MEXICO
INVESTMENT CLIMATE STATEMENT
2015

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Executive Summary

Mexico is a country located in North America. Over the past two years, as part of a broad Pact, the government of Mexico (GoM) has undertaken significant reforms regarding financial regulations, taxation, anti-trust, energy, and telecommunications. By the end of 2014, the GoM began implementing a number of constitutional amendments intended to encourage foreign investment, activate competition, as well as increase the country's tax base. Despite the government's projections for economic growth exceeding 3 percent, Mexico closed 2014 at a more modest 2.1 percent, although this was an improvement over 2013's 1.1 percent growth. While economic growth in Mexico typically slows during the first year of a new administration, weakness in the U.S. economy – which consumes more than 80 percent of Mexico's exports – also contributed to the slowdown.

The most significant changes in Mexico's investment outlook have taken place in the energy and telecommunications sectors. Prior to constitutional reform, the state-controlled oil company, Pemex, had a monopoly on all hydrocarbon activity in the country. New legislation has opened this sector by allowing PEMEX to partner with domestic and international private sector firms and some of the country's oil fields are now being opened to outside exploration and development. In telecommunications, reforms are intended to improve competition and diminish concentration in the sector through the creation of a new, constitutionally autonomous regulator. This regulator is empowered to order divestitures, enforce regulations, and apply targeted sanctions to companies it sees as dominant in the market.

In early 2014 legislation that describes the process of implementation was approved and providing more specific regulations governing the reforms to the energy, anti-trust, and telecommunications sectors. The government predicts that in 2015 the economy will improve and the Ministry of Finance has estimated annual GDP growth of between 3.2 percent and 4.2 percent for the year.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Mexico is open to foreign direct investment (FDI) in most economic sectors and has consistently been one of the largest recipients of FDI among emerging markets. Mexico's macroeconomic stability and its proximity to one of the largest markets in the world, the United States, have helped attract foreign investors. The current President of Mexico, Enrique Pena Nieto, has prioritized structural economic reforms and competitiveness. During 2014, Mexico's legislature passed a series of regulations to promote economic reform, including key legislation for liberalization in the energy sector.

Foreign investment in Mexico has largely been concentrated in the northern states close to the United States border where most maquiladoras (export-oriented manufacturing and assembly plants) are located, and in the Federal District (Mexico City) and surrounding states, where many foreign companies' headquarters are located. According to Mexico's Secretariat of the Economy, Mexico has been the world's top destination for aerospace manufacturing investments in each of the last four years. Financial services, automotive, and electronics have typically also received large amounts of FDI. In the first quarter of 2014, Mexico's auto industry overtook Japan's as the second-biggest vehicle exporter to the United States and remains the world's seventh largest producer of vehicles. Historically, the United States has been one of the largest sources of FDI in Mexico. In 2014, U.S. investors accounted for 28.9 percent of the USD 22.5 billion of FDI in Mexico.

Other Investment Policy Reviews

In 2013, the World Trade Organization (WTO) conducted a Trade Policy Review. Please find a link to the report here: https://www.wto.org/english/tratop_e/tpr_e/tp379_e.htm

Neither the OECD nor UNCTAD have conducted investment policy reviews on Mexico in the past three years.

Laws/Regulations of Foreign Direct Investment

The 1993 Foreign Investment Law governs foreign investment in Mexico. The law is consistent with the foreign investment chapter of NAFTA (North American Free Trade Agreement-Agreement between the U.S, Canada and Mexico)). It provides national treatment, eliminates performance requirements for most foreign investment projects, and liberalizes criteria for automatic approval of foreign investment. The Foreign Investment Law provides details on which business sectors are open to foreign investors and to what extent. Mexico is also a party to several OECD agreements covering foreign investment, notably the Codes of Liberalization of Capital Movements and the National Treatment Instrument.

Industrial Promotion

ProMexico is the country's federal entity charged with promoting Mexican exports around the world and attracting foreign direct investment to Mexico. Through ProMexico, federal and state government efforts, as well as related private sector activities, are coordinated with the goal of harmonizing programs, strategies, and resources while supporting the globalization of Mexico's economy. ProMexico maintains an extensive network of offices abroad as well as a multi-lingual website (http://www.investinmexico.com.mx) which provides local information on establishing a corporation, rules of origin, labor issues, owning real estate, the operation of bonded assembly plant, and sectorial promotion plans.

The Secretariat of the Economy also maintains a bilingual website (www.economia.gob.mx) offering an array of information, forms, links, and transactions. Among other options, interested parties can download import/export permit applications, make online tax payments, and chat with online advisors who can answer specific investment and trade-related questions. State governments have also passed small business facilitation measures to make it easier to open businesses.

In 2012, the Secretariat of Economy opened its International Trade Single Window to simplify import, export, and transit-related operations, increase efficiency, and reduce costs and time for international traders. The mechanism allows companies to send electronic information only once to a single entity to comply with all requirements of foreign trade. For more information on the Single Window please visit http://www.ventanillaunica.gob.mx/envucem/index.htm

Limits on Foreign Control

Sectors Reserved for the State in whole or in part:
A. Petroleum and other hydrocarbons;
B. Basic petrochemicals;
C. Telegraphic services;
D. Radioactive materials;
E. Electric power transmission and distribution;
F. Nuclear energy;
G. Coinage and printing of money;
H. Postal service;
I. Control, supervision and surveillance of ports of entry

Sectors Reserved for Mexican Nationals:
A. Retail sales of gasoline and liquid petroleum gas (this will change in 2017 – see section 10);
B. Development Banks (law was modified in 2008);
C. Certain professional and technical services;
D. Domestic transportation for passengers, tourism and freight, except for messenger or package delivery services.

U.S. and Canadian investors receive national and most-favored-nation treatment in setting up operations or acquiring firms in Mexico. Exceptions exist for investments restricted under NAFTA. U.S., Canada and Mexico have the right to settle any dispute or claim under NAFTA through international arbitration. NAFTA also eliminated some barriers to investment in Mexico, such as trade balancing and domestic content requirements. Local Mexican governments must also accord national treatment to investors from NAFTA countries.

Privatization Program

The reforms to the energy, power generation, and telecommunications sectors liberalized access to these sectors, but did not privatize any state owned enterprises.

Screening of FDI

Approximately 95 percent of all foreign investment transactions do not require government approval. Foreign investments that require government authorization and do not exceed USD 165 million are automatically approved, unless the proposed investment is in a legally reserved sector.

The National Foreign Investment Commission under the Secretariat of the Economy is the government authority that determines whether an investment in restricted sectors may move forward. They have forty-five business days to make a decision. Criteria for approval includes employment and training considerations, technological contributions, and contributions to productivity and competitiveness. The Commission may reject applications to acquire Mexican companies for national security reasons. The Secretariat of Foreign Relations (SRE) must issue a permit for foreigners to establish or change the nature of Mexican companies.

Competition Law

In 2013, Mexico created two constitutionally autonomous regulators – the Federal Telecommunications Institute (IFT) and the Federal Commission for Economic Competition (COFECE) – to govern matters of competition. IFT is chartered with governing the broadcasting and telecommunications sectors while COFECE is chartered with all other sectors. For more information on competition issues in Mexico please visit COFECE's bilingual website at: www.cfc.gob.mx.

Investment Trends

The significant economic reforms passed in 2014 have the potential to increase investment particularly in the newly liberalized energy and telecommunications sectors. Mexico has experienced significant increases in investment in automobile production and currently ranks as the seventh largest producer of automobiles in the world. Other sectors, including aerospace and medical device production, have also seen significant growth in recent years.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	35 of 174	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	39 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	66 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 16,110	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

Mexico maintains open conversion and transfer policies. In general, capital and investment transactions, remittance of profits, dividends, royalties, technical service fees, and travel expenses are handled at market-determined exchange rates. Mexican peso (MXN)/ USD exchange is available on same day, 24- and 48-hour settlement bases. The establishment of an automated clearinghouse for cross-border financial transactions between the U.S. Federal Reserve and the Bank of Mexico has facilitated payments between financial institutions in both countries. In 2010, in an effort to prevent money-laundering transactions, Mexico imposed limits on the amount that could be deposited in USD. This provision was effective; it reduced the amount of dollars repatriated to the United States by over 50 percent.

