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Mexican Federal Bureau of  
Regulatory improvement. Faculties,  
legal basis and relevant issues.

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

by *Misael Arellano\**.

**A**fter 16 years of the creation of the Federal Bureau of Regulatory Improvement (COFEMER), it is possible to tell at this point that its purpose has been fulfilled or on other hand has it fail to comply with it? In order to answer this question, its necessary to explain the nature and authorities granted to this entity, and perform the analysis of a specific procedure.

We may commence by saying that COFEMER<sup>1</sup> was created in 2000 as a decentralized government agency, by the Ministry of Economy, for the improvement and streamlining of the different proceedings conducted before any Mexican governmental offices. Its main purpose, among others, is to guarantee transparency of every procedure conducted before any governmental office; the operation and application of the scope of authorities and applicable legal basis. It is also an effort to systematize and standardize proceedings to prevent unnecessary requirements due to the consideration of the cost- effectiveness principle.

This entity was created pursuant to the Federal Law of Administrative Proceedings (LFPA) stated in articles 69-A to 69-Q which state that COFEMER can review any regulation projects, perform public queries, suggest proposals for specific sector regulations, be in charge of the registry of federal legal proceedings, promote competition among private and public sectors, and lead the Federal Registry of Proceedings and Services (RFTS); all of it in order to pursue an accurate compliance of the legislation.

In this regard, as stated in article 69-M of the LFPA, every governmental office must conduct the recording of every proceeding handled in the scope of their authorities, looking for an accurate compliance of the applicable law. In other words, this proceeding must comply with all legal standards and therefore they cannot apply any additional proceedings in opposition to those that have been properly registered, as stated in article 69-Q of the LFPA. The RFTS has a virtual platform though which users can have access to all proceedings and federal formats recorded by the governmental agencies and decentralized offices of the federal public administration<sup>2</sup>, with the purpose to provide legal certainty to its users.

After this brief description of the COFECE and RFTS, we may assume that all proceedings conducted before any Mexican governmental office should be, at least, clear and certain; and the basis to assure that the only requirements should be the ones registered -assuming their compliance with the law and disregarding any other required by any officer of the involved agency-, just as stated by the LFPA<sup>3</sup>; nevertheless, it is hard to verify the observance of this ideal scenario. To set an example to provide more clearness on the arguments of these authors, we will make a reference to one of the proceedings incorrectly recorded and wrongly applied by the authority, referred in December's edition of COELUM<sup>4</sup>, about the cancellation of aircraft records by the registered owner before the Mexican Aviation Registry, from the Mexican General Directorate of Civil Aviation.

The RFTS in addition to the legal basis and description of the proceeding, also states a bullet points to support users and to provide certainty of its scope, lets continue with a review regarding some of the information and FAQs stated in the RFTS web page<sup>5</sup>:

- Proceeding number: SCT-02-028-J
- Proceeding title: Application for the aircraft deregistration before the Mexican Aviation Registry.
- Who is entitled to conduct the application? Interested party or its legal representative.
- In what cases should it can be applied? When the owner or possessor of the aircraft wishes to conduct its deregistration and its aircraft registrations mark.

After the list of general information and FAQs, the RFTS states the requirements, costs, legal basis and response time of the proceeding. In that sense, this proceeding states as required documents the following:

- a) Original registration certificate;

\*IN COLABORATION WITH CARLA ESPINOSA

1.- <https://www.gob.mx/cofemer>

2.- <http://187.191.71.208/tramites/Index.aspx>

3.- Article 69-Q of the Federal Law of Administrative Proceedings.

4.- <http://www.asyv.com/coelum-news>

5.- <http://www.gob.mx/cntse-rfts/tramite/ficha/5630f1d38217e6f1df000217>

- b) PoA<sup>6</sup> granting management authorities to the representative; and
- c) Written petition.

Nevertheless, the legal basis section of this proceeding are provided as follows:

1. Article 32 of the Regulation of the Mexican Aviation Registry; which states that: i) the cancellation of registrations by request of the involved parties will proceed within the following five days; ii) the submitted PoA must state management authorities; iii) in case of any encumbrance or tax credit unsolved, it is required the written acceptance of the creditor or involved authority; and iv) the applicant must previously pay for the incurred duties.

2. Article 46 section I of the Aviation Law; which states that:

*“The aircraft deregistration before the Mexican Aviation Registry will result in the loss of its Mexican nationality and could be conducted in the following cases:*

*I. By written request of the owner or legal holder of the aircraft. The aircraft deregistration of an aircraft subject to an encumbrance, without the acceptance of the creditor;  
...”*

3. Article 17 of the Federal Law of the Administrative Procedure; which states that unless that any other administrative of legal order states other term; it does not exceed three months the term applicable to the entity for the issuance of an official response.

