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“HOW TO INVEST AND START OPERATIONS IN MEXICO”

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- IN SPITE OF THE FACT THAT MEXICO IS PERHAPS ONE OF THE COUNTRIES OF THE WORLD THAT HAS EXECUTED THE MOST FREE TRADE AGREEMENTS, THE UNITED MEXICAN STATES, ITS OFFICIAL NAME, HAS MANAGED TO RESTRICT OR PROHIBIT FOREIGN PARTICIPATION IN SOME OF ITS INDUSTRIAL SECTORS.
- **FREE TRADE AGREEMENTS - MEXICO IS CURRENTLY THE COUNTRY WITH MOST FREE TRADE AGREEMENTS IN THE WORLD.**



❑ ARGUMENTS USED BY THE MEXICAN GOVERNMENTS MAY BE DESCRIBED AS:

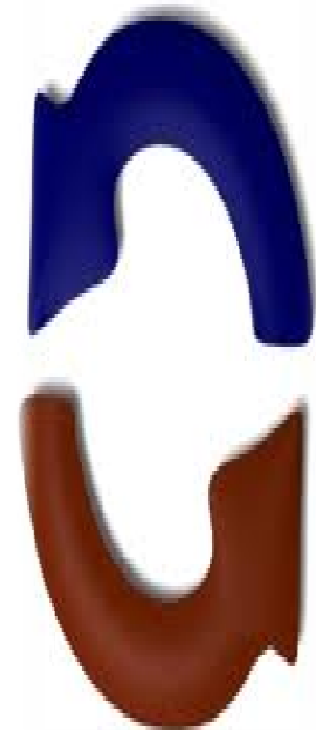
- ❑ **DIVERSE,**
- ❑ **GROUNDLESS MANY OF THEM,**
- ❑ **COLORFUL OTHERS. UNSUBSTANTIATED MOST OF THEM.**



❑ AND, OF COURSE WE CAN PROVIDE SOME EXAMPLES OF THESE ARGUMENTS:

- ❑ **STRATEGIC INDUSTRY**
- ❑ **RISK TO NATIONAL SOVEREIGNTY**
- ❑ **RECIPROCITY**
- ❑ **BEST PUBLIC INTEREST**

❑ I HAVE NO INTENTION TO CONVERT MYSELF INTO THE MOST CYNICAL OR SKEPTICAL MEXICAN LAWYER IN TOWN BUT THE FACT OF THE MATTER IS THAT I STRONGLY BELIEVE THEY DO HAVE SOME OTHER MOTIVATIONS.



RESTRICTIONS ON FOREIGN OWNERSHIP OF MEXICAN COMPANIES

- ❑ DUE TO TIME CONSTRAINTS LET US NOT GET INTO THE MOTIVATIONS BUT RATHER LET'S REVIEW THE INDICATORS SHOWING PARTICIPATION OF FOREIGN OWNERSHIP IN MEXICAN COMPANIES IN THE DIFFERENT INDUSTRIAL SECTORS AND THE COMPARISON WITH THE REGIONAL OR GLOBAL AVERAGE.
- ❑ STATISTICAL DATA PROVIDED HEREIN COMES FROM THE WORLD BANK.

INVESTING ACROSS SECTORS

Sector Group	Country score	IAB regional average	IAB global average
Mining, oil & gas	50.0	91.0	92.0
Agriculture & forestry	49.0	96.4	95.9
Light manufacturing	100.0	100.0	96.6
Telecom	74.5	94.5	88.0
Electricity	0.0	82.5	87.6
Banking	100.0	96.4	91.0
Insurance	49.0	96.4	91.2
Transport	54.4	80.8	78.5
Media	24.5	73.1	68.0
Construction, tourism & retail	100.0	100.0	98.1
Health care & waste management	100.0	96.4	96.0

- ❑ YOU WILL NOTICE THAT WITH THE EXCEPTION OF LIGHT MANUFACTURING (MAQUILADORAS MANY OF THEM), BANKING, CONSTRUCTION, TOURISM, RETAIL, HEALTH CARE AND WASTE MANAGEMENT THE PARTICIPATION BY FOREIGN CAPITAL IN THE MEXICAN ECONOMY IS WAY BELOW THAT ONE IN THE REGIONAL OR GLOBAL ARENA.

