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LEGITIMATION OF COLLECTIVE BARGAINING AGREEMENTS

As per informed in previous newsletters, on November 23, 2018, the Mexican Government approved and ratified the Right to Organise and Collective Bargaining Convention of 1949, better known as the "Convention No. 98".

To comply with said Convention, in 2019 several Mexican laws were amended with regard to labor justice, freedom of assembly, and collective bargaining.

These amendments established, among others, the obligation to legitimate collective bargaining agreements to ensure that employees:

A. Know their collective bargaining agreement; and

B. Are represented by their Union(s).

TERM

Collective Bargaining Agreements must be legitimized before **May 2, 2023**.

Recently, to comply with said term, the Mexican labor authority published the applicable legal regulations, process, and website to legitimate collective bargaining agreements.

LEGITIMATION PROCESS

1. **A consultation notice must be filed by the Union before labor authorities.** This notice must include the date and time of the consultation (election) and indicate if it will be monitored by a public notary or labor authority representative. Based on our experience, we recommend to have a notary public attest to the process.

2. **Voting day.** All employees will be called to vote on the day and time indicated by the Union. To issue their vote, the participants will have to identify themselves as employees of the company and will then be given a ballot to vote for the Union of their free election.

The law protects the right of the employees to vote and requires it to be personal, free, direct, secret, peaceful, agile, and secure.

3. **Notice of results filed by the Union before labor authorities.** The Union or Unions, as the case might be, with at least 30% of the total votes can be legitimized, meaning that there can be a maximum of 3 different Unions representing the employees of the same company.

4. **Obtainment of legitimacy certificate.** In case there are no observations, labor authorities will issue the corresponding certificate during the following 20 days from the day results were filed.

CONSIDERATIONS

Based on the above mentioned, it is important to promote an effective communication channel between the employees and the Union to ensure that employees duly know their collective bargaining agreement and are represented appropriately by their Union.

Non-compliance with the obligation to legitimate the current bargaining agreement within the established term will cause the bargaining agreement lack legal effect. Consequently, the union(s) that obtain the minimum representation required from the employees of the company may claim ownership over the bargaining agreement.

We recommend to prepare a calendarized plan to promote an effective communication channel between the employees and the Union, and to schedule the following steps to timely comply with this obligation.

Please do not hesitate to contact us to clarify any question or comment that may arise with respect to this or any other legal matter.

January 25, 2022.