

MEXICO'S PRESIDENT BACKS NATIONALIZATION OF LITHIUM

The President of Mexico, Andrés Manuel López Obrador ("**AMLO**"), has tabled a bill before Congress seeking to reform Mexico's Mining Law. Under the proposed reforms, the Mexican Government would be given exclusive control over lithium exploration, exploitation and use in Mexico.

FAILED CONSTITUTIONAL AMENDMENT ENLIVENS LEGISLATIVE ATTEMPT TO NATIONALIZE LITHIUM

On 30 September 2021, AMLO tabled a bill before the lower chamber of the Mexican Congress (known as the "**Cámara de Diputados**") seeking to amend the Mexican Constitution to allow the Government to regain control over strategic minerals, including lithium. On 17 April 2022, after a 14-hour debate, the Cámara de Diputados voted to reject the bill, failing to secure the necessary two-thirds majority of votes.

Anticipating this result, shortly before the vote, AMLO had tabled a second bill before the *Cámara de Diputados*, this time seeking to reform Mexico's national Mining Law and, in particular, seeking to nationalize the country's lithium sector (*Iniciativa del Ejecutivo federal con el proyecto de decreto, por el que se forman y adicionan diversos preceptos de la Ley Minera*). These proposed reforms contemplate three fundamental changes to Mexico's Mining Law:

- The Mining Law will be amended to include a declaration that lithium exploration, exploitation and use are matters of public interest, and that the Government will have exclusive control over this strategic mineral.
- As a consequence of the above, the State will be barred from granting any concession, license, contract, permit, assignment, or authorization in relation to lithium.
- A specialized State authority will be created to regulate and conduct the exploration, exploitation and use of lithium.

CURRENT SITUATION

These legal reforms were approved by the *Cámara de Diputados* and the Senate during the first half of the week of 18 April 2022. This bill has been submitted to the President and it is expected to be signed into law by the end of the week.

Key issues

- AMLO intends to nationalize all operations related to lithium, having tabled both a constitutional amendment and a legislative reform of Mexico's Mining Law before Congress.
- Approval of the legislative reform requires only a simple majority of votes in the lower house of Mexico's Congress, which AMLO's party (Morena) has.
- If AMLO's bill is enacted into law, a new State entity will be created to regulate and conduct the exploration, exploitation and use of lithium, which will be considered a strategic mineral.

Several companies active in the lithium industry are monitoring the situation with great concern. If AMLO ultimately signs the proposed legislative reforms into law, this will jeopardize a significant number of investments made by domestic and foreign companies in Mexico's lithium sector.

PROTECTIONS POTENTIALLY AVAILABLE UNDER BILATERAL TRADE AGREEMENTS AND FREE TRADE AGREEMENTS

These developments should serve as a timely reminder to all investors in Mexico of the protections potentially available to them and their investments under Mexico's network of bilateral trade agreements ("**BITs**") and free trade agreements ("**FTAs**").

Mexico has more than 35 BITs and FTAs that provide protections to the investments made by foreign investors in Mexico. Mexico's counterparties to these BITs and FTAs include States from all over the world, meaning that many investors currently benefit from protection under these international instruments.

To determine if an investment is protected under any of Mexico's BITs or FTAs, it is crucial that investors engage qualified international counsel to perform a legal analysis of the investment treaty protections available to their investments in Mexico and of the potential implications of the proposed legislative reforms.

Our fully bilingual team of legal experts, which includes attorneys qualified in countries all over the world, many of whom are familiar with the Mexican regulatory context, is ready to help you navigate these uncertain times and provide you with the best legal advice to protect your investments in Mexico.

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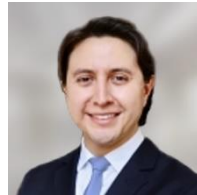
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