- ❑ BUT THE CURRENT SCENARIO IS FAR MORE OPEN THAN THE PERIOD COMPREHENDED FROM 1973 THRU 1988.

- ❑ UP TO THE LATTER YEAR, FOREIGN INVESTORS COULD NOT PARTICIPATE IN THE CAPITAL STRUCTURE OF MEXICAN COMPANIES IN EXCESS OF 49%, AS A GENERAL RULE.

- ❑ FOREIGNERS CANNOT PARTICIPATE IN THE:
 - ❑ OIL AND GAS INDUSTRY

 - ❑ ELECTRICITY TRANSMISSION AND DISTRIBUTION (GENERATION IS ALLOWED UNDER CERTAIN RESTRICTIONS)

 - ❑ OTHER RESTRICTIONS APPLY TO THE TELECOMMUNICATIONS INDUSTRY, RAILWAY FREIGHT TRANSPORTATION AND ETCETERA.

ESTABLISHING A LOCAL SUBSIDIARY OF A FOREIGN COMPANY

- ❑ LIKE MANY OTHER (NOT ALL) DEVELOPING COUNTRIES, WE MEXICANS LIKE PAPERWORK. LOVE RED TAPE AND HAVE SURROUNDED US WITH THOUSANDS OF BUREAUCRATS THAT ARE EXTREMELY DILIGENT AND CREATIVE WHEN IT COMES TO
 - ❑ GENERATING OBSTACLES
 - ❑ REQUIRING ADDITIONAL PAPERWORK THAT NO ONE WILL EVEN DARE TO READ (EVEN WHEN NOT INCLUDED IN THE PARTICULAR RULES)
 - ❑ REQUESTING COMPANY REPRESENTATIVES TO TRAVEL TO THE STATE OR COUNTRY CAPITAL TO PRESENT A PARTICULAR PROPOSAL OR CONSULTATION.
- ❑ THINGS, I MUST SAY, HAVE DRAMATICALLY IMPROVED IN RECENT YEARS BUT BY NO MEANS TO THE DECENT LEVELS WE WOULD WANT TO BE IN.
- ❑ I MUST ALSO ADMIT THAT I AM YET TO HEAR A REQUEST FOR “MONEY UNDER THE TABLE” WHEN WORKING WITH A CLIENT IN THE ESTABLISHING OF THEIR MEXICO OPERATIONS
- ❑ AS A RESULT OF THE ABOVE CONSIDERATIONS, THE FOLLOWING ARE THE CURRENT INDICATORS ACCORDING TO THE WORLD BANK:

STARTING A FOREIGN BUSINESS

Indicators	Country score	IAB regional average	IAB global average
Procedures (number)	11	14	10
Time (days)	31	74	42
Ease of establishment index (0-100)	65.8	62.8	64.5

- ❑ THE FIGURES ABOVE UNEQUIVOCALLY REFLECT THAT WE HAVE IN MEXICO A FEW PROCEDURES. WE BEAT THE REGIONAL AND GLOBAL AVERAGE BY FAR AS CONCERNS THE NUMBER OF DAYS REQUIRED TO ESTABLISH A SUBSIDIARY BUT WE DO IT A MORE COMPLICATED WAY THAN THE REGIONAL AND GLOBAL AVERAGE.
- ❑ AND I WOULD NOT BLAME ANYONE BUT OUR BUREAUCRATS. THOSE THAT DESIGN THE RULES AND MECHANISMS, THOSE THAT ARE IN CHARGE OF ENFORCING THEM AND THOSE THAT INTERPRET WHAT THEY MEAN OR WANTED TO MEAN.
- ❑ THERE ARE MANY RULES THAT GOVERN THE INCORPORATION PROCESS THAT MAY BE SIMILAR TO WHAT YOU MIGHT HAVE BACK HOME. OTHER ARE COMPLETELY DIFFERENT. FOR INSTANCE

BASIC STEPS TO STARTING A BUSINESS IN MEXICO

1) INCORPORATION OF A MEXICAN COMPANY

1.1 OBTAIN A PERMIT TO INCORPORATE FROM THE MINISTRY OF FOREIGN AFFAIRS (SRE).

RECOMMENDED TO PROVIDE THREE (3) OPTIONS FOR THE CORPORATE NAME OF THE COMPANY.

