

TERRUM

Briefing, analysis, opinion and insight of legal affairs in Mexico

Digital Publication by ABOGADOS SIERRA Y VAZQUEZ

 July 15, 2012
year 01 | No. 04

Rail Industry Developments in Mexico.

Samantha Garnica P. 01-03

JUNE NEWS on

Mexican Commercial Law P. 04

Contributor *P. 05*

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

On Mexico has a rail network that spans multiple lines that arrive to different strategic points on three different borders, the north with United States of America and the south with Guatemala and Belize. This rail network is connected with the railways of these countries and is commonly used to export Mexican goods into their markets or to import goods to Mexico.

“...the Mexican rail network now connects all thirty states, connecting the principal cities with centers of agriculture, mining and industrial development, as well as ports and border points”.

Derived from the cargo increase that has been developed by rail transport, mainly in the United States of America, Mexico has developed several logistic activities in order to make the rail industry more efficient. As a result, Mexico has developed rail connections to and from nearly all major ports around the country. Goods arriving at Mexican ports from all over the world can be transported by rail to the intermodal freight terminals inside the country, to the storage terminals, to truck transportation or drayage terminals and from there to the consignee port, integrating an intermodal service process. As a result, the Mexican rail network now connects all thirty two states, connecting the principal cities with centers of agriculture, mining and industrial development, as well as ports and border points.¹

Since the restructuring of the rail system in 1995, the development and modernization of railway infrastructure and equipment has been highly promoted. The national railway system has 26,690 km of rails, of which 77.6% are comprised of main railway lines and 16.6% of secondary railway lines. The total fleet in the system is composed of 1,245 locomotives and 33,443 haulage equipment (33,383 cargo cars and 60 coaches)².

The companies that currently control the railway system in Mexico are the following: Ferrocarril Mexicano (FERROMEX), Kansas City Southern Mexico (KCSM), Ferrocarril del Sureste (FERROSUR) and Ferrovalle.

- FERROMEX: Integrated with Grupo Mexico with a share of 80% and Union Pacific with 20%. They have the Northern Pacific railway concession with an 6,200 km of railway, which represents about 30% of the national railway system.³

1- Capasso Gamboa, Alvaro.

http://catarina.udlap.mx/u_dl_a/tales/documentos/lic/capasso_g_ag/indice.html

2- Ibidem.

3- www.ferromex.com.mx

- FERROSUR: Integrated with Grupo Financiero Inbursa and Grupo FRISCO, who own the Southeastern railway concession with 1,500 km of railway.⁴
- Transportación Ferroviaria Mexicana: Integrated with TFM with a share of 51% and Kansas City Southern Industries with the 49%, who have the concession in the Northwest, known as the “Jewel in the crown”, with 3,900 km of railway.⁵
- FERROVALLE: Integrated with FERROMEX, FERROSUR and Transportación Ferroviaria Mexicana. Their territorial concession is the Mexican valley with 296 km of railway.⁶

Due to growth in the railway industry in Mexico over the last few years, investments as well as regulations have not fulfilled current needs because of global competition and saturation of the rail network in major corridors. The government has therefor sought to encourage railway investment. The strategy involves federal shares with new funding schemes, new legal dispositions, guarantee of applicability, and the safety of rail movements. It will also provide the guarantee of connectivity and operational continuity in the system, given that an adequate system of properly planned rail transport will allow greater productivity, capacity and therefore an intensive use of the capital investment.

As a result, Mexico needs new expansion projects including construction of railway infrastructure, relief roads, port and border expansion, as well as route shortening, in order to achieve an expansion of the railway system while advocating the replacement of the radial structure for a network structure to improve its connectivity⁷. In the same way it is necessary to encourage the development of suburban passenger rail to significantly reduce the transfer time of people between their homes and workplaces and develop multimodal corridors to make the transportation of goods more efficient, with particular attention to those corridors connecting Pacific and Atlantic ports and Mexico’s borders.

“The national railway system has however remained dynamic in the transportation of goods, achieving high growth rates and historical cargo levels, reaching 96.4 billion ton-kilometers in 2008...”

Specific needs for railway investment in Mexico:

- Arriaga-Hidalgo City rails: Hurricane Stan destroyed rails that now do not allow efficient shipping of goods to and from Central America and Chiapas.