In January 2014, the head of the Financial Intelligence Unit disseminated a resolution outlining its authority to freeze the assets of designated persons and entities, namely those involved in money laundering, terrorism, or terrorist financing. In 2013, the mechanism contemplated in the Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds was established.

Remittance Policies

According to the U.S. Treasury's 2014 Report to Congress on International Economic and Exchange Rate Policies, Mexico has a comfortable level of foreign exchange reserves at USD 181.6 billion as of August, representing about 14 percent of GDP and 5 months of import cover. Mexico’s reserves continue to be backed by the availability of an additional USD 72 billion from a two-year Flexible Credit Line (FCL) with the International Monetary Fund (IMF).

3. Expropriation and Compensation

Under NAFTA, Mexico may not expropriate property, except for public purpose and on a non-discriminatory basis. Expropriations are governed by international law, and require rapid fair market value compensation, including accrued interest. Investors have the right to international arbitration for violations of this or any other rights included in the investment chapter of NAFTA.

Since the NAFTA's inception, there have been fourteen arbitration cases filed against Mexico by U.S. and Canadian investors who allege expropriation, and other violations of Mexico's NAFTA obligations. Details of the cases can be found at the Department of State Website, Office of the Legal Advisor (www.state.gov/s/l).

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Mexico's legal system is based on civil law that is derived from Roman law and the Napoleonic Code. The Constitution is the fundamental law. Mexico utilizes a form of jurisprudence constant, which means that the decisions of the Supreme Court are binding on lower courts only upon five consecutive and uninterrupted decisions approved by at least eight justices when in plenary sessions or by at least four justices when in chambers. By 2016, Mexico is scheduled to be moving to a system of oral trials, but they are making slow progress.

Mexico's commercial code, which dates back to 1890, was most recently updated in 2014. Mexico has four specialized courts regarding fiscal, two for labor, and agrarian law. The Federal Court of Fiscal and Administrative Justice is an autonomous body that decides disputes governing fiscal entities, the interpretation and completion of contracts, the responsibilities of public servants, and administrative authority disputes. The Federal Conciliation and Arbitration

Boards (CABS) are tripartite groups made up of workers, employers and government representatives which rule on issues between workers and employers.

The Federal Court of Conciliation and Arbitration has jurisdiction over labor issues between the federal government or the Federal District and their contracted laborers. The Superior Agrarian Court and the Unitary Agrarian Courts are autonomous and have jurisdiction over land and water rights, agricultural legislation, and agricultural business. The judicial branch is nominally independent from the executive, although the CABs are run through local party systems, and there have been allegations that they are corrupt. Pending judicial reform will make the Attorney General's Office independent of the executive.

Bankruptcy

Mexico's Bankruptcy law was established in 1943. Declaring bankruptcy is legal in Mexico and it may be granted to a private citizen, a business, or an individual business partner. Bankruptcy lending reforms of 2000 and 2003 created Mexico's first effective legal framework for granting collateral. Mexico is ranked 27th out of 189 countries in the World Bank’s category for Resolving Insolvency. The average bankruptcy filing takes 1.8 years to be resolved, recovering an average 68 cents per USD.

Investment Disputes

Due to Mexico’s treaty commitments, domestic courts recognize and enforce arbitral awards. There have been numerous cases in which foreign investors, particularly in real estate transactions, have spent years dealing with Mexican courts trying to resolve their disputes. Often real estate disputes occur in popular tourist areas such as the Yucatan Peninsula. Due to the legal complexities involved in this type of transaction, U.S. investors involved in commercial disputes are advised to hire competent Mexican legal counsel. The U.S investor may also wish to contact the local U.S. Embassy to keep them appraised of the status of the case.

International Arbitration

Mexico is a signatory to the North American Free Trade Agreement (NAFTA). Under Chapters 11, 19, and 20, NAFTA lays out an international dispute resolution mechanism. Chapter Eleven allows a NAFTA Party investor to seek money damages for violations to the provisions of Chapter Eleven. Investors may initiate arbitration against the NAFTA Party under the rules of the United Nations Commission on International Trade Law (UNCITRAL Model Law) or through the International Centre for Settlement of Investment Disputes (ICSID convention). A NAFTA investor may also choose to use the domestic court system to litigate their case.

Since NAFTA’s implementation in 1994, there have been fourteen claims made against Mexico. ICSID has resolved four of these cases, while ten are still pending.

ICSID Convention and New York Convention

In 1971, Mexico ratified the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention) and has codified into domestic law. Mexico is a member state to the International Centre for Settlement of Investment Disputes (ICSID convention).

It is also a signatory to the Inter-American Convention on International Commercial Arbitration (1975 The Panama Convention) and the 1933 Montevideo Convention on the Rights and Duties of States.

Duration of Dispute Resolution

Investment disputes can vary with some real estate transactions taking years to resolve.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Mexico has been a member of the World Trade Organization (WTO) since 1995. Mexico is in compliance with all Trade Related Investment Measures (TRIMs) requirements.

Investment Incentives

The 1993 Foreign Investment Law eliminated export requirements (except for *maquiladora* industries), capital controls, and domestic content percentages to be more in line with their treaty obligations under NAFTA. Foreign investors already in Mexico at the time the law went into effect could apply for a modification to their prior export commitments. Foreign investors who failed to do this, continued to remain subject to them.

The Mexican federal government passed a new fiscal reform package in 2013 which eliminated the Flat Rate Corporate Tax (IETU) and the cash deposit tax (IDE); raised the value-added tax (VAT) in the border region from a rate of 11 percent to 16 percent to make it the same as the rest of the country; and increased the income tax (ISR) to as high as 35 percent for individuals earning more than 3 million pesos annually. The government also imposed a 10 percent tax on capital gains from stock sales and eliminated consolidation for holding companies. Firms will now be authorized to deduct only 50 percent of expenses related to employee benefits. Other changes include the imposition of a 16 percent VAT on temporary imports except for certified maquiladoras. Following these changes the process for the Government of to refund VAT reimbursements for companies that had previously received them has significantly slowed, with companies reporting several months delay. For more information on obtaining certification, consult the Diario Oficial dated January 1, 2014.

Most taxes in Mexico are federal; therefore, states have limited opportunity to offer tax incentives. However, Mexican states have begun competing aggressively with each other for investments, and most have development programs for attracting industry. This includes discounted or even free access to land, employee training programs, and reductions of the 2 percent state payroll tax, as well as real estate, land transfer, and deed registration taxes, and even new infrastructure, such as roads. Four northern states --Nuevo Leon, Coahuila, Chihuahua and Tamaulipas -- have signed an agreement with the state of Texas to facilitate regional economic development and integration. Investors should consult the Finance, Economy, and Environment Secretariats, as well as state development agencies, for more information on fiscal incentives. Tax attorneys and industrial real estate firms can also be good sources of information. U.S. Consulates have reported that the states in their consular districts have had to modify their incentive packages due to government decentralization. Many states have also developed unique industrial development policies.