1.2 DRAFT THE BY-LAWS OF THE COMPANY.

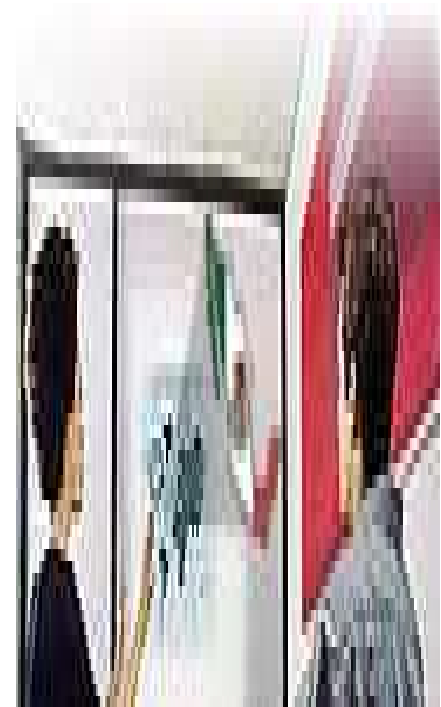
CORPORATION (S.A. DE C.V.)
MINIMUM CAPITAL :\$50,000.00 PESOS.
BOARD OF DIRECTORS/ SOLE
ADMINISTRATOR

LIMITED LIABILITY (S. DE R.L. DE C.V.)
MINIMUM CAPITAL: \$3,000.00 PESOS.
BOARD OF MANAGERS/SOLE MANAGER

**1.3 FORMALIZATION BEFORE A MEXICAN NOTARY.
RECORD BEFORE THE LOCAL PUBLIC REGISTRY OF
COMMERCE.**

**1.4 PREPARATION AND ISSUANCE OF STOCK
CERTIFICATES OR SOCIAL PARTS CERTIFICATES.**

**1.5 PREPARE THE CORPORATE LEDGERS OF THE
COMPANY.**



***NOTE: ONCE THE ABOVE IS ACCOMPLISHED, THE COMPANY
MUST BE REGISTERED WITH SOME MUNICIPAL, STATE AND
FEDERAL AGENCIES.**

2) TAX MATTERS (MINISTRY OF FINANCE AND PUBLIC CREDIT)

2.1 OBTAIN THE FEDERAL TAXPAYER REGISTRY NUMBER. TAX REGISTRY (“RFC”).

2.2 PROCESS AND OBTAIN THE ADVANCED ELECTRONIC SIGNATURE FOR THE COMPANY.



3) ENVIRONMENTAL ISSUES

3.1 IT IS NECESSARY TO OBTAIN APPROVAL FROM THE ENVIRONMENTAL AUTHORITIES.

3.2 TO SUBMIT AN ENVIRONMENTAL PREVENTIVE REPORT (DETAILED REPORT ABOUT THE OPERATION).

3.3 THE AUTHORITIES WILL VERIFY THAT THERE IS NO NEGATIVE IMPACT TO THE ENVIRONMENT AS A RESULT OF SUCH ACTIVITIES.



4) INTER-COMPANY AGREEMENTS

4.1 BAILMENT AGREEMENT OR COMMODATUM AGREEMENT FOR THE MACHINERY AND EQUIPMENT BROUGHT INTO MEXICO.

4.2 THIS AGREEMENT WILL PROVIDE PROTECTION TO THE EQUIPMENT OWNED BY THE PARENT COMPANY THAT IS SHIPPED TO BE USED IN THE MEXICAN OPERATIONS.

4.3 A MAQUILADORA AGREEMENT IS TO BE DRAFTED AND EXECUTED BETWEEN THE U.S. OR FOREIGN PARENT COMPANY AND THE MEXICAN MAQUILADORA.



