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A project full of irregularities with which the Mexican president intends to dress in glory.
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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”

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The Mayan Train is the infrastructure project that President Andres Manuel Lopez Obrador (AMLO) intends to use as his emblematic entrepreneurship of his administration, with the goal (as he has declared), of detonating the economic, touristic and social development of the southeast region of Mexico. The project intends to connect the main cities of the Yucatan peninsula by means of a railway route of 1,525 km, 15 stations along in 5 states of the southeast region, and the investment is estimated in an amount of MXP\$150,000,000.00 under a mixed scheme that will include government and private sector, to be concluded in 4 years. However; due to the size of the project, but to the geographical characteristics also, the challenge lies in providing evidence that it will not cause harm to the ecosystem or major environmental damages; provided that, AMLO has stated categorically that it will not cause any deterioration.

The reality is that as of today, no evidence at all has been provided and worst, the Ministry of Environment has clearly recognized not being aware of such environmental impact and effects since the relevant Environmental Impact Assessment (“Evaluación de Impacto Ambiental” – “EIA”) and the actions to actually mitigate their consequences have not been rendered for approval. The EIA is a technical-scientific study of planning and preventive nature, which allows to identify the effects that a project can cause on the environment including “preventive” measures to minimize negative effects. This study allows the authority to **previously** evaluate the feasibility for the execution of industrial investment projects, infrastructure, manufacturing, shops or services. Pursuant to Article 28 of the General Law of Environmental Protection and Balance (“Ley General de Equilibrio Ecológico y Protección al Ambiente” - “LGEEPA”), the EIA is the first step of the procedure through which the Ministry of Environment specifies the **conditions** to compensate such activities causing environmental imbalance or that exceed the limits and conditions established in the applicable provisions to protect the environment and preserve and restore ecosystem; in order to avoid or minimize their negative effects on the environment.

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Despite the fact that no EIA has been provided, president AMLO placed on December 2018, the first stone of the construction, through a kind of ritual ceremony, where in a very unprofessional way, he incredibly represented a mystical character, making seem that the Mayan Gods were granting permission, using in their favor in an abusive manner, the beliefs and culture of the inhabitants of such area. To continue with the paradoxes, even though AMLO had assured that no contract related to the project would be granted without prior bidding, but in accordance with the official web page to consult governmental sales (CompraNet)¹, the three first contracts have been already awarded directly (ie without bidding), to three different firms in the following fields: (i) legal advisory for MXP\$44,000,000.00; (ii) economic-financial advisory for MXP\$32,000,000.00; and (iii) technical advisory for MXP\$23,870,000.00².

Moreover, the head of the National Tourism Fund (FONATUR) announced that Deloitte Mexico will be integrated to the project for the the Investment and Real Estate Trusts (“Fideicomisos de Inversión y Bienes Raíces” - “FIBRA”)³, and on the other hand, there is some information that certain aspects such as rail cars and roads sections will be by “restricted invitation”⁴. The direct award and the restricted invitation are exceptional cases to the public binding and Articles 40 and 41 of the Law of Acquisitions, Leases and Services of the Public Sector (“Ley de Adquisiciones, Arrendamientos y Servicios de

1.- <https://compranet.funcionpublica.gob.mx/web/login.html>

2.- <https://www.proceso.com.mx/577099/por-adjudicacion-directa-fonatur-otorga-los-tres-primeros-contratos-del-tren-maya-por-casi-100-mdp>

3.- See footnote 2

4.- <https://www.elsoldemexico.com.mx/mexico/politica/amlo-descarta-adjudicacion-directa-a-bombardier-por-tren-maya-2121007.html>

la Administración Pública” – “LAASA”), provides a list of the exceptions where the direct award can be conducted. Thus, pursuant Article 41 (X), when dealing with services of consultancy, advisory, study or research, the procedure of restricted invitation must apply, to at least three participants, including public and private institutions of higher education and public research centers. And, direct award will apply also, when the information that must be provided to the bidders for preparation of their proposal, should be treated as “confidential” pursuant to the Federal Law of Transparency and Access to Government Public Information⁵. So clearly, the aforementioned exception seems to be the exception used by AMLO to not sustain the promise of only conducting the process through public bidding. On the other hand, Article 88 of the Regulation of LGEEPA, provides that the prior authorization from the Ministry of Environment is mandatory, to this kind of projects, reiterating those activities to which environmental impact assessment is necessary pursuant Article 28 of the LGEEPA (as explained above).