Mexico's maquiladora industry is governed by the Secretariat of Economy's IMMEX program. Please refer to the Secretariat of Economy's IMMEX program website at www.economia.gob.mx/comunidad-negocios/industria-y-comercio/instrumentos-de-comercio-exterior/immex for more information. Companies interested in investing in industrial activity in Mexico need to follow the IMMEX guidelines closely, preferably in close consultation with locally based legal advisors. As part of the recent fiscal reform, maquiladoras must obtain a certification from Mexico's tax authority (SAT) to be exempted from duties on temporary imports. Additional information can be found on SAT's website at www.sat.gob.mx/comext/certificacion_exportadoras/Paginas/default.aspx The Mexican government's tax regime provides the industry with financial and operational benefits, such as development of Mexico's maquila-servicing and supply industries. Other recent changes include the elimination of the partial income tax exemption for maquiladoras which are now required to pay the standard corporate rate of 30 percent, rather than the reduced rate of 17.5 percent.

In order to maintain competitiveness and comply with NAFTA provisions, Mexico has developed Sectoral Promotion Programs (PROSEC) to oversee maquiladoras. Under these programs, most favored nation import duties on listed inputs and components used to produce specific products are eliminated or reduced to a competitive level. These programs comply with NAFTA provisions because import duty reduction is available to all producers, whether the final product is sold domestically or is exported to a NAFTA country. PROSEC's twenty three supported sectors include electronics, auto parts, textiles and apparel, footwear, and others. The gradual elimination and reduction of import duties concluded in 2013, and the tariff structure now has six basic rates: 0, 5 percent, 7 percent, 10 percent, 15 percent and 20 percent. (http://www.economia.gob.mx/industry/foreign-trade-instruments/prosec)

Research and Development

There has been a recent trend of companies investing in research and development in Mexico and moving from making not only exclusively maquiladora type investments. Recently the auto industry has led the way, but other industries such as aerospace and medical devices have also begun to see Mexico as a destination for top engineering and research talent and not just comparatively low-wage labor.

Performance Requirements

Mexican labor law requires that at least 90 percent of a company's employees be Mexican nationals. In cases of specialized positions employers can hire foreign workers as long as the percent of foreigners in specialized positions does not exceed 10 percent of the workers in that particular category. The GoM encourages foreign companies to train local staff in specialized areas.

Data Storage

Mexico does not have any policy of forced localization for data storage, nor must foreign IT providers turn over source code or provide backdoors into hardware or software.

6. Right to Private Ownership and Establishment

Foreign and domestic private entities are permitted to establish and own business enterprises and engage in all forms of remunerative activity in Mexico, except those mentioned above. Private enterprises are able to freely establish, acquire and dispose of interests in business enterprises. The two most common types of business entities are corporations and limited liability partnerships. Under these legal entities a foreign company may operate an independent company, a branch, affiliate, or subsidiary company in Mexico. The rules and regulations for starting an enterprise differ for each structure.

For a corporation (Sociedad Anonima):
A) Can be 100 percent foreign-owned;
B) Must have a minimum of 50,000 Mexican pesos in capital stock to start;
C) Must have minimum of two shareholders, with no maximum. Board of Directors can run the administration of the company;
D) The enterprise has an indefinite life span;
E) Free transferability of stock ownership is permitted;
F) Operational losses incurred by the Mexican entity or subsidiary may not be used by the U.S. parent company;
G) Limited liability to shareholders.

Limited Liability Company (Sociedad de Responsabilidad Limitada):
A) Can be 100 percent foreign-owned;
B) Must have a minimum of 3,000 Mexican pesos in capital stock to start;
C) Must have a minimum of two partners to incorporate a corporation with limited liability. The partners must manage the company but 50 is the maximum number of shareholders;
D) Exists only when the business purpose and partners remain the same;
E) Restricted transferability of partnership shares. Any changes in the partnership composition may cause the partnership to be liquidated;
F) If structured properly, it may offer tax advantages by allowing operational losses incurred by the Mexican entity to be used by the U.S. parent company;
G) Limited liability is afforded the partners.

7. Protection of Property Rights

Real Property

According to the most recent World Bank Study "Doing Business in 2015", Mexico dropped one ranking in 2015 for ease of registering property, going to 110 on the list. Article 27 of the Mexican Constitution guarantees the inviolable right to private property. Expropriation can only occur for public use and with due compensation. Mexico has four categories of land tenure: private ownership, communal tenure (ejido), publicly owned, and ineligible for sale or transfer.

Under President Salinas de Gotari in 1992, Mexico amended article 27 of the Constitution, eliminating the constitutional right to form new ejidos or communal owned land. The 1992 reform also allowed ejido members to acquire full land rights or lease the land to non-ejido members; however the process, governed by Mexico's Agrarian Law, requires regulation of the land, division into parcels, and granting of individual titles before it can be offered for sale to non-ejido members. Mexico's 2001 census found that 50 percent of all land was held by ejidos.

Despite a proposal in 2013 to do away with the restriction, foreigners are still prohibited from acquiring title to residential real estate in so-called "restricted zones" within 50 kilometers (approximately 30 miles) of the nation's coast and 100 kilometers (approximately 60 miles) of the borders. In all, the restricted zones total about 40 percent of Mexico's territory. Nevertheless, foreigners may acquire the effective use of residential property in the restricted zones through the establishment of a 50-year extendable trust (*fideicomiso*) arranged through a Mexican financial institution that acts as trustee.

Under this trust, the foreign investor obtains all property use rights, including the right to develop, sell, and transfer the property. Real estate investors should, however, be careful in performing due diligence to ensure that there are no other claimants to the property being purchased. In some cases, Fideicomiso arrangements have led to legal challenges. U.S. issued title insurance is available in Mexico and a few major U.S. title insurers have begun operations here. Additionally, U.S. lending institutions have begun issuing mortgages to U.S. citizens purchasing real estate in Mexico.

Intellectual Property Rights

Intellectual property rights in Mexico are covered by the Industrial Property Law (Ley de Propiedad Industrial) and the Federal Copyright Law (Ley Federal del Derecho de Autor). The protection of IPR rights is spread across several government authorities. The Office of the Attorney General (Procuraduría General de la Republica, or PGR) oversees a special unit which prosecutes IPR crimes. The U.S Patent and Trademark Office Equivalent (The Mexican Institute of Industrial Property, or IMPI) administers patent and trademark registration and handles administrative enforcement cases of IPR infringement. The Copyright Institute (INDAUTOR) handles copyright registrations and mediates certain types of copyright disputes, while the Federal Commission for the Prevention from Sanitary Risks (COFEPRIS) regulates pharmaceuticals, medical devices and processed foods. The Mexican Customs Service (Aduanas) plays a key role in ensuring that illegal goods do not cross Mexico's borders.

After two full years in office, the Enrique Peña Nieto (EPN) administration has expended considerable time and political capital overhauling multiple industry sectors in Mexico, but has not focused on similar reforms on the intellectual property front. Legislative reform long identified by USG and others - such as granting customs ex-officio authority and providing the authority to seize suspected counterfeits that are in-transit - have been dormant and there is reluctance on the part of the GOM to seriously address these issues. In addition, the GOM has failed to articulate a coherent strategy to deal with IP crimes in the digital environment.

Despite strengthened enforcement efforts by Mexico's federal authorities over the past several years, weak penalties and other obstacles to effective IPR protection have failed to deter the rampant piracy and counterfeiting found throughout the country. Mexico suffers from widespread commercial infringement that incurs significant losses to Mexican, U.S., and third-country IPR rights-holders. There are many issues that have made it difficult to improve IPR protection in Mexico including legislative loopholes, lack of coordination between federal, state, and municipal authorities, a cumbersome and lengthy judicial process, and widespread cultural acceptance of piracy and counterfeits. In addition, the involvement of Transnational Criminal Organizations (TCOs) that control the counterfeit market in parts of Mexico continues to impede federal government efforts to improve IPR in Mexico. Their involvement has further illustrated the link between IPR crimes and illicit trafficking of other goods including arms and drugs.