5) REAL ESTATE MATTERS

ACQUISITION AND LEASE OF LAND

□ Let us now review the indicators as provided by the World Bank:

Accessing Industrial Land

Indicators	Country score	IAB regional average	IAB global average
Strength of lease rights index (0-100)	81.3	78.3	82.1
Strength of ownership rights index (0-100)	100.0	98.2	92.2
Access to land information index (0-100)	33.3	40.4	41.4
Availability of land information index (0-100)	90.0	73.0	70.6
Time to lease private land (in days)	83	62	61
Time to lease public land (in days)	151	156	140

- 1. THERE ARE NO RESTRICTIONS FOR THE LEASE OR PURCHASE OF LAND IN MEXICO BY FOREIGN COMPANIES; HOWEVER, THEY MUST FIRST SECURE A PERMIT FROM THE MEXICAN GOVERNMENT.**
- 2. FOREIGN COMPANIES CANNOT ACQUIRE LAND IN AN AREA LOCATED 100 KMS. FROM THE BORDER LINES OR 50 KMS. FROM THE COAST LINES.**
- 3. MEXICAN COMPANIES WITHOUT AN EXCLUSION OF FOREIGNER'S CLAUSE OR FOREIGN COMPANIES OR INDIVIDUALS MAY NOT ACQUIRE THE DIRECT OWNERSHIP OF LAND WITHIN THAT AREA.**
- 4. MEXICAN COMPANIES HAVING FOREIGN PARTICIPATION IN THEIR CAPITAL STRUCTURE MAY, AFTER AGREEING TO THE CALVO CLAUSE, ACQUIRE LAND IN THE RESTRICTED ZONE, UNLESS IT IS TO BE USED FOR RESIDENTIAL PURPOSES.**
- 5. A TRUST WITH A MEXICAN BANK IS TO BE EXECUTED. THE BANK WILL HOLD TITLE AND THE MEXICAN COMPANY OR THE FOREIGN COMPANY OR INDIVIDUAL DO GET THE USE AND ENJOYMENT (LITERAL TRANSLATION)**

6. NECESSARY TO DEMONSTRATE TO THE MEXICAN AUTHORITIES THAT THE COMPANY IS COMMITTED TO A PIECE OF REAL ESTATE THROUGH A PURCHASE AGREEMENT OR A LEASE

NOTE: AGREEMENT WHICH MUST BE EXECUTED IN SPANISH.

7. DUE DILIGENCE RECOMMENDED. CHECK TITLE.

- **LIENS**
- **ENCUMBRANCES**
- **LITIGATIONS**
- **EASEMENTS**
- **ENSURE THAT THE PROPERTY IS IN GOOD STANDING.**
- **ALL REAL ESTATE TAXES PAID.**

8. CORRESPONDING AGREEMENTS (LAND PURCHASE AND SALE, CONSTRUCTION AND SO ON) WILL HAVE TO BE PREPARED, NEGOTIATED AND EXECUTED.





6) LABOR MATTERS.

6.1 A COLLECTIVE LABOR AGREEMENT IS TO BE EXECUTED WITH ANY ONE OF THE LOCAL UNIONS WHEN EMPLOYING MORE THAN 20 WORKERS.

6.2 INTERNAL SHOP RULES.

6.3 INDIVIDUAL LABOR AGREEMENTS (CONFIDENTIALS)

6.4 MEXICAN LAW DISTINGUISHES TWO DIFFERENT CATEGORIES OF WORKERS :

A) CONFIDENTIAL WORKERS
ADMINISTRATIVE AND MANAGERIAL TASKS

B) UNIONIZED WORKERS
PERFORMING MANUAL LABOR

NOTE: COLLECTIVE LABOR AGREEMENT IS REVIEWED EVERY TWO YEARS.



6.5 THE PAYROLL, BY LAW, IS REVISED (INCREASED) EVERY YEAR.

*** MINIMUM SALARY: APPROXIMATELY \$ 4.79 USD PER DAY PLUS BENEFITS.**

6.6 WORK HOURS.

*** 48 HOURS PER WEEK.**

*** NOT TO EXCEED OVERTIME OF 9 HOURS.**

6.7 VACATION PREMIUM.

6. 8 SUNDAY PREMIUM.

6.9 CHRISTMAS BONUS.

6.10 NO DISCRIMINATION.

6.11 PROFIT SHARING (10%).

6.12 TRAINING (BY LAW).

7) WORKING VISAS

ALL FOREIGNERS WHO WISH TO CONDUCT BUSINESS ACTIVITIES WITHIN THE MEXICAN TERRITORY MUST HAVE A TEMPORARY BUSINESS VISA.