4. Article 14 sections I, II and VII of the Regulation of the Mexican Aviation Registry, Title third of the Registration, Chapter First, of the Registration Application; which states that:

*“The interested parties must submit a written request, in which specifies the information and be attached by the following documentation:*

*I. In case of a legal person, the name or corporate name and the bylaws document with its modifications, recorded before the Public Registry of Commerce. An individual must file its complete name and a copy of his official identification;  
II. In case, the PoA granted before notary public, as well as the appointed persons authorized to receive and hear notifications;  
...”*

*VII. In case, the certificates of registration and airworthiness;  
...”*

5. Article 15 of the Federal Law of the Administrative Procedure; which states that the Federal Public Administration cannot request more formalities to those expressly stated in law; and the formalities applicable to the written application.

In that sense, it is confirmed that this proceeding states the legal basis for the requirements b) and c); however, there is no legal basis for the requirement referred in number a) because no reference is made to the original certificate of registration required for cancellation of the aircraft records in any Mexican rule, norm or law.

As result of the referred facts, we may assume that the proceeding is wrong and not duly grounded in law from the beginning; and the RFTS is obliged to register the proceeding with no changes<sup>7</sup>; in addition to the absurd that article 69-P of the LFPA states that the legality and consent of the information registered at the RFTS will be strict and sole responsibility of the governmental offices or entities that provided such information.

Thus, it is quite clear that the consequence is an illegality from both COFEMER and the Mexican Aviation Registry, since both entities do not comply with the legal principle which states that the registration of all legal proceedings must be under strict and perfect compliance of the applicable law. On the other hand, the legislation does not provide to citizens any elements to claim their rights since article 69-P of the LFPA states that the lawfulness and content of the information registered at the RFTS will be strict and sole responsibility of the governmental offices that provide such information. In such case, it only provides COFEMER the legal authority to issue opinions regarding the information uploaded to the RFTS virtual platform and its opinions are not even binding, leaving the applicant with no easy nor fast legal remedy to defend their rights but to the court proceedings.

6.- Power of Attorney.

7.- Article 69-N of the Federal Law of the Administrative Procedure.

## **Trans-Pacific Partnership (TPP): What is it and why does it matter?**

US President-elect Donald Trump has promised to abandon the Trans-Pacific Partnership (TPP) trade deal as soon as he takes office. The TPP, signed by 12 countries in February, covers 40% of the world's economy. But all 12 nations need to ratify it, and Mr. Trump's comments suggest that simply won't happen. The member states are the US, Japan, Malaysia, Vietnam, Singapore, Brunei, Australia, New Zealand, Canada, Mexico, Chile, and Peru. The pact aims to deepen economic ties between these nations, slashing tariffs and fostering trade to boost growth. Some countries, including New Zealand, have suggested some sort of deal may be possible without the US. There has been loose talk of changing some of the conditions to let Mr. Trump approve it without losing face. But given the rhetoric coming out of Trump Towers, that looks unlikely. And Japan's Prime Minister Shinzo Abe has said a TPP without the US - and its market of 250 million consumers - would be "meaningless". [www.bbc.com](http://www.bbc.com) 22/11/2016.

## **Cuban Revolutionary Leader Fidel Castro Dies Aged 90.**

Fidel Castro, the Cuban revolutionary icon died on Friday 25 November 2016, at age 90. The essential leader for communist party in Cold War, remained with this ideology even after the collapse of the Soviet Union. Nevertheless, he was a respected leader in many parts of the world. Castro had health problems, since intestinal ailment in 2006 nearly kill him. "History will record and judge the enormous impact of this singular figure on the people and world around him," U.S. President Barack Obama said. President elect Donald Trump held: "a brutal dictator who oppressed his own people for nearly six decades." As well president of Venezuela and China Nicolás Maduro and Xi Jinping, respectively expressed that a nice friend was lost and that Castro's legacy must be followed.. [www.nytimes.com](http://www.nytimes.com) 26/11/2016.

## **OPEC Reaches Deal to Limit Production, Sending Prices Soaring.**

With prices, still at less than half the levels of two years ago, the Organization of the Petroleum Exporting Countries agreed this fall to lower collective production. But it could not figure out how to spread the cuts among the countries. Saudi Arabia and Iran overcame their differences, with OPEC deciding to cut production next year by about 4.5 percent, or 1.2 million barrels a day. It will be the first cut in eight years. With the prospect of less pumping, oil prices, which began rising earlier in the day in anticipation of the deal, were up more than 8 percent, to nearly \$50 a barrel. Rising prices could lift the troubled economies of oil-dependent nations like Nigeria and Venezuela, and bolster the fortunes of smaller American energy producers that have been shaken by the weakness. [www.nytimes.com](http://www.nytimes.com) 30/11/2016.