Seizure of counterfeit goods is tracked by the PGR, IMPI and Customs, and the PGR compiles an annual report. In 2014, the PGR's specialized IP unit seized 12,723,991 counterfeit articles. Customs handled 636 seizure cases from 2013-2014 amounting to 13,172,954 seized articles. In 2014, IMPI conducted 4,321 inspection visits and seized 6,094,166 counterfeit and pirated goods. IMPI also levied USD 2,877,391in fines for IPR violations.

In 2013, Mexico was listed on the United States Trade Representative (USTR) 301 Report. In the 2013 USTR Out-Of Cycle-Review of Notorious Markets, two Mexican markets, Tepito, and San Juan de Dios both located in Mexico City, were listed. General areas of concern for IPR include protection of intellectual property in the digital environment, a lack of customs ex-officio authority, lack of transshipment enforcement, a lack of penalties for IPR crimes overall, little to no coordination between the federal government and the states, and no legislative priority for IPR issues. The most prevalent counterfeit goods include CDs and DVDs.

Mexico is a signatory to numerous international treaties that deal with IPR, including the Paris Convention for the Protection of Industrial Property, NAFTA, and the WTO Agreement on Trade-related Aspects of Intellectual Property Rights. Though Mexico signed the Patent Cooperation Treaty in Geneva, Switzerland in 1994, which allows for simplified patent registration procedure when applying for patents in more than one country at the same time, it is necessary to register any patent or trademark in Mexico in order to receive protection under local law and claim an exclusive right to any given product based on intellectual property. The U.S. Patent and Trademark Office and IMPI have a work sharing agreement in place to help applicants expedite the examination of patents in each country. The Patent Prosecution Highway agreement allows a patent holder in one country to fast track the examination of that same patent in the other country in order obtain the corresponding patents faster and more efficiently. Mexico has not implemented the WIPO Internet Treaties even though it ratified the treaty in

2002. For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Resources for Rights Holders

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American Chamber of Commerce Mexico
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E-mail: amchammx@amcham.org.mx

8. Transparency of the Regulatory System

The Federal Commission on Regulatory Improvement (COFEMER), within the Secretariat of Economy, is the agency responsible for reducing the regulatory burden on business. The Mexican government has been making steady progress on this issue in the last few years. On a quarterly basis, these agencies must report to the President on progress achieved toward reducing the regulatory burden. In December 2006, the government replaced the Regulatory Moratorium Agreement to ensure agencies streamline their regulatory promulgation processes, with the Quality Regulatory Agreement. The new agreement intends to allow the creation of new regulations only when agencies prove that they are needed because of an emergency, the need to comply with international commitments, or obligations established by law.

On April 29, 2014 the Mexican Congress passed secondary legislation to implement the constitutional competition policy reform. This legislation's purpose is to limit the monopolistic practices that have affected the Mexican economy for decades. Mexico's antitrust agency, the Federal Competition Commission (COFECE) continues to be responsible for protecting, promoting and guaranteeing a competitive free market in Mexico. The law provides the Commission with more power than previous years. For instance, it authorizes the Commission to eliminate barriers both to competition and free market entry anywhere in the economy (except in the telecom sector, which is governed by its own competition authority) and to identify and regulate access to essential production inputs. Moreover, new enforcement tools allow the Commission to ban specified individuals from holding positions in a sanctioned company and provide authority to impose fines for anticompetitive behavior.

In addition, the federal law on administrative procedures has been a significant investment policy accomplishment. The law requires all regulatory agencies to prepare an impact statement for new regulations, which must include detailed information on the problem being addressed, the proposed solutions, the alternatives considered, and the quantitative and qualitative costs and benefits and any changes in the amount of paperwork businesses would face if a proposed regulation is to be implemented.

The Mexican government, with the OECD, the private sector, and several think tanks, has worked to streamline bureaucracy and procedures, with a particular focus on several Mexican states. Mexico made significant improvements in business registration and registration of new firms, such as the elimination of the requirement to have minimum capital to create a new business and the creation of a collateral registry. Although Mexico still needs to approve some legal reforms to make this registry stronger, it was a step in the right direction to unify information on collateral under some sort of centralized registry.

These improvements have had positive effects on foreign participation. Many local businesses and successful industrialists tend to prefer joint investments with foreign companies that can make modern technology available acting as technical partners. Also, organized labor sometimes prefers to deal with companies having substantial foreign capital since such companies tend to be more agreeable to the collective-bargaining process. Despite these measures, many difficulties remain. Foreign firms continue to list bureaucracy, slow government decision-making, lack of transparency, and a heavy tax burden among the principal negative factors inhibiting investment in Mexico, but with some state and municipal governments having more pro-business policies. However, the OECD and the government will continue working to improve the regulatory process at the subnational level.

The Secretariat of Public Administration made considerable strides in improving transparency in government, including government contracting and involvement of the private sector in enhancing transparency and fighting corruption. The Mexican government has established several Internet sites to increase transparency of government processes and establish guidelines for the conduct of government officials. Normateca provides information on government regulations; Compranet allows for on-line federal government procurement; Tramitanet permits electronic processing of transactions within the bureaucracy thereby reducing the chances for bribes; and Declaranet allows for online filing of income taxes for federal employees. Finally, there is need for greater coordination between federal and regional legislation and implementation. It is important to consolidate the private sector collective action in order to mandate greater compliance with the current legal framework, not only by government authorities but also by companies and businesses involved in the public procurement process.

9. Efficient Capital Markets and Portfolio Investment

Reforms creating better regulation and supervision of financial intermediaries and fostering greater competition have helped strengthen the financial sector and capital markets. These reforms, coupled with sound macroeconomic fundamentals, have created a positive environment for the financial sector and capital markets, which have responded accordingly. The implementation of NAFTA opened the Mexican financial services market to U.S. and Canadian firms. Foreign institutions hold more than 70 percent of banking assets and banking institutions from the U.S. and Canada have a strong market presence. Under NAFTA's national treatment guarantee, U.S. securities firms and investment funds, acting through local subsidiaries, have the right to engage in the full range of activities permitted in Mexico.

Foreign entities may freely invest in government securities. The Foreign Investment Law establishes, as a general rule, that foreign investors may hold 100 percent of the capital stock of any Mexican corporation or partnership, except in those few areas expressly subject to limitations under that law. Regarding restricted activities, foreign investors may also purchase non-voting shares through mutual funds, trusts, offshore funds, and American Depositary Receipts. They also have the right to buy directly limited or nonvoting shares as well as free subscription shares, or "B" shares, which carry voting rights. Foreigners may purchase an interest in "A" shares, which are normally reserved for Mexican citizens, through a neutral fund operated by one of Mexico's six development banks. Finally, state and local governments, and other entities such as water district authorities, now issue peso-denominated bonds to finance infrastructure projects. These securities are rated by international credit rating agencies. This market is growing rapidly and represents an emerging opportunity for U.S. investors.

Money and Banking System, Hostile Takeovers

Since the 1994 Mexican Peso Crisis that almost left Mexico insolvent, the banking sector has strengthened considerably. The GoM has introduced reforms to buttress the banking system and to consolidate financial stability. These reforms include creating a more favorable economic and regulatory environment to foster banking sector growth by reforming bankruptcy and lending laws, moving pension fund administration to the private sector, and raising the maximum foreign bank participation allowance. The bankruptcy and lending reforms passed by Congress in 2000 and 2003 made it somewhat easier for creditors to collect debts in cases of insolvency by creating Mexico's first effective legal framework for the granting of collateral. Pension reform allows employees to choose their own pension plan. Allowing banks or their holding companies to manage these funds provides additional capital to the banking sector, while the increased competition permits fund managers to focus on investment returns. Mexico’s fiscal reform, passed in 2013, consisted of 34 financial and banking laws which strengthened banking regulations and the legal framework with the intention of increasing competition and transparency in the sector.