- **FMM (MULTIPLE IMMIGRATION FORM)**
- **WORKING VISA - NON IMMIGRANT CARD (WHICH SUBSTITUTES THE FM3)**



8) FEDERAL AND STATE TAXES

8.1 FEDERAL TAXES THE INCOME TAX TO BE PAID IS BASED ON THE GREATER OF EITHER:

A) 6.9% ON THE TOTAL VALUE OF THE MAQUILADORA'S ASSETS USED IN ITS OPERATIONS.

B) 6.5% OF THE TOTAL AMOUNT OF ITS COSTS AND EXPENSES RELATED TO ITS OPERATIONS, WITHOUT THE RIGHT TO CHANGE FROM ONE TO THE OTHER.

C) APPLY FOR AND OBTAIN A DECISION FROM THE MINISTRY OF FINANCE AND PUBLIC CREDIT APPROVING A TRANSFER PRICING STUDY OR AN ADVANCED PRICE AGREEMENT (APA), TAKING INTO CONSIDERATION THE ASSETS USED IN THE MAQUILADORA OPERATION.

•NOTE: IMPORTANT TO REVIEW THE ALTERNATIVES SINCE ONCE CHOSEN, THE CHOICE CANNOT BE ALTERED.

8.2 STATE TAXES

SOME STATES TAX KNOWN AS A TAX ON THE PAYROLL (WHICH MUST BE PAID ONCE EVERY MONTH, AND THE COST GENERATED DEPENDS ON THE COST OF THE TOTAL PAYROLL PER MONTH).

9) REGISTRATION BEFORE THE MEXICAN GOVERNMENTAL AGENCIES

9.1 THE MEXICAN INSTITUTE OF THE SOCIAL SECURITY (IMSS).

- * RISK CLASSIFICATIONS.**
- * DOCTOR'S ASSISTANCE, HOSPITALIZATION, PENSIONS.**

9.2 NATIONAL INSTITUTE FOR THE WORKERS HOUSING FUND.

- *HUNDREDS OF THOUSANDS OF HOMES BUILT.**

9.3 IMPORTERS REGISTRATION.

9.4 THE SYSTEM FOR THE WORKERS SAVINGS FUND ON RETIREMENT.

9.5 NATIONAL REGISTRY OF THE FOREIGN INVESTMENT.

9.6 MUNICIPAL LAND USE LICENSE.

9.7 OBTAIN SANITARY LICENSE (IF APPLICABLE).



10) IMMEX (MAQUILADORA) APPLICATION, IN CASE OF MAQUILADORA.

10.1 THE APLICANT MUST PROVIDE THE FEDERAL GOVERNMENT WITH A LIST OF ALL THE RAW MATERIALS AND EQUIPMENT, SPARE PARTS, TOOLS AND COMPONENTS AS WELL AS THEIR CUSTOM TARIFF CLASSIFICATIONS.

10.2 THE CUSTOM TARIFF CLASSIFICATIONS SHOULD BE OBTAINED BY THE CUSTOM BROKER. NEED USA AND MEXICAN.

10.3 THE ESTIMATED NUMBER OF EMPLOYEES.

10.4 THE NAME OF THE PARENT COMPANY.

11. PROCESSING STATE INCENTIVES

- **SUPPORT AND COOPERATE WITH THE COMPANY TO OBTAIN INCENTIVES.**
- **REVIEW AND STUDY INCENTIVES OFFERED.**
- **ADJUSTMENTS TO THE AGREEMENT ON INCENTIVES AND ADVICE WHEN EXECUTING IT.**

INCENTIVES PACKAGE NOT AUTOMATIC. SOME MAY NOT BE AVAILABLE:

- 1. SUBSIDY ON THE PAYMENT OF PAYROLL TAXES.**
- 2. SUPPORT-TRAINING SCHOLARSHIPS FOR LABOR FORCE OF THE FEDERAL GOVERNMENT.**
- 3. SUBSIDY ON THE COST OF THE EMPLOYEE'S CERTIFICATION IN A SPECIFIC PLATFORM REQUIRED BY THE COMPANY.**
- 4. MUNICIPALITIES DISCOUNT OR EXEMPTION ON LICENSES, PERMITS IN THE CONSTRUCTION OF THE FACILITY.**

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THANK YOU !