“In conclusion, it is clear and evident that the construction of the Mayan Train is not as harmless as AMLO intends to make it appear. Quite the contrary, the truth is that it lacks of legality violating the applicable law and procedures.”

But there are many other aspects (to not say irregularities) to consider. There are 15 Protected Natural Areas (“*Áreas Naturales Protegidas*”)⁶ at risk, where not all of them are allowed to change their forest land character (“*uso de suelo forestal*”), and consultations to farmland and native sectors (“*ejidatarios y pueblos indígenas*”) established by Convention 169 of the International Labor Organization (“OIT” for its acronym in Spanish)⁷, to which Mexico is a party.

For example, one of the protected areas is the Biosphere Reserve of “Calakmul”, which contains 80% of the plant species of the entire Peninsula of Yucatán, 350 species of birds and around 200 species of mammals. Hence, AMLO is clearly misleading with the absurd argument that the Mayan Train will be built on existing railways; without mentioning obviously, that currently there are only 600 km of the 1,525 km that the Mayan Train will have⁸, and of course he has not disclosed the fragmentation that the ecosystem will have and the damages to the biodiversity due to the rehabilitation of such existing railroads. All this despite the fact that the Mayan train could be classified as an environmental crime; since it updates the acts described by Article 420 Bis of the Federal Criminal Code (*Código Penal Federal*), as follows:

“A penalty from 2 to 10 years of prission and from 300 to 30000 days (of mininum official salary) will be imposed on any person who unlawfully: I. Damage, dry or fill wetlands, mangroves, lagoons, estuaries or swamps; II. Damage reefs; III. Enter or release in the natural environment, any exotic flora or fauna that harms an ecosystem, or that hinders, alters it or affects native or migratory species in the natural cycles of their reproduction or migration, or; IV. Cause a fire in a forest, jungle, natural vegetation or forest land, damaging natural elements, flora, fauna, ecosystems or the environment. An additional penalty of up to 2 years of prisión and an additional fine of up to 1000 days of salary will be applied, when the conducts described in this article are carried out in or affect a Protected Natural Area or, when a profit or economic Benefit is obtained.”

In conclusion, it is clear and evident that the construction of the Mayan Train is not as harmless as AMLO intends to make it appear. Quite the contrary, the truth is that it lacks of legality violating the applicable law and procedures. It is worryisome that without fulfilling the prerequisites and international standards, the jungle, the mangroves, the animal species (several in danger of extinction), in general the entire ecosystem of the area, are being seriously threatened and under serious risk, just for a fancy ambition of AMLO and his group.

5.- http://www.diputados.gob.mx/LeyesBiblio/pdf/LFTAIP_270117.pdf. Consulted on April 24, 2019.

6.- Pursuant to Article 3 II of LGEEPA: “The areas of the national territory and those over which the nation exercises its sovereignty and jurisdiction, where the original environments has not been significantly altered by the activity of the human being or that require to be preserved and restored and are subject to the regime provided for in this Law”.

7.- http://www.senado.gob.mx/comisiones/desarrollo_social/docs/marco/Convenio_169_Pl.pdf (“Convenio 169 Sobre Pueblos Indígenas y Tribales en Países Independientes”)

8.- <https://www.eluniversal.com.mx/nacion/en-riesgo15-areas-por-tren-maya>. Consulted on April 24, 2019.

Global economic activity and financial stability to be expected in Mexico.

Economic activity in Mexico has continued to weaken in the first months of this year, although showing positive rates of growth. Economic activity in early 2019 has been affected by short-term disruptions like gasoline shortages, blockades to railways and seaports, labor strikes, an upward trend in exports and a deceleration in private consumption. Nevertheless, the expectation of a more gradual normalization of monetary policy in advanced economies and the US has contributed to alleviate uncertainty; labor markets maintain a solid performance, with the unemployment rate recording additional declines and nominal wage growth showing a positive trend. However, monetary policy in Mexico must proceed with caution and focus on achieving the inflation targets, with priority attached to enhancing the credibility of the Central Bank, while enhancing structural institutional measures to increase the economy's growth potential, achieving trade agreements ratifications and an evolution of oil output, among others. <http://www.banxico.org.mx/publicaciones-y-prensa/presentaciones/%7B696E852C-C8A1-DF74-EA90-9337F1D28490%7D.pdf> 13/04/2019.