The banking sector remains highly concentrated, with several large banks controlling a significant market share, and the remainder comprised of regional and smaller banks. The Mexican Tax Authority has approved the opening of several new banks since 2006, including Wal-Mart Bank and Prudential Bank, but the sector's competitive dynamics and credit quality are still being driven by six large banks (Banamex, Bancomer, Santander, HSBC, Scotiabank, and Banorte)—the first five of which are foreign-owned with a total market share of 74 percent. As part of the 2013 fiscal reform, Mexico became one of the first countries to implement the Basel III accord which establishes standards for bank capital and liquidity. Other aspects of the law establish clearer procedures for the support and liquidation of troubled banks, and also provide more certainty to the process by which banks can recover collateral in cases of default. Despite having high levels of liquidity, banks in Mexico have historically been reluctant to provide credit in part due to limited consequences for nonpayment and lengthy legal processes for collection. For the period 2009 to 2013, Mexico’s banks had an average core capital ratio of 10.4 percent.

In 2013, Congress approved a financial reform to increase bank lending to priority areas and projects such as to small and medium size enterprises, infrastructure projects, technology innovation and patent development. The reform facilitates commercial banks making more and lower interest loans, thus giving a more active role to the Mexican development banks, which have a more flexible mandate to focus on financial inclusion. It also boosts competition in the sector. Commercial banks are now subject to periodic lending reviews. The reforms also make it easier for banks to collect on bad loans, one of the obstacles that was hindering more lending to the private sector. The reform has improved the bankruptcy process, fostered more expeditious resolution of cases through the creation specialized commercial courts, and strengthened protection for financial users with the creation of a Bureau of Financial Institutions. The modifications free the Mexican stock market (BMV) to establish linkages with foreign bourses, allowing it to proceed with the Integrated Latin American Market (MILA, the integrated stock market of Chile, Colombia, Mexico, and Peru).

10. Competition from State-Owned Enterprises

There are two main state-owned enterprises (SOEs) in the energy sector. Petroleos Mexicanos (PEMEX) is in charge of running the hydrocarbons (oil and gas) sector, which includes upstream, mid-stream, and downstream operations, and is the most important fiscal contributor to the country. PEMEX has historically contributed one-third of the Mexican government's budget, but declines in productivity have diminished this amount over the past decade. The Federal Electricity Commission (CFE) is the other main state-owned company and is in charge of the electricity sector.

In August 2014, a historic energy reform bill was signed, overhauling the entire system. It amends the constitution, allowing the private sector to enter into competitive contracts that include profit sharing, and license contracts with PEMEX for the exploration and extraction of hydrocarbons. Mexico still retains full ownership of its hydrocarbon reserves, and the bill does not privatize PEMEX or CFE; however, it allows private sector companies to participate in downstream operations, such as refining, transport, commercial supply, and electricity generation. Restructuring of PEMEX and CFE will occur over a two-year period. With the energy reform's implementation, private investment will also be permitted in downstream operations to include oil and natural gas treatment and refining as well as transportation, storage, and distribution of natural gas, gasoline, and other oil products. On January 1, 2017 retail gasoline market will be open to full competition without restriction on gasoline imports or the necessity to involve PEMEX. The energy reform establishes a National Center for Natural Gas Control (Cenegas) which will administer and manage Mexico's natural gas pipeline network. Energy reform Forthcoming legislation is also expected to established national content percentages to promote the development and inclusion of Mexican suppliers to the industry.

In September 2014, Mexico's Secretariat of Energy and the National Hydrocarbons Commission awarded through a Round Zero tendering process, oil and gas fields to Mexico's state-owned petroleum company, PEMEX. Subsequent to this allocation, the remaining oil and gas fields as well as new offshore fields and land-based unconventional resources will be opened to private sector bidders for development rights during successive rounds each year through 2019.

Changes to the Mexican constitution will also open up power generation and commercial supply to the private sector, allowing companies to compete with CFE. Although private investment in electricity transmission and distribution is allowed by these reforms, CFE will remain the sole provider of transmission and distribution services and will own all transmission and distribution assets. The constitutional reform transitions CFE from a state monopoly to a parastatal. CFE will still exercise control over the transmission and distribution, but will no longer be the sole electricity provider. The reform pulls out the National Energy Control Center (CENACE) from

CFE and establishes it as the independent system operation (ISO) which will control the national wholesale electricity market and ensure non-discriminatory open access to the grid for competitors. Independent power generators were authorized to operate in 1992, but were required to sell their output to CFE or use it to self-supply. Under the reform, private power generators may now install and manage interconnections with CFE's existing state-owned distribution infrastructure. The reform also requires the government to implement a National Program for the Sustainable Use of Energy as a transition strategy to encourage clean technology and fuel development and reduce pollutant emissions. Forthcoming secondary legislation is required to encourage the exploration and expansion of geothermal resources in the pursuit of cleaner energy.

With the energy reform's implementation, private investment will also be permitted in downstream operations to include oil and natural gas treatment and refining as well as transportation, storage, and distribution of natural gas, gasoline, and other oil products. On January 1, 2017 retail gasoline market will be open to full competition without restriction on gasoline imports or the necessity to involve the state-run oil company Petróleos Mexicanos (PEMEX). The energy reform establishes a National Center for Natural Gas Control (Cenegas), which will administer and manage Mexico's natural gas pipeline network. Forthcoming legislation is also expected to established national content percentages to promote the development and inclusion of Mexican suppliers in the industry.

The Servicio Postal Mexicano (Sepomex), or Correos de Mexico, is the national postal service of Mexico and officially retains a monopoly on all mail items under one kilogram. The mail is regulated under Mexico's Communications and Transport Secretariat, and postal service is reserved to the state under Mexico's Constitution. Private delivery under one kilogram is officially illegal, but loopholes in the law have allowed some domestic and foreign privately-owned shippers to provide some delivery services through certified delivery and other advanced-service options to differentiate their business from that of a standard postal delivery. In the past, there were calls for legal reforms that would give Correos de Mexico a strictly enforced monopoly on packages weighing 350 grams or less and require private couriers to charge up to seven times Correos de Mexico's prices, but the government has not moved ahead on this front.

Technically, Correos de Mexico is responsible for financing itself, but the government does subsidize the agency if there is insufficient revenue. Liberalization and privatization of postal markets are not currently on the agenda in Mexico.

OECD Guidelines on Corporate Governance of SOEs

Pemex has a board of directors, which includes government representatives from the Secretary of Energy, Secretary of Finance, the Secretary of Public Function, and the Office of the President; four professional members; five representatives from the union; one commissioner; and one independent auditor, which in this case is the private consulting group, KPMG. Pemex's accounting and balance sheets are subject to internal and external audits. The Audit and Performance Evaluation Committee of PEMEX's Board of Directors appoints PEMEX's external auditors. Pemex's financial reports are issued in accordance with Mexico's Generally Accepted Accounting Principles (GAAP), which differ somewhat from U.S. GAAP.

The President appoints the CEO of PEMEX. The GoM closely regulates and supervises the operations of PEMEX through three Ministries and one Commission: The Secretary of Energy (Sener) monitors the company's activities, and serves as the chairman of PEMEX's Board of Directors; the National Hydrocarbons Commission (CNH), which is independent but report to Sener's Secretary of Energy, evaluates PEMEX's reserve estimates and provides regulations for PEMEX's operations in all areas, including deep-water exploration and drilling and gas flaring; the Secretary of Finance and Public Credit (SHCP) reviews and incorporates the annual budget and financing program of Pemex and its subsidiaries; and the Secretary of Environment and Natural Resources (Semarnat), in coordination with other federal and state authorities, regulates PEMEX's activities that affect the environment.

