MEXICAN LABOR REFORM. SUMMARY.

GENERAL PRINCIPLES.

The proposed amendment introduces the concept "decent or dignified work", adding that "dignified work includes the limitless respect to the collective worker's rights: union freedom; autonomy and union democracy; strike right and collective agreements".

The "No discrimination rules" add to the previously listed rights, some categories: i.e. sexual preference, disabilities, marital status or ethnic group. It establishes that selection or distinction made, based on qualifications, does not constitute discriminatory practices. Furthermore, the amendment proposes: formation and development of workers skills, certification of working competencies, and productivity and quality of work, as main points of social interest. Also, Labor Workers will be covered by the rule that orders employers to pay their salaries on weekly basis.

Articles 13 and 15 bis of the initiative, reinforce steps in rights between the employer and the intermediate company o services provider. Also, there is a new obligation for companies that hire that kind of services to verify and review their legal existence and tax compliance situation. Articles 15-A to 15-D regulate the "sub-contractual working regime (outsourcing)" which includes a new legal definition: it is the one in which the employer (identified as contractor or subcontractor) builds or provides services through workers under its dependence, and in favor of any third party which benefits from that work, and determines the tasks and supervises the contracted work or service."

EMPLOYMENT RELATIONSHIPS.

The initiative establishes that if during a labor inspection, any inspector identifies any minors (under 14 years old) working – unless working under a family environment-, inspector must order the immediate ending of the labor relationship and the employer might be sanctioned with 1 to 4 years in prison.

The initiative also regulates the requirements in order to work under Mexican labor law but for workers to provide services for Mexican entities in other countries, and creates some mechanisms to protect those workers.

Related to the extension of the lasting of the labor agreement, the initiative establishes that the relationship could be: for a certain period of time, indefinite, based on seasonality, for coaching purposes. It also maintains the current establishment that commands that if it is not clearly established in the contract it would be consider indefinite, and ads that if initially the relationship was for a certain period of time but further extended without

signing a new contract, it should be consider that it will remain until the circumstance that cause the extension are valid.

The initiative proposes to add, with articles 39-A to 39-F, a **PROOF PERIOD**, that should be expressly agree in the contract and should not exceed a maximum period of 30 days. However, if the employee is to assume any administrative, directive, professional o technical functions, then this proof period could be extended to up to 180 days. In any case this period might not be extended under any circumstances. If the employee doesn't have the required qualification, then the employer has the right to end the relationship without responsibility, other than paying the already worked period.

As well, article 39-B regulates the working relationship during **TRAINING PERIODS** that may be agreed on a side document and have the purpose that the employee acquires the technical knowledge or skills needed for the job that he is going to do. This contract might be for a non-extendable period of 3 months and up to 6 months, if related to management, technical and/or professional activities, in this last case. If the employee doesn't qualify after this period, then the employer has the right to end the relationship without responsibility, other than paying the already worked period.

It is important to consider that after both periods (proof or training) if the relationship continues without other contract or agreement between the parties, the relationship then will be considered as indefinite.

Article 39-F, rules the **DISCONTINUOUS LABOR RELATIONSHIPS**, pointing that the relationships that only take place on seasonality periods, or that are not performed during all week, month or year, in this cases the regulation indicates that employees will have the same rights and obligations than those under a regular scheme, but pro-rata to the amount of time in which their services have been provided.

The initiative incorporates article 42Bis, in order to establish the legal obligation of employers to pay a minimum journal in case that government declares sanitary contingency.

The initiative incorporates as well some new **ADDITIONAL LEGAL FIRING CAUSES**: currently, there exists a cause for firing workers due to different kind of acts of the employee against the employer, his family, clients; and, the addition includes the suppliers on the list, as well as sexual harassment against any person in the working place and immoral acts.

The last paragraph of the proposed article 47, establishes that concerning to domestic workers, no written notification is needed.

The initiative limits the number of months that should be considered as developed salaries, in case of litigation, to a maximum of a 12 month-salary period, but protects the worker with the obligation to the former employer to pay interest (on a 2% monthly basis) over the debt, and also establishes that in case of death of the employee, during the course of trial, the developing salaries will stop on the date of death.

On the other hand, **THE EMPLOYEE IS ALLOWED TO END THE RELATIONSHIP WITHOUT LIABILITY, IN CASE OF SEXUAL HARASSMENT, HUMILIATION OR ANY ACTION THAT DIMINISHES HIS/HER DIGNITY.**

EMPLOYMENT CONDITIONS.

The initiative proposes to modify article 56 in order to change some terms like "race" for "ethnic origin", "sex" for "gender", and ads disability, sexual preference, opinions, marital status and social condition. It also adds article 56 bis, which introduces an obligation for workers to execute complimentary activities that must be pay by employers.

Related to Salary, the initiative introduces the option to stipulate an **HOURLY-BASIS PAYMENT MODEL**, with the regular restrictions for the maximum journal the regulation indicates that employees will have the same rights and obligations than those under daily basis, but pro-rata to the amount of time in which their services have been provided.

RIGTHS AND DUES.

The proposed law modifies article 132 in order to precise some employer obligations, tending to protect employees health and safety during working hours, enable activities and development of handicapped and binding the employer to make the alimony retention, subscribe the workers to the INFONAVIT, and finally **ADDING THE RIGHT TO 10 DAYS ON PATERNITY LEAVE.**

The proposed modification to article 133 reiterates former obligations of employer, in order to avoid discrimination and sexual harassment acts, the same is forbidden to employees in article 135.

The initiative ads chapter III bis to regulate productivity, development and training of workers, modifying and adding some articles that reiterate the fundamental obligation of the company to capacitate and train its workers, allowing them to increase their living and productivity standards. **COMPANIES SHOULD HAVE PLANS TO ACHIEVE THE TARGETS AND POINTS THE REQUIREMENTS THAT SHOULD BE FULFILLED**. These plans should have an objective related to allow workers to complete scholar cycles, like fundamental, high school, professional, and also have to evaluate and certify professional competences.

The internal control mechanism to secure the following of all these rules, that must exist in every company with over 50 employees named: "Joint Committees of productivity, training and skills" and there could be also "National Committees" that will be auxiliary organs for the STPS (LABOR MINISTRY).

The proposed law modifies articles 154, 157 and 159, including, concerning the preference right (154), the obligation of employer to prefer, under the same circumstances, workers that have done their fundamental education, over whom have not, also the ones who have

better qualifications and knowledge to perform the job. Finally, article 157 introduces the right to perceive the interest according to, also proposed article 48.

WOMEN EMPLOYMENT.

Article 168 establishes that during possible sanitary emergency, pregnant women and nursing mothers will not work, with right to full compensation. The proposed law also allows pregnant women to change up to four weeks of their regular six, previous to due date, to the period that follows delivery date. **THE NURSING PERIOD IS LIMITED TO A MAXIMUM OF 6 MONTHS, ALLOWING CHANGING THE 2 PERIODS TO A ONE HOUR REDUCTION OF DAILY REGULAR WORKING PERIOD.**

MINORS EMPLOYMENT.

The proposed law reform establishes that it is forbidden to employ minors in industrial establishments after 10 pm, drinking places, taverns, canteens, vice centers and also in establishments that could affect their morality, and good manners, risky and un-healthy places or that for its physical conditions, chemical, biological or the goods involved, could affect their lives, growth, physical o psychological health. The proposed article 176, lists activities that should be consider dangerous and unhealthy, for minors under 14 or 16 years or even fewer than 18 years old.