## **E.U. Plans Big Increase in Military Spending.**

European Union officials announced plans for a big increase in military spending, pledging to take greater responsibility for their security at a time when the United States appears to be taking a step back in its role in the world. The bloc's top officials proposed spending 5.5 billion euros, or \$5.8 billion, a year to help governments acquire hardware, including helicopters and drones, and to develop military technology. [www.nytimes.com](http://www.nytimes.com) 30/11/2016.

## **Colombia's Congress Approves Peace Accord With FARC.**

Colombia's Congress approved a revised peace accord with the country's largest rebel group on Wednesday night, a vote that was most likely the final hurdle in ratifying the troubled agreement whose earlier version had been rejected in a referendum this fall. The agreement now offers some clarity over what to expect as rebels accused of various offenses, including war crimes and drug trafficking, go before a special court.. [www.nytimes.com](http://www.nytimes.com) 30/11/2016.

*In this month extract was prepared by Miguel Ruelas, Carla Espinosa, Luis Salas, Juan R Madero, Diana Aguilera, Selma Gonzalez.*

## **Eurozone jobless rate falls below 10%.**

The Eurozone's unemployment rate has fallen below 10% for the first time since 2011. Unemployment fell to 9.8% in October - its lowest rate for seven years - from a revised 9.9% in September, the EU statistics agency Eurostat reported. The European Central Bank (ECB) has been taking continued action to stimulate the bloc's economy. [www.bbc.com](http://www.bbc.com) 01/12/2016.

## **Canada prepares for surge of Mexican immigrants after visa lift and Trump win.**

Mexican visitors will no longer need visas and Trump vowed to expel millions of immigrants, sparking concerns of an increase in travelers and asylum seekers. The requirement for visa was established in 2009 by the Conservative government to solve the increasing of claims of false refugees. Between 2005 and 2008, Mexico was the number one source country for claims and only 11% of them were accepted. So the visa was adopted as measure for border control, the claims ceased, but Canada government had a huge political pressure from Mexico to end the policy. The measure was abandoned in June while Mexico accepted to increase the import of Canadian beef. The lifting of visa and the measures taken by Trump will increase attraction of people to go to Canada, as well as the peso depreciation and a potential economic crisis in Mexico.. [www.theguardian.com](http://www.theguardian.com) 01/12/16.

## **The NAFTA teardown: Here's where Trump could start.**

President-elect Donald Trump is clear: Starting Day 1, he wants to renegotiate or withdraw from NAFTA, the free trade deal among three countries: America, Canada and Mexico. Trump could begin with a controversial chapter of NAFTA that some experts believe gives corporations an incentive to create jobs across the border by giving them too much power to skirt and battle foreign government laws. It gives U.S. corporations the power to sue the Canadian or Mexican government on regulations they say impose a burden on their business operations in those countries. It doesn't matter if the regulation is in the public's interest or that their local competitors must abide by the same rules. Instead of going to a Canadian or Mexican court, U.S. corporations can head straight to an arbitration panel allowed by NAFTA. The panel ultimately decides who is right or wrong, and can slap countries with stiff fines. [www.money.cnn.com](http://www.money.cnn.com) 01/12/2016.

## **Agustín Carstens resigns to Mexico's Central Bank.**

The former governor of the Bank of Mexico (Banxico standing for its name in Spanish) presented his resignation to the Mexican president, Enrique Peña Nieto, effective from July 1, 2017, to become the manager of the Bank for International Settlements (BIS). While his resignation was announced, the Mexican Stock Exchange (BMV standing for his name in Spanish) received impacts for the announcement. At 8:32 in the morning it reported 45,567.44 units, but an hour later it went down to 45,221,43 points. On the other hand, dollar was rated in 20.57 pesos before the news reached the media, after the announcement it reached a maximum of 20.79 units. "The expectation after Carstens resignation will be limited, until a new candidate attends to become the new governor of Banxico that will be recognized for its trajectory and that is seen as someone capable to conduct a monetary policy attached to the stability prices", said Gabriela Siller, director of Economic-Financial Analysis of BASE bank. The former president of Mexico congratulated Agustín Carstens for its designation as manager for BIS. . [www.forbes.com](http://www.forbes.com) 02/12/2016.

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