PEMEX's accounting and balance sheets are subject to internal and external audits. The Audit and Performance Evaluation Committee of PEMEX's Board of Directors appoints PEMEX's external auditors. Pemex's financial reports are issued in accordance with Mexico's Generally Accepted Accounting Principles (GAAP), which differ somewhat from U.S. GAAP. PEMEX has registered bond issuances in the Securities and Exchange Commission (SEC). Thus, in order to maintain its registration with the SEC, PEMEX has the obligation to file several international standard forms, such as the Form 20-F, on an annual basis. PEMEX has moved forward in incorporating best corporate and social responsibility practices.

CFE is a decentralized government agency, duly incorporated, and controls its own assets. Like Pemex, CFE has a Board of Directors, which includes representatives from the Secretariats of Energy, Environment, Social Development, Economy, and Finance; Pemex's CEO; and three representatives from the union. CFE's books are also subject to domestic general accounting rules and are reviewed by independent auditors. The Energy and Finance Secretariats approve and submit Pemex's and CFE's budgets to the lower house for approval.

After the 2013 constitutional reform, CFE remains a SOE contributing a significant proportion of power generation and controlling most of the country's installed distribution and transmission network. Mexico generates electric power for 33.8 million customers (or 100 million people) for a resulting electrification rate of 97.9 percent of the population. Access is particularly limited in some Mexican states where electricity still fails to reach at least five percent of the population in almost half of all communities. Nationally, there are still nearly 130,000 small communities without access to electricity. Approximately 70 percent of Mexico's capacity is from conventional thermal sources with another 20 percent generated by hydro. The National Energy Strategy outlines Mexico's goal to increase the generating capacity of clean energy (renewables and nuclear) to 35 percent by 2024.

Correos de Mexico has a Board of Directors presided over by the Secretariat of Communications and Transportation. Other members of the Board are: the Secretary of Foreign Affairs, the Secretary of the Economy, the Secretary of Finance, and the Under Secretary of Communications.

Sovereign Wealth Funds

The 2013 budgetary reform created the Mexican Petroleum Fund for Stability and Development (FMP), which began operations early this year. The FMP's transparency requirements place it among the most transparent Sovereign Wealth Funds (SWF) in the world. The fund is required to publish a quarterly report on the basis of three separate laws. It has published its first quarterly report (Oct-Dec 2014) on its website.

The fund distributes oil profits to the national budget and a long-term savings account, acting as a fund and a budget stabilization tool managed by the Central Bank. The FMP is must transfer funds up to 4.7 percent of GDP flow to the national budget. Any money remaining after this transfer of funds goes to the SWF. Once the fund reaches 3 percent of GDP, up to 60 percent of the remaining flow can be directed to a universal pension fund, science investment, and scholarships and development projects. The decline in oil prices means that the fund has not yet accumulated reserves.

The FMP is a public trust where the Mexican Central Bank acts as a trustee on behalf of the Ministry of Finance. Its corporate governance includes a Technical Committee which appoints the FMP Executive Coordinator, determines investment and risk-management policies, proposes addition transfers when funds exceed 3 percent GDP, and instructs government transfers. It is made up of three members of the state, as well as four independent members appointed by the Federal Executive and approved by the Senate. The four independent members serve staggered terms of eight years and cannot have conflicting public or private interests.

11. Corporate Social Responsibility

Both the private and public sector have taken several actions to promote and develop corporate social responsibility (CSR) in Mexico during the past decade. CSR in Mexico began more as a philanthropic effort, but it has gradually evolved to a more holistic approach, trying to match international standards, such as the OECD Guidelines for Multinational Enterprises and the United Nations Global Compact. The Mexican Center of Philanthropy (CEMEFI), a well-respected NGO for the promotion of CSR and philanthropy, was created in 1998, and among its achievements has been the creation of the CSR distinctive award in 2001 to those companies that comply with CSR best practices in Mexico and Latin America. Other awards that recognize companies' CSR work in Mexico are the Great Place to Work rank and Expansion magazine's Super Empresas list. Some of the domestic and foreign companies, of the more than one hundred that have received awards, are: Bimbo, Nestlé, Coca Cola, Walmart, Hewlett Packard, General Electric, Pfizer, and Plantronics.

In 2005, the Mexican Standards Institute (IMNC) officially issued the CSR standard NMXSAST-004-IMNC. On November 26, 2010, Mexico officially launched the ISO 26000 Guidance on Social Responsibility, an international standard that offers guidance on socially responsible behavior and possible actions; it does not contain requirements and, therefore, in contrast to ISO management system standards, is not certifiable. Responsible business conduct reporting has made progress in the last few years with more companies developing a corporate responsibility performance strategy. The government has also made an effort to implement CSR in state owned companies such as PEMEX, which has published corporate responsibility reports since 1999.

OECD Guidelines for Multinational Enterprises

Mexico encourages companies to follow accepted responsible business conduct principles and has committed to adhere to the OECD guidelines for Multinational Enterprises.

12. Political Violence

Peaceful mass demonstrations are common in the larger metropolitan areas such as Mexico City, Guadalajara, and Monterrey, as well as in the southwestern Mexican states of Guerrero and Oaxaca. While political violence is rare, drug and organized crime-related violence has increased significantly since 2006. Cartels use torture and the public dumping of bodies to intimidate their drug-ring rivals.

The United States is working with Mexico to combat organized crime and enhance rule of law through the Merida Initiative, an unprecedented partnership based on principles on common and shared responsibility, mutual trust, and respect for sovereign independence. Under the Merida Initiative, the United States has forged a partnership with the GoM to disrupt organized criminal groups, institutionalize reforms to sustain the rule of law and support for human rights, create a 21st century border structure, and build strong and resilient communities.

The U.S. Congress has appropriated over USD 2.3 billion since the Merida Initiative began in 2008, which has provided helicopters and surveillance aircraft, non-intrusive inspection equipment, canines, and technical assistance and training to strengthen police professionalization programs, the prison system, border management, and judicial practices. In addition, the Merida Initiative works on engaging youth in their communities, expanding social safety nets, and building community confidence in public institutions to create a culture of lawfulness and undercut the allure of the cartels. Though the violence is not political in nature, U.S. Embassy Mexico City notes that general security concerns remain an issue for companies looking to invest in the country. Many companies choose to take extra precautions for the protection of their executives. They also report increasing security costs for shipments of goods. The Overseas Security Advisory Council (OSAC) monitors and reports on regional security for American businesses operating overseas. OSAC constituency is available to any American-owned, not-for-profit organization, or any enterprise incorporated in the U.S. (parent company, not subsidiaries or divisions) doing business overseas (https://www.osac.gov/).

The Department of State maintains a Travel Warning for U.S. citizens traveling and living in Mexico, available at http://travel.state.gov/content/passports/english/alertswarnings/mexico-travel-warning.html.

13. Corruption

Corruption exists in many forms in Mexican government and society, including corruption in the public sector (e.g., demand for bribes or kickbacks by government officials) and private sector (e.g., fraud, falsifying claims, etc.), as well as conflict of interest issues, which are not well defined in the Mexican legal framework. A growing concern is the apparent complicity of elected and government officials and law enforcement officials with criminal elements, either well-organized transnational criminal organizations or more fragmented local criminal groups, in certain areas of Mexico. While public and private sector corruption is found in most countries, the collaboration of government actors (often due to intimidation and threats) with criminal organizations poses serious challenges for the rule of law in the affected areas. Examples of the several categories of corrupt practices can be found at various levels of state and local government. The response of the administration to recent scandals in several categories has been criticized as slow and ineffective.

One form of official corruption involves government officials stealing from public coffers or demanding bribes in exchange for doing their work. The New York Times recently carried a report of properties owned by the former governor of Oaxaca in Manhattan and at Utah ski resorts. Two former governors of the state of Tamaulipas have been accused of corruption and embezzlement – one of them has fled the jurisdiction. Other prominent cases – for example alleged improprieties of the former mayor of Mexico City in relation to a subway infrastructure project – continue to make newspaper headlines.