4- www.ferrosur.com.mx

5- www.kcsouthern.com

6- www.ferrovalle.com.mx

7- Capasso Gamboa, Alvaro. *Current situation of the railway in Mexico.*

http://catarina.udlap.mx/u_dl_a/tales/documentos/lic/capasso_g_ag/indice.html

- Tehuantepec relief road - Salina Cruz rails: Trains interact with an urban area of Tehuantepec and Salina Cruz causing inefficient and conflicting railway traffic.
- Guadalajara-Aguascalientes rails: The high growth of Pacific ports (such as Manzanillo) to north central Mexico and United States of America and the delay of traffic passing thorough congested areas from Guadalajara and Celaya limit the traffic growth of Asia - Pacific - United States of America via Manzanillo.⁸

The national railway system has however remained dynamic in the transportation of goods, achieving high growth rates and historical cargo levels, reaching 96.4 billion ton-kilometers in 2008, which was reflected in the greater participation of truck transportation of around 26% in 2006. It is however below international standards, since in North America, the railway industry transports about 35% of all total cargo.⁹

These are some of the current cargo and passenger development projects in the rail industry in Mexico (at the moment there is no specific starting date):

- Matamoros-Brownsville Project: The building of a new railway crossing and a new international bridge, developing and strengthening the infrastructure border to enable regional development and promotion of international trade traffic.
- Ciudad Juárez relief road: The building of a relief road and border crossings to ensure safety at railway crossings in urban areas and improving the international exchange of goods by rail.
- A Suburban railway for the Guadalajara metropolitan zone: The building of a passenger rail system to consist of 26 stations, 12 trains and 48 rail car units to service a demand of 300,000 users per day.¹⁰
- A Chalco-La Paz- Netzahualcoyotl Suburban railway system: The building of a passenger rail system connecting with two tube lines.

One of the most important points for the cargo-rail to continue growing in Mexico, is for Mexican ports to develop an adequate infrastructure for rail transport and not only to direct infrastructure to other carriers, which would result in a loss in competitiveness with intermodal traffic options from or to United States of America and Canada. This could cause a loss in the opportunity to serve connecting traffic from Asia and Europe to United States of America. Consequently, the current rail technology offers the promise and potential that railways could be more valuable in the future, as users demand more reliable transportation, ability and efficiency.

8- Expo Rail Mexico 2010. Communications and Transport Ministry.

9- Capasso Gamboa, Alvaro. Current situation of the railway in Mexico.

http://catarina.udlap.mx/u_dl_a/tales/documentos/lic/capasso_g_ag/indice.html

10- Expo Rail Mexico 2010. Communications and Transport Ministry.

Ferromex joined the foreign trade single- counter office.

Companies that move their imports and exports by rail, have the advantage that their shipments are already integrated into the Foreign Trade single- counter office, and thereby gain several benefits in less time and more efficiency. This was informed by the Ferrocarril Mexicano Company (Ferromex), announcing that by joining the VUCE Tax Administration System (SAT), a step was given for the benefit of 55,000 domestic businesses that are permanent users. The rail corporation said that among the advantages of VUCE, is the fact that with twelve hours in advance, the information of shipments will be reported to customs which brings a complete traceability of the volumes of goods and also saves time in paperwork. *El Informador*. 12/June/12.

Nafinsa will conduct studies on the Bullet Train.

The Ministry of Communications and Transportation (SCT) chose the Banco de Desarrollo Nacional Financiera (Nafinsa) to carry out the economic feasibility studies for the bullet train which will run from Mexico City to Guadalajara, worth 6,000 million dollars. In April, the SCT chose Systra, French railway engineering consultant, to prepare the bidding documents for the project, but still need to obtain long term financing. In addition to preparing the tender documents, Systra involved coordinating the bidding process, construction contracts and related contract awards for the company that wins the project to design, build and operate the high speed train. *Business News Americas*. 15/June/12.

The Investment will not be stopped so easily.

Kansas City Southern of Mexico (KCSM) is going forward, its president, Jose Zozaya, has no fear of the change of government. The head of one of the most important railway companies in our country, in terms of length, is confident that whoever assumes the presidency will continue promoting investment, respecting and helping to continue to grow. "We think that the Mexican economy will move significantly" Today we built four new auto assembly plants; because Mexico is an automotive hub and the investment in the aerospace industry is very important. That is just a sign that the economy is getting stronger, because it is much more structured. *El Universal*. 25/June/12.

In this month extract was prepared by Vera García.

TERRUM

Digital Publication
Abogados Sierra y Vázquez

CONTRIBUTORS

Samantha Garnica

Attorney at Law: Admitted to practice law in 2012. Ms. Garnica of Mexican nationality obtained his law degree at the Universidad Anahuac del Sur. LANGUAGES: Spanish and English. PRACTICE AREAS: Aviation Law and Corporate Law. e-mail: sgarnica@asyv.com

ABOGADOS SIERRA Y VAZQUEZ

Prol. Reforma No. 1190 25th Floor
Santa Fe México D.F. 05349
t. (52.55) 52.92.78.14
f. (52.55) 52.92.78.06
www.asyv.com / www.asyv.aero
mail@asyv.com

TERRUM

The articles appearing on this and on all other issues of Terrum reflect the views and knowledge only of the individuals that have written the same and do not constitute or should be construed to contain legal advice given by such writers, by this firm or by any of its members or employees. The articles and contents of this newsletter are not intended to be relied upon as legal opinions. The editors of this newsletter and the partners and members of Abogados Sierra y Vazquez SC shall not be liable for any comments made, errors incurred, insufficiencies or inaccuracies related to any of the contents of this free newsletter, which should be regarded only as an informational courtesy to all recipients of the same.