

JONES DAY COMMENTARY

MEXICO STRENGTHENS ITS CLIMATE CHANGE STRATEGY

On June 3, 2013, Mexico's Ministry of Environment and Natural Resources ("SEMARNAT") published in the Official Gazette of the Federation the National Climate Change Strategy (the "Strategy"), which constitutes the country's main national policy instrument for its transition to a sustainable and low carbon dioxide (" CO_2 ") emissions economy.

The Strategy describes the strategic areas and lines of action to be followed by the three levels of government and society at large in order to challenge national climate change-related priority issues in the long term. Likewise, it strengthens the actions proposed by Mexico's last administration (2006-2012) in order to combat this phenomenon. These lines of action establish relevant guidelines for the productive sector, such as the inclusion of climate change-related criteria in national legislation, as well as the access for Mexican society to environmental damage reparation schemes¹ caused by companies with operations in the country. The Strategy also forecasts the development of fiscal policies as well as of economic and financial instruments for those companies that engage in the transition to sustainable productive processes, the development of legal instruments on the matter of territory's management in order to achieve the sustainable exploitation of Mexican ecosystems, and an acceleration of the energy sector's transition to clean energy sources, among others.

¹ These types of environmental liability scheme have recently evolved in Mexico. See June 16 Jones Day Commentary "Enactment of the Federal Law on Environmental Liability," available at http://www.jonesday.com/enactment-of-the-federal-law-on-environmental-liability-in-mexico/.

PRECEDENTS

The issuance of the Strategy constitutes the Federal Executive Branch's compliance with provisions established in Mexico's General Climate Change Law ("GCCL"), which foresees that the Strategy shall be developed by SEMARNAT along with Mexico's National Ecology and Climate Change Institute in order to take the necessary actions against the country's contribution to climate change phenomena.

The Strategy replaces the one in force in Mexico from 2007 to 2012, as the new National Development Plan (2013-2018) includes among its objectives, "the strengthening of climate change and environmental protection national policy in order to position Mexico as a competitive, sustainable, resilient and low carbon economy."

STRUCTURE

The Strategy is divided in three chapters: (i) climate change national policies pillars; (ii) adaptation to the effects of climate change; and (iii) low emissions development.

PILLARS OF CLIMATE CHANGE NATIONAL POLICIES

The Strategy's first chapter describes six strategic pillars and lines of action to be gradually implemented in Mexico by the three levels of government and society in general against climate change, including:

The development of transversal, coordinated, and inclusive public policies to be implemented through the: (i) incorporation of adaptation and mitigation objectives and goals in National and Local Development Plans; (ii) inclusion of climate change-related criteria in current legislation on the matter; and (iii) promotion of the access to environmental justice and environmental damage reparation schemes for individuals and legal entities, among others;

- The implementation of a platform regarding research, innovation, development, and adaptation to climaterelated technologies, as well as the strengthening of institutional capacities. This pillar establishes the creation of a platform containing the results of national research carried out on the matter of climate change, as well as the promotion regarding the development and implementation of advanced technologies on the matter of renewable and clean energy generation, among others;
- The development of fiscal policies and economic and financial instruments with a climate-related approach, including granting focalized subsidies and promoting sustainable productive processes through economic incentives, among others;
- The promotion of climate-related culture development through the development of educational projects and massive communication campaigns on climate change's effects, among others;
- The development of mechanisms for measuring, reporting, verifying, monitoring, and evaluating climate change, including developing a public policies evaluation system with criteria and indicators on the matter of climate change adaptation, among others; and
- The strengthening of the strategic cooperation and international leadership on the matter of climate change by contributing to the global climate change adaptation and mitigation efforts through Mexico's active involvement in international negotiations related to this phenomenon, as well as by identifying and promoting Mexico's access to international funding sources that allow the country to develop specific adaptation and mitigation actions.