Conflict of interest is often seen as a form of corruption distinct from private sector fraud or public sector theft. The OECD says a “conflict of interest occurs when an individual or a corporation (either private or governmental) is in a position to exploit his or their own professional or official capacity in some way for personal or corporate benefit”. It may be a conflict of interest, for example, when an official receives goods or services from a person or organization that benefits from government contracts or contacts. In October 2014, media disclosed that President Peña Nieto’s wife purchased a home (dubbed the “casa blanca” or white house) on favorable terms from a contractor who had been awarded government contracts during the President's tenure as the governor of the State of Mexico. The President and his wife denied that they had broken any law. Later, reports emerged that the Finance Minister had purchased a home on a golf course from the same contractor, allegedly at a price below market value and after receiving a below-market interest rate. In fact, current Mexican laws and regulations may not explicitly prohibit such “conflict of interest.”

Mexico’s Congress passed the first Federal Anti-corruption law in June 2012 and the anti-money laundering law (or the illicit finance law) in October 2012. A new anti-corruption law was passed by the lower house and, as of the time of this draft, is under review by the Senate. The anti-money laundering law obligates Designated Non-Financial Businesses & Professions (DNFBP) to identify their clients and report suspicious operations or transact ions about designated thresholds to the Secretariat of Finance (SHCP), establishes a Specialized Financial Analysis Unit (UEAF) in the Office of the Attorney General (PGR), restricts cash operations in Mexican pesos, foreign currencies and precious metals for a variety of “vulnerable” activities, and imposes criminal sanctions and administrative fines on violators of the new legislation. For more information on the anti-money laundering law, please consult http://www.dof.gob.mx/nota_detalle.php?codigo=5273403&fecha=17/10/2012

In perhaps corruption’s most dangerous form, government officials are allegedly work with drug cartel rings and organized crime, sharing information and shielding the criminal organizations and members from law enforcement activity or prosecution and in exchange receiving money or, in the case of those officials who are intimidated, receiving guarantees of safety for themselves and their families. One high profile case that exposed the linkage between drug cartels and city government officials occurred in September 2014 when 43 students in Iguala, Guerrero disappeared (and are presumed dead) after they were detained by local authorities linked to drug cartels.

In the wake of the disappearance of the 43 students, President Pena Nieto announced a ten point security plan, including a pledge to push anti-corruption laws through Congress, and eight points to address corruption and conflict of interest, but has taken little effective action thus far. Civil society leaders have indicated that the new anti-corruption law pending in the Senate, that aims to strengthen Mexico's ministries with oversight and sanction authority for corruption issues, is a good step in the right direction. The Constitutional reform, pending approval by the Senate after passing through the lower house in February will require ratification by Mexico's states and secondary legislation before it is implemented. Legislation geared toward increasing transparency by expanding Mexicans' right to information and requiring Mexico's 31 states and the Federal District to implement federal standards for access to information is pending in the lower house after having passed in the Senate in March. Mexico is in the middle of a constitutionally mandated transition to a new oral accusatory criminal justice system that is expected to increase transparency and reduce corruption.

Mexico ratified the OECD Convention on Combating Bribery in May 1999. The Mexican Congress passed legislation implementing the convention that same month. The legislation includes provisions making it a criminal offense to bribe foreign officials. Mexico is also a party to the OAS Convention against Corruption and has signed and ratified the United Nations Convention against Corruption. The government has enacted or proposed strict laws attacking corruption and bribery, with average penalties of five to ten years in prison. The Transparency and Access to Public Government Information Act, the country's first freedom of information act, went into effect in June 2003 with the aim of increasing government accountability. Legislation geared toward increasing transparency by expanding Mexicans' right to information and requiring Mexico's 31 and the Federal District to implement federal standards for access to information is pending in the lower house after having passed in the Senate in March. Transparency in public administration at the federal level has noticeably improved, but access to information at the state and local level has been slow. In February 2015, the Mexican President appointed a new Secretariat of Public Administration charged with investigating corruption and conflict of interest among public officials. The position had been effectively vacant. Under the Anti-Corruption law pending in the Senate, that secretary's appointment would require congressional confirmation and a term of seven years would allow one secretary's work to span more than one six-year presidential term.

According to Transparency International's 201 Index of Corruption Perception, Mexico scored 35 out of 100. This score places Mexico in 103th place out of 175 nations. Local civil society organizations focused on fighting corruption exist but are few in number. A handful of Mexican non-governmental organizations, including Mexico Without Corruption and the FUNDAR Center for Analysis and Investigation, work to study issues related to corruption and raise awareness in favor of transparency. The Mexican branch of Transparency International also operates in Mexico. The best source of Mexican government information on anti-corruption initiatives is the Secretariat of Public Administration (www.funcionpublica.gob.mx).

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Mexico ratified the UN anticorruption convention in 2004. It ratified the OECD Anti-Bribery Convention in 1999.

Resources to Report Corruption

Contact at government agency
- Teresa Gomez del Campo Gurza
- Head of International Cooperation and Transparency Policy
- Secretariat of Public Administration
- Miguel Laurent 235, Mexico City
- 52-55-2000-1060
- tgomez@funcionpublica.gob.mx

Contact at "watchdog" organization
- Eduardo Bohorquez
- Executive Director
- Transparencia Mexicana
- Dulce Olivia 73, Mexico City
- 52-55-5659-4714
- info@tm.org.mx

14. Bilateral Investment Agreements

The North American Free Trade Agreement (NAFTA) governs U.S. and Canadian investment in Mexico. In addition to NAFTA, most of Mexico's other free trade agreements (FTAs) cover investment protection, with a notable exception being the Mexico-European Union FTA.

Mexico's FTAs with investment clauses include; Bolivia, Chile, Costa Rica, Colombia, El Salvador, Guatemala, Honduras, Japan, and Nicaragua. A Free Trade Agreement with Peru and also a combined agreement with Central America passed Mexico’s Congress in December 2011 and in April 2014 Mexico signed a free trade pact with Panama.

Mexico has enacted formal bilateral investment protection agreements with 29 countries: 16 European Union countries (Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Slovakia, Spain, Sweden, and the United Kingdom), as well as Argentina, Australia, Belarus, China, Cuba, Iceland, India, Panama, Slovakia, South Korea, Switzerland, Trinidad and Tobago, and Uruguay. Mexico continues to negotiate bilateral investment treaties with Brazil, the Dominican Republic, Malaysia, Russia, Saudi Arabia, and Singapore.

Bilateral Taxation Treaties

The United States and Mexico have a bilateral tax treaty to avoid double taxation and prevent tax evasion. The two countries also have a tax information exchange agreement to assist the two countries in enforcing their tax laws. The Financial Information Exchange Agreement (FIEA) was enacted in 1995, pursuant to the Mutual Legal Assistance Treaty. The agreements cover information that may affect the determination, assessment, and collection of taxes, and investigation and prosecution of tax crimes. The FIEA permits the exchange of information with respect to large-value or suspicious currency transactions to combat illegal activities, particularly money laundering. Mexico is a member of the Financial Action Task Force (FATF) of the OECD and has made progress in strengthening its financial system through specific anti-money-laundering legislation enacted in 2000 and 2004.

In 2010, Mexico implemented restrictions on U.S. dollar deposits which reduced by 50 percent the amount of bulk cash repatriated to the United States from the Mexican financial system. . In 2014 the 2010 regulation was modified to allow border- and tourist-area businesses to exceed the USD 14,000 per month U.S. dollar cash deposit limit provided that they: 1) have been operating for at least three years; 2) provide additional information to financial institutions justifying the need to conduct transactions in U.S. dollar cash; and 3) provide three years of financial statements and tax returns. The limit on individual account holders remains unchanged. The additional information required—which, importantly, can be shared with U.S. banks—could enhance the ability of Mexico's Financial Intelligence Unit (FIU) to monitor U.S. currency transactions as more U.S. dollars will enter the banking system instead of being diverted to less-regulated non-bank financial institutions. In January 2014, the head of the FIU disseminated a resolution outlining its power to order reporting entities to freeze the assets of designated persons and entities, namely those involved in money laundering, terrorism, or terrorist financing. These rules establish the mechanism contemplated in the Federal Law for the Prevention and Identification of Transactions with Illicit Proceeds, passed in 2013.

