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The New Company by Simplified Shares, A decisive step towards competitiveness.

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The New Company by Simplified Shares, A decisive step towards competitiveness.

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On February 9 of this year the lower House (*Camara de Diputados*) of the Mexican Congress has approved a long time sought amendment to the General Law of Commercial Companies (*Ley General de Sociedades Mercantiles*) through which a new form of private commercial entity has been created.

Prior to this reform, all companies and partnerships in Mexico required to have at least two partners or shareholders and required to be constituted before a notary public and to be subsequently registered in the Public Registry of Commerce (*Registro Público de Comercio*). This process that was costly and relatively cumbersome and time consuming. Prior to these changes, a new civil or commercial entity could only be constituted after paying notarial fees and registration duties, and after approximately one month that was generally consumed during the incorporation process while all applicable requisites were met.

The approved reform to this law, creates a new form of entity known as Company by Simplified Shares (*Sociedad por Acciones Simplificada*) or (SAS) by its acronym in Spanish. This newly conceived legal entity will facilitate the process involved in constituting companies, particularly medium or small, which in Mexico are generally known as PYMES. The process to incorporate an SAS can be completed in merely 24 hours through an electronic system.

The electronic system in question also permits the completion of the mandatory requirements associated with contributions towards social security, workers housing and workers consumer loans¹; as well as to require financial support from certain government development entities and funds, all under one single portal.

In addition to the above, the constitution of an SAS requires no more than one partner or shareholder, and while of course it could have more, the long existing requirement for companies to be constituted by a minimum of two partners is no longer applicable in this case.

The simplicity of the process intends to increase the formalization, for tax purposes, of entities and individuals, increasing the taxpayers base and reducing informality in the Mexican economy.

From the minutes of the debate held in Congress, we can extract that its constituents appreciated that with this reform Mexico will be up-to-date with international tendencies in respect to the constitution of companies; attending the objectives stated by the United Nations Commission for the Commercial International Development and by the Organization of American States (OEA), to promote an entrepreneurial culture and fostering economic development of all nations and communities.

In accordance with the data analyzed by Congress, it was taken into account that 72 percent of employments in Mexico originates from micro, small and medium companies which provide 5.2 percent of the Gross Development Product (GDP).²

The reduction of the time that is consumed in the constitution and registration of new companies is an important factor, while the reduction of costs is important also to encourage the conformation of a formal entity with less effort and expense. It is obvious to mention that not all new companies succeed and thus, the cost and

1.- All of which are accomplished in compliance of requirements with the Mexican Social Security Institute (*Instituto Mexicano del Seguro Social*) or (IMSS), the National Workers Housing Fund (*Fondo Nacional para el Fomento a la Vivienda de los Trabajadores*) or (INFONAVIT) and the National Fund for the Workers' Consumption (*Fondo Nacional Para el Consumo de los Trabajadores*) or (FONACOT).

2.- National Institute of Statistics, Geography and Information (*Instituto Nacional de Estadística, Geografía e Informática, INEGI*).

difficulties associated with constituting a new entity are not considered worth the effort, given the chances that a business venture has to fail within the initial first or second year of its existence. These difficulties, encourage entrepreneurs to attempt more informal –and cheaper- mechanisms to initiate activities while the company grows out of the initial challenges that any new business venture will naturally face. In accordance with the Center for the Development of Entrepreneurial Competitiveness (*Centro de Desarrollo de la Competitividad Empresarial*), 75 percent of companies in Mexico closes before completing their second year of existence and only 10 percent transcends beyond the first five years. This data evidently shows why cheaper and faster mechanisms for the constitution of companies will be more easily embraced by cash conscious business ventures with low resources to waste.

“Or the critic side however, perhaps, we could enumerate a few aspects of relevance that should be taken into consideration for further reform. Admittedly, this is a new mechanism that will still need some refinement in the future.”

In 2012 only 0.88 companies were created in Mexico for each one thousand inhabitants of working age. This index is low compared with Brazil or Colombia, where an average of two companies for each one thousand inhabitants was created.³ Mexico currently ranks 64 in terms of competitiveness according to the World Bank.⁴

This reform, in summary will undoubtedly raise the ranking of Mexico in terms of facilitation to do business and in terms of competitiveness; it will reduce the cost and time involved in creating a new company and will encourage formality and compliance for a wider and more sophisticated taxpayer base.