ADAPTATION TO THE EFFECTS OF CLIMATE CHANGE

The Strategy's second chapter emphasizes the increase in environmental effects that Mexico has been experiencing in recent years, derived in most part from the phenomenon of climate change, including continuous natural disasters that have severely impacted the country's economic and social sectors. In accordance with the Strategy, these effects evidence the magnitude of climate change's impact globally and require the execution of specific actions against the phenomenon.

With regard to the above, the Strategy includes the execution of three adaptation measures, including:

- Reduce the social sector's vulnerability and increase its resilience to climate change's effects by: (i) identifying areas that are the most vulnerable to the effects of climate change; (ii) strengthening the enforcement of land use regulations in order to eliminate irregular settlements in vulnerable areas; and (iii) guaranteeing the development of public policies focused on reducing risks related to the public health infrastructure, among others;
- Reduce the strategic infrastructure and productive sector's vulnerability and increasing its adaptation measures to climate change's effects. This includes the execution of periodic vulnerability evaluations of Mexico's productive sector, as well as the incorporation of climate change-related criteria in the planning and construction of new strategic and productive infrastructure, among others; and
- Exploit ecosystems in a sustainable manner and maintaining the environmental services provided by the same, through the development of the corresponding legal instruments in relation to the territory's management in order to reduce ecosystem vulnerability to climate change, among others.

LOW EMISSIONS DEVELOPMENT

In accordance with the Strategy, in 2010, Mexico emitted approximately 748 million tons of greenhouse gases into the atmosphere, most of them produced by the country's energy sector. The Strategy establishes several specific greenhouse gas reduction goals, one of the most challenging being the goal of reducing CO₂ emissions by 50 percent by the year 2050, compared to those emissions registered in the year 2000 (goal already established in the GLCC). With regard to the above, the Strategy's third chapter specifies mitigation measures directed to reach a low emission economic development, as well as to achieve the proposed reduction goals as follows:

- Accelerate the transition to clean energy sources by: (i) promoting clean energy generation through the use of clean sources and efficient technologies such as photovoltaic, geothermal, wind, and hydroelectric energies; and (ii) strengthening the regulatory and institutional scheme, as well as the use of economic instruments, in order to consolidate the implementation of clean energy sources, among others;
- Reduce the energy intensity through efficient and responsible consumption schemes. The Strategy aims to comply with this measure by increasing energy efficiency in the country's public and private transportation sectors, as well as by developing and designing both legal and regulatory frameworks for those fuels not yet regulated in Mexico, among others;
- Achieve the transition into sustainable urban schemes with mobility and comprehensive waste management systems, as well as with low-carbon footprint buildings by: (i) strengthening the implementation of regulations, standards, and other legal provisions on the matter of energy-, gas-, and water-saving technologies in new and existing buildings; (ii) promoting new technologies and infrastructure for wastewater treatment, solid waste comprehensive management, and the use of biogas through co-investment schemes as well as the development of economic instruments that facilitate operations' self-funding, among others;
- Promote better agriculture and forestry practices in order to increase and preserve natural carbon sinks through: (i) the promotion of planned and sustainable exploitation of forestry resources in local communities; and (ii) the instrumentation of energy-efficiency actions and utilization of renewable energy in projects related to the agricultural sector, as well as the promotion of the use of biodigestors; and

 Reduce the emissions of short-lived climatic pollutants ("SLCPs")² by: (i) promoting the development of regulations regarding SCLPs generation and use; (ii) incentivizing the use of technologies and fuels that reduce the emissions of black carbon in the transport industries; and (iii) controlling the emission of SCLPs generated in industrial processes, gasoline service stations, and facilities using or storing solvents, among others.

In accordance with the Strategy, compliance with its provisions shall be revised by SEMARNAT every six years on the matter of mitigation measures and every 10 years on the matter of adaptation measures.

LAWYER CONTACT

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² Atmospheric pollutants with a shorter life span than CO2 that significantly contribute to climate change phenomenon, including: methane (CH4), tropospheric ozone (O3) and certain types of hydrofluorocarbons (HFC).