States must pay for the usage of the National Guard.

The states and municipalities, that require the sustenance of the National Guard in order to face criminal activity in their territory, will have to pay proportionately the expenses of operation to the new security corps with the resources of their own budget. The main amount to be contributed, will be established through a collaboration agreement that the state agents and mayors of the municipalities sign with the head of the Security and Citizen Protection Secretary. <https://www.eluniversal.com.mx/nacion/estados-deberan-pagar-por-uso-de-la-guardia-nacional> 15/04/2019.

López Obrador decrees the cancellation of the educational reform.

Andrés Manuel López Obrador has declared the educational reform of his predecessor, Enrique Peña Nieto, dead, through a memorandum issued on Tuesday that annuls the legal changes of 2013. The document mobilizes three federal executive secretaries to free the teachers who are imprisoned for opposing the reform, reinstating teachers who have lost their jobs after not approving the evaluations contemplated in the previous law and assume the payment of payroll for teachers. The government has decreed the measure after weeks of stagnation in Congress, where the coalition led by the party of López Obrador (Morena, left) has not been able to agree on a new bill that satisfies the teachers' dissidence and assures them of the necessary votes from the other parliamentary groups to approve it. The opposition denies that the action has legal support and has already advanced that it will challenge the decision before the courts. https://elpais.com/internacional/2019/04/16/mexico/1555447201_388289.html 17/04/2019.

Mexican President, signs commitment of non-reelection.

Mexico's President Andrés Manuel López Obrador, signed last Tuesday a public letter in which he commits on not attempting to remain in his office. However, he did indicate that around 2021, he may do a citizen consult, in order to verify if they wish for him to remain in the Presidency or if they want him to resign. Therefore, he sent to the Congress an initiative for a Constitutional Reform that will allow him to carry out the mentioned consult. <https://lta.reuters.com/articulo/politica-mexico-reeleccion-idLTAKCN1R024S-OUSLT> 19/03/2019.

Mexico poised to pass labor reforms as part of Trump USMCA deal.

The Mexican Senate is poised to pass a package of legislative reforms meant to fulfill its requirements under the U.S.-Mexico-Canada Agreement on trade negotiated by President Trump. <https://www.washingtonexaminer.com/policy/economy/mexico-poised-to-pass-labor-reforms-as-part-of-trump-usmca-deal> 22/04/2019.

The new Santa Lucia Airport is approved without an environmental impact report.

The Ministry of National Defense (SEDENA) reported that the Ministry of Environment and Natural Resources (SEMARNAT) endorsed on March 29 the "Notice of Non-Requirement of Authorization on Environmental Impact" submitted for the airport construction project of Saint Lucia. With this, it is confirmed that the new Santa Lucia Airport will not have a prior environmental impact report. <https://www.informador.mx/mexico/Aprueban-el-no-requerimiento-de-impacto-ambiental-en-Santa-Lucia-20190429-0116.html> 29/04/2019.

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VIRIDIANA BARQUÍN

Mrs. Barquin, of Mexican nationality obtained her law degree by Universidad La Salle, Mexico and holds Master Degree in International Business by Universidad La Salle, Barcelona, with post-graduate studies in International Arbitration by Escuela Libre de Derecho, Mexico, holds Certificate of Airline Contract Law by the International Air Transport Association (IATA- Switzerland) and International Air Law, Aircraft Acquisition and Financing, and Aviation Insurance Law (IATA- Mexico). Her practice focuses in cross-border transactions dealing with leasing, financing, sale and acquisitions, antitrust and corporate matters, having represented foreign companies in structuring and negotiation of a full range of commercial agreements and numerous disputes resulting in the successful repossession of assets through settlement and alternative methods of dispute resolution.

LANGUAGES: Spanish, English and Catalan.

PRACTICE AREAS: Aviation, Corporate, Commercial and International Business Law.

mail: vbarquin@asyv.com


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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

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