

client alert

Ambiental, Agrario e Impacto Social

Environmental, Agrarian and Social Impact

Obligaciones ambientales durante COVID-19

Derivado de la declaración de pandemia de coronavirus (“COVID-19”) por la Organización Mundial de la Salud (OMS) , y las medidas tomadas por diversos países al respecto, a continuación encontrará ciertas consideraciones en relación con el cumplimiento de obligaciones jurídicas en materia ambiental; ya sea que éstas surjan (i) de autorizaciones, concesiones, licencias o permisos, (ii) directamente de normas de carácter general (leyes, reglamentos, acuerdos, normas oficiales mexicanas, etc.), o (iii) de contratos celebrados entre particulares (“Obligaciones Ambientales”).

En caso de declararse una contingencia sanitaria por el COVID-19, se podría incurrir en incumplimiento de Obligaciones Ambientales, en caso de verse imposibilitado a cumplir las mismas, derivado de las medidas que sean implementadas. En cuyo caso deberá analizarse la naturaleza de la Obligación Ambiental y determinar si con motivo de la contingencia podría operar algún excluyente de responsabilidad conforme a la legislación aplicable (e.g., caso fortuito o fuerza mayor).

Recomendamos de manera preventiva, identificar sus Obligaciones Ambientales y aquellas de terceros cuyo incumplimiento pudieren generar alguna contingencia legal para su negocio. Lo anterior, para realizar un análisis de riesgo y así poder diseñar e implementar una estrategia legal que le permita minimizar los impactos que pueda tener la contingencia sanitaria relacionada con el COVID-19, en caso de ser declarada.

Por otro lado, cabe mencionar que el Poder Judicial de la Federación, ha suspendido actividades con la finalidad de evitar la concentración de personas y con ello la posible propagación del COVID-19. La suspensión implica, entre otras cosas, que no correrán plazos procesales, quedando exceptuados de tal medida los órganos jurisdiccionales que se encuentren en guardia para la atención de asuntos urgentes

Sin más por el momento, quedamos a sus órdenes en caso de cualquier duda o comentario en relación con lo anterior.

Environmental obligations during COVID-19

As a result of the COVID-19 pandemic declared by the World Health Organization, and recent measures adopted by several countries in response, you will find below certain considerations in connection with the fulfillment of legal environmental obligations; whether this arise from: (i) authorizations, concessions, licenses or permits, (ii) general provisions (laws, regulations, Mexican official standards, etc.), or (iii) agreements entered by private parties (“Environmental Obligations”).

If a sanitary contingency is declared as a consequence of COVID-19, Environmental Obligations could be breached in case it is impossible to comply with them as a result of the implemented measures. In such case, the nature of the Environmental Obligation shall be analyzed, and it must be determined if, due to the contingency, any liability exemption could apply in accordance with the applicable legislation (e.g., act of God or force majeure).

As a preventive measure we recommend, that you identify your Environmental Obligations and those of third parties which non-compliance might cause a legal contingency for your business. The foregoing, to perform a risk analysis and thus be able to design and implement a legal strategy to minimize the associated impacts of the COVID-19 sanitary contingency, if declared.

On the other hand, it is worth mentioning that the Federal Judiciary has suspended activities in order to avoid crowds and the spread of COVID-19. Among others, the suspension implies that judiciary terms will be put on hold, except for the judicial entities that are on call to deal with urgent matters.

Should you have any comments or doubts in connection with the above, please do not hesitate to contact us.

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