vicious circle: the lack of such capacity due to the lack of permits and the lack of permits due to the scarcity of infrastructure may discourage investments in this area. In addition, the initiative allows for the revocation of existing permits that, upon the entry into force of the proposed reform, fail to comply with this requirement, which would constitute a violation of acquired rights and an unjustified restriction on supply.

This initiative negatively affects the process of competition and free concurrence in the hydrocarbons, petroleum products and petrochemicals value chain, which could result in a decrease in the supply of goods and services in the industry. This could increase prices for the consumer.

This legislative project, together with the reform to the Electricity Industry Law, is undoubtedly part of a possible energy counter-reform of the federal government that seeks to strengthen the State's productive companies at the expense of minimizing the participation of the private sector in the country's energy activities.

Federal Telecommunications and Broadcasting Law Reform

In order to strengthen the security and justice system in Mexico, the Congress of the Union

approved the draft decree reforming and adding various provisions of the Federal Telecommunications and Broadcasting Law. The main objective is to create the National Registry of Mobile Phone Users, in which users must register and provide official identification, proof of address and biometric data for the activation of the line service. The registration will be the responsibility of the telecommunications concessionaires, who will provide the information to integrate the registry.

It also establishes that the information contained in the registry will be safeguarded by the Federal Telecommunications Institute and will be confidential and reserved in terms of the General Law of Transparency and Access to Public Information and the General Laws for the Protection of Personal Data in Possession of Obligated Entities and Private Parties, respectively. However, such laws do not contemplate the special treatment that biometric data should have, so such reform will surely be a matter of legal analysis.

It is important to remember that, at the beginning of 2021, the President expressly stated the need to put an end to the autonomous agencies, among which is the Federal Telecommunications Institute, which would imply a risk as to which State Secretariat or agency would be in charge of such information.

Reform of the Judiciary

Another of the most relevant initiatives for the federal government is the one that reforms several laws applicable to the justice system in our country. This initiative was developed by the Legal Counsel of the President and the Supreme Court and promoted by the federal executive.

As has been commented in past publications (March edition), such reforms update the structure, organization, operation and attributions of the different instances that make up the federal judicial branch.

However, it is important to point out that the opinion of the initiative underwent a substantial modification in a transitory article, which has generated division within the Senate of the Republic. The PVEM presented a reservation to the opinion, which was approved by the legislative majority, with the purpose of extending the terms of the duration of various figures of the Judicial Branch such as the president of the Supreme Court until November 30, 2024 and the counselor of the Federal Judiciary until November 30, 2023.

This modification sets an important precedent in legislative matters, since it modifies by means of a transitory article of an Organic Law the duration of terms that had previously been established in the Constitution itself. With such modification, the ideology of the SCJN is expected to be in line with the interests of the federal government and the majority parliamentary groups, since it is worth remembering that it has been them who have ratified the three appointments of ministers issued by the President of the Republic: Juan Luis González Alcántara Carrancá, Yasmin Esquivel Mossa and Margarita Ríos Farjat; the latter presiding over the first and second chambers, respectively.

It should also be noted that, in December, the President will again have in his hands the ability to propose a shortlist of three candidates to fill the position of Minister José Fernando Franco, who will complete his term.

OUR TEAM



Luis Manuel Hernandez
President of
index Nacional
luismanuel@index.org.mx
TW: @LuisMHernandezG



Juan Antonio Vazquez Durazo
General Managing Director of
index Nacional
dg@index.org.mx



Paulina Nuñez Roman
Public Affairs and
Operations Director of
index Nacional
asuntoscorporativos@index.org.mx

SPECIAL GUESTS



Hector M. Lucero
Architect and urbanist (USC).



Enrique Perret
Director of the U.S. – Mexico
Foundation.



Alvaro A. Garcia Parga
Director of the Labor
Committee of index Nacional.



Luis Carbajo
Tax practice partner,
Baker McKenzie, Lawyers.



Bernardo Ruschke
Fiscal support specialist,
Baker McKenzie, Lawyers.



Santiago Villanueva
Strategic affiliate in Basham,
Ringe y Correa, S.C.



Erika Martinez Mott
Deputy Executive Director of
Grupo Estrategia Política

INTERDISCIPLINARY PUBLIC RESEARCH TEAM



Julian Leon Manjarrez
Master's degree in Public Administration (Harvard).
julianleon@31mas1.mx



Benjamin Castro
B.A. in Political Science (ITAM).
bcastro@31mas1.mx

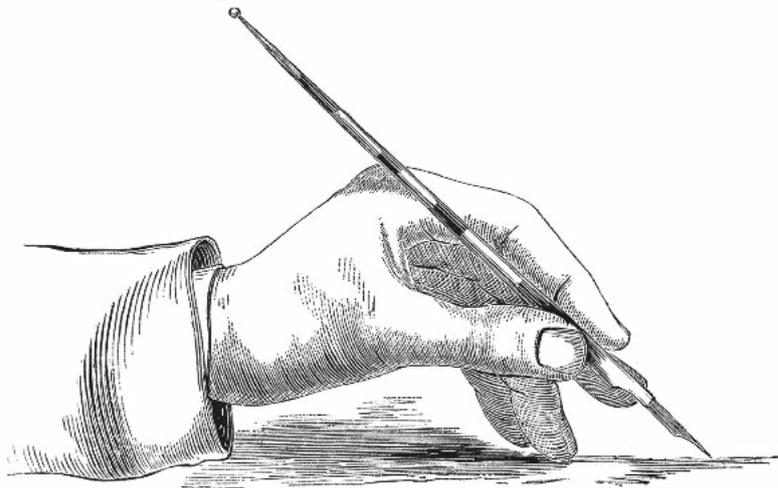


Jose Teran
B.A. in Political Science (ITAM).
jteran@31mas1.mx

This publication is produced by a committed, multidisciplinary team. Our goal is to take the economic, political and social knowledge of the manufacturing industry to the next level. By disseminating our findings, we seek to raise the level of public debate. Share and comment freely, let's start the dialogue.

Collaborate in **TIERPLUSMX** and join the discussion of industrial policy in Mexico.

Send us a letter of less than 750 words to:
bcastro@31mas1.mx /
julianleon@31mas1.mx



“SPREAD, SHARE, comMent, Let’s advance the mexican economy.”

TIERPLUSMX

Consejo Nacional
de la Industria Maquiladora
y Manufacturera de Exportación



index