15. OPIC and Other Investment Insurance Programs

In 2004, Mexico and the Overseas Private Investment Corporation (OPIC) finalized an agreement enabling its programs and services within the country. OPIC has pursued potential investment projects in Mexico, and the country rapidly became one of the top destinations for projects with OPIC support. OPIC has provided over USD 1 billion in financing and political risk insurance support to 21 projects in Mexico. For more information on OPIC's projects in Mexico, please consult OPIC's website at www.opic.gov.

16. Labor

The Mexican Statistics Bureau (INEGI) estimates that 59 percent of the workforce is engaged in the informal economy and there is a surplus of labor in the formal economy. On the other hand, there is a shortage of technically skilled workers and engineers. Labor-management relations are uneven and union issues can be complex in Mexico. Mexican law allows only one union to operate in any business establishment. Many actors also note that the Mexican government wields veto power in the supposedly neutral and balanced tripartite arrangement of labor-business relations. Mexican manufacturing operations in the textile and garment sectors are experiencing stiff wage competition from Central America and India, but gaining relative wage competition with China in high technology sectors. Mexico's minimum wage averages around USD 5 per day and is less than a living wage in this OECD country. The tripartite National Commission sets the minimum wage each year.

The Mexican Congress enacted a sweeping labor reform bill into law on November 29, 2012. The law encompasses major changes to make Mexico's labor market flexible and incorporate modern statutes such as non-discrimination. Included in the 300 articles are provisions for the easing of hiring-and-firing of workers, establishing an apprenticeship system, establishing an hourly wage system, and regulating outsourcing. The labor reform also prohibits job discrimination based on sex, health, sexual preference, age, and disability. It makes it illegal for employers to require pregnancy tests of their female workers and job candidates. The reform also restructures Mexico's labor courts and incorporates the International Labor Organization's (ILO) concept of decent work. The full text of the new law can be found at http://www.stps.gob.mx/bp/micrositios/reforma_laboral/ref_lab.html.

Mexico's Secretariat of Labor, the Secretaría del Trabajo y Previsión Social (STPS) is responsible for enforcing labor laws and conducting inspections at workplaces. In 2014, the STPS carried out regular inspections of workplaces, using a questionnaire and other actions to identify victims of labor exploitation. These inspections identified several industries as having a high incidence of child labor (agriculture, coal mines, and construction). In April 2014, Mexico's Congress passed a constitutional reform (enacted in June) to prohibit children under the age of 15 from working. The Constitution allows those between the ages of 15 and 17 to work no more than six daytime hours in nonhazardous conditions, and only with parental permission. The labor law includes a broad list of hazardous and unhealthy occupations that minors are prohibited from performing. According to the International Labor Organization (ILO), government enforcement was reasonably effective in enforcing these laws in large and medium-sized companies, especially in factories run by U.S. companies and in other industries under federal jurisdiction. Enforcement was inadequate in many small companies and in the agriculture and construction sectors, and nearly absent in the informal sector, in which most children worked.

In terms of labor dispute resolution mechanisms, the Conciliation and Arbitration Boards (CABs) in Mexico adjudicate all individual and collective labor conflicts. Although they have a tripartite structure, with government representatives and equal numbers of worker and employer representatives, the CABs have been widely criticized as being biased in favor of management. The federal labor law sets out processes for dispute resolution over which the CABs preside, including a mandatory conciliation phase. If conciliation fails, the parties submit evidence and the CAB rules on the issue after a hearing. CAB resolutions are final, but a party may request an injunction to the Constitutional court through a special process called Amparo. Amparos are offered on limited constitutional grounds.

Mexican labor law provides for collective bargaining; however, legal loopholes exist that facilitate the widespread use of protection contracts, which are simulated collective bargaining agreements (CBAs) signed by the employers with unions" favorable to employers, often even before enterprises open and without the knowledge of workers, that block the ability of independent unions to effectively and legitimately bargain collectively on behalf of workers.

In general, international labor rights are recognized in Mexican law and the country has extensive occupational safety and health regulations and technical standards. However, important legal ambiguities exist with regard to collective bargaining and many rights are not respected in practice. According to labor rights NGOs, employers in all sectors sometimes used the illegal hours bank approach – requiring long hours when the workload is heavy and cutting hours when it is light – to avoid compensating workers for overtime. In addition, many companies evaded taxes and social security payments by employing workers informally. There have also been several complaints of poor working conditions in maquiladoras and in the agricultural production industry. Low wages, poor labor conditions and relations, long work hours, unjustified dismissals, the lack of social security benefits and safety in the workplace, and the lack of freedom of association were among the most common complaints. As a result, there have been several strikes related to farmworkers in northern Mexico posing significant investment risks. Most recently in March 2015, San Quintín farm workers in the state of Baja California went on strike demanding higher wages, access to social security, pay for overtime, paternal leave, freedom of association, the right to collective bargaining, etc. Consequently, there has been an important loss of produce valued at tens of millions of dollars combined with significant losses in tourism and commerce.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

Mexico continues to work on port efficiency, customs environment, regulatory proficiency and e-commerce use in order to increase its trade facilitation. As mentioned, the country benefits from having an extensive network of Free Trade Agreements (FTA), which offers preferential access to markets in North America, the European Union, the countries of the European Free Trade Association (EFTA), Israel and ten partner countries in Latin America. It also has 39 commercial agreements that grant the application of preferential rates on the import of goods that are considered as originating goods from the FTA member nations.

In addition to the IMMEX programs that operate as quasi-free trade zones, in 2002 Mexico approved the operation of more traditional free trade zones (FTZ). Unlike the previous "bonded" areas that only allowed for warehousing of product for short periods, the new FTZ regime allows for manufacturing, repair, distribution, and sale of merchandise. There is no export requirement for companies operating within the zone. Regulatory guidance for FTZs can be found under Mexico’s Customs Law, article 14-D. Most major ports in Mexico have bonded areas (recinto fiscalizados) or customs areas (recintos fiscales) within them. Mexico currently has four approved FTZs, located in San Luis Potosi, Mexico City, Monterrey, and Guanajuato.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($B USD)	2014	1,300	2013	1,261	www.worldbank.org/en/country

Foreign Direct Investment	**Host Country Statistical source***		**USG or international statistical source**		**USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	2013	N/A	2013	101,454	Bureau of Economic Analysis
Host country's FDI in the United States ($M USD, stock positions)	2013	N/A	2013	17,610	Bureau of Economic Analysis
Total inbound stock of FDI as % host GDP	2013	N/A	2013	8.04%	

*Secretary of the Economy

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward		100%	Total Outward	136,523	100%
United States	177,505	45%	United States	36,981	27%
Spain	45,021	11%	Netherlands	25,393	19%
Netherlands	41,163	11%	Spain	25,289	19%
Belgium	31,312	8%	Brazil	19,146	14%
Canada	16,824	4%	Chile	3,882	3%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	57518	100%	All Countries	3,179	100%	All Countries	54,339	100%
United States	47,919	83%	Luxembourg	1,025	32%	United States	46,963	86%
Luxembourg	1,025	2%	United States	956	30%	Brazil	611	1%
Brazil	682	1%	Spain	285	9%	Spain	197	0%
Spain	481	1%	UK	270	8%	UK	85	0%
UK	354	1%	Germany	153	5%	Japan	63	0%

Source: IMF Coordinated Portfolio Investment Survey

19. Contact for More Information

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