On the critic side however, perhaps, we could enumerate a few aspects of relevance that should be taken into consideration for further reform. Admittedly, this is a new mechanism that will still need some refinement in the future.

Firstly, I believe it would be better if the shareholders or partners to the SAS would not be required to be solely individuals, which prevents legal entities from participating or acting as partners or shareholders of a company of this nature.

Secondly, an SAS is only available as a corporate structure for companies which annual income is not higher than five million Mexican Pesos , which limits this new type of entity to business ventures of only very small size.

Thirdly, consideration was also given during the debates to the potential misuse of these new simplified and -to an extent then- less regulated entities which could be used for illicit purposes such as money laundering and others. More thorough regulation should perhaps be adopted to prevent this.

In spite of the above however, the initiative to simplify the constitution of companies is an old long awaited requirement of the Mexican society and of young entrepreneurs. This is one of the results of the very important reforms that have been implemented in the business and financial sectors and is certainly a welcome and substantive development in the road that Mexico is following towards a more competitive and innovative future.⁵

3.- World Bank

4.- World Bank

5.- Approximately US\$285,714 at the Exchange rate of \$17.5 Mx Pesos for one US Dollar.

Choked Mexico City bans 1m cars in air pollution alert.

Authorities have banned more than 1 million cars from the roads and offered free subway and bus rides to coax people from their vehicles as Mexico City's first air pollution alert in 11 years stretched into a third day. Officials advised people on Wednesday to limit outdoor activity owing to high ozone levels that were nearly double acceptable limits in the sprawling capital, which lies in a high-altitude valley ringed by smog-trapping volcanic mountains. Amid a muddy brown haze, some residents covered their mouths with scarves or paper masks. The environment secretary, Alejandro Pacchiano, said measures would be considered if conditions did not improve further, such as suspending industrial activity at factories. *theguardian.com 16/03/2016.*

Brazil Supreme Court takes over corruption case against former president.

Supreme Court of Brazil ruled Thursday that it will take over the corruption probe against former president Luiz Ignacio Lula da Silva instead of returning the case to federal Judge Sergio Moro. Senior officials are not immune [Business Standard report] from prosecution, but can only be tried before the Supreme Court. Judge Sergio Moro has been leading the corruption case relating to the Petrobras scandal and has been accused of unfairly targeting the former president. Current President Dilma Rousseff's appointment of Lula as the former's chief of state, has remained in "limbo" [AP report] for weeks awaiting a decision by the Supreme Court to authorize and lift the injunction that is currently preventing Silva from taking office. Lula's appointment as Chief of State would afford him greater legal protections under Brazilian law, granting the Supreme Court the only institution to authorize an investigation, detention and indictment of a Cabinet member. *www.jurist.org 01/04/16.*

Donald Trump vs. Barack Obama on Nuclear Weapons in East Asia.

Donald Trump broke a lot of foreign-policy crockery last week. President Barack Obama dressed. Mr. Trump suggested that, if South Korea and Japan had nuclear weapons, we could spend less protecting those allies. This approach, Mr. Obama rejoined, would reverse decades of U.S. policy on nuclear proliferation. *www.wsj.com 05/04/2016.*

Chinese Developers Aim to Expand in Canada.

Builders focus on big cities with established Chinese communities, expecting home demand to grow. Chinese residential developers are widening their beachheads in Canada as demand for homes grows in part from people of Chinese descent. Tianco Group Inc., DongDu International Group and Greenland Group are among the Chinese-controlled developers that are planning to increase their activity, executives of those companies say. *www.wsj.com 05/04/2016.*

Panama Papers': Iceland Faces Political Turmoil after Prime Minister Steps Aside.

Iceland's political crisis extended into a third day on Wednesday as the country's coalition government faced a threat to its survival after the prime minister suddenly stepped aside over revelations of his offshore accounts. *www.wsj.com 06/04/2016.*

European Union Considers Changes to Asylum Rules.

Bloc is under pressure to fix its system after around a million migrants entered last year. The European Commission on Wednesday outlined ideas for overhauling the bloc's asylum rules to better address the biggest inflow of migrants since the end of World War II, but Brussels backed off pushing for speedy, radical changes. *www.wsj.com 06/04/2016.*

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