

National Implementation of International Economic Law: Mexico

I. County background

From being home to ancient and rich civilizations to becoming a modern emerging economy, Mexico is a country that has undergone deep changes throughout its history as the birthplace of ancient cultures, a colony, an independent nation, and now one of globalization's key players. The country represents an interesting case of being deeply embedded in tradition yet open to modernization and interconnected at a global scale. Today, Mexico is the world's fifteenth largest economy in terms of Gross Domestic Product (GDP),¹ Latin America's second-largest economy,² the seventh most-visited country by tourists³ and member of many international organizations such as the Organisation for Economic Co-operation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD) and other economic forums including the Asia-Pacific Economic Cooperation (APEC).

Mexico's history can be traced back to its pre-Hispanic cultures and civilizations. The Olmec culture, considered the continent's most ancient civilization and known for its giant heads sculpted in stone, sprung in the Gulf Coast of the country around 1,500 BC.⁴ It is thought to be the 'mother culture' for many other cultures in the region that emerged over the following centuries, including the Toltecs, Mayans and Aztecs. These later civilizations were some of the ones that encountered the first Spanish explorers, with Hernan Cortés as captain, in 1519. Through a series of political alliances and military action, Cortés colonized the area previously occupied by the Aztec empire and named it New Spain (*Nueva España*).⁵ As a colony, New Spain became an important source of raw materials and unique products for the Spanish Crown.

Agriculture was one of the colony's main enterprises, providing Europe with goods such as wheat, sugarcane, cacao, tobacco and vanilla. American cacao, tobacco and other food items – which were used by native peoples for ritual purposes – became European commodities with monetary value. Native communities also introduced chocolate to Europeans, made from cacao seeds and used by the Aztecs in Mesoamerica as currency. Cochineal and indigo dyes also became valuable exports for Europe's booming textile industry. Starting in the sixteenth century, the colony's mining industry became Spain's principal source of income. Metals accounted for more than 75 per cent of New Spain's exports, with silver supporting the process of monetization in Europe.⁶

It took three centuries for Mexico to successfully gain independence in 1821, following violent conflict with the Spanish authorities. By then, its population, culture and institutions had inevitably become a hybrid of both indigenous and Hispanic elements. In the following century, Mexico was struggling for international recognition, political stability and economic recovery. The *Porfiriato*, a period of greater political and economic consolidation for the country under Dictator Porfirio Díaz, stretched for 31 years in the late nineteenth and early twentieth centuries.⁷ However, the very unequal distribution of wealth and imbalances in political power in this period led to the Mexican Revolution of 1910. Ultimately, the demands coming from politically underrepresented and disadvantaged groups resulted in the end of dictatorship in Mexico and the establishment of the Political Constitution of the United Mexican States of 1917,⁸ which is still in force today.

Most of the twentieth century was a period of modernization and growth under single-party rule. The *Partido Revolucionario Institucional* (PRI) was founded in 1929 and held uninterrupted power in the country for 71 years. By the end of the century, social demands for democratic reforms and political plurality resulted in a democratic transition towards an effective multi-party system. This period also saw the transition of Mexico from

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being a closed and protectionist economy to a more integrated and open one.⁹ A significant development in its trade liberalization was the entry into force of the North American Free Trade Agreement (NAFTA)¹⁰ between Mexico, the US and Canada in 1994. For the Mexican economy, NAFTA represented a significant change in the economic strategy that had been implemented since the mid-1980s. With this change, Mexico abandoned its development policy of import substitution and state-controlled industrialization policies, moving towards export-led trade liberalization and a reduction of state intervention in the economy.¹¹

The United States-Mexico-Canada Agreement (USMCA), which entered into force on 1 July 2020, has now replaced NAFTA. This modernized agreement preserves the key elements of the long-lasting trade relationship between its parties and incorporates new and updated provisions that seek to address the twenty-first-century trade issues and promote market opportunities in North America. This agreement contains multiple provisions on inclusive and sustainable trade, as it seeks to recognize and further the interests of various marginalized groups including indigenous people and women. Its commitments for indigenous people go in line with the UN Declaration on the Rights of Indigenous Peoples that Mexico signed in 2007 and Mexico's own domestic legal system, as indigenous rights are firmly established as a central element of the Mexican Constitution.¹²

- **Head of state:** The President of the Republic ('the President') is elected by universal suffrage for a six-year period; the head of State is concurrently the head of the executive branch.¹³
- **Head of government:** Since Mexico has a presidential system, the President of Mexico is also the head of government.
- **Form of government:** Mexico's form of government is a Democratic 'Representative Republic'. Article 40 of the Mexican Constitution reads as follows: 'It is the will of the Mexican people to

become a representative democratic, secular and federal Republic [. . .]'.¹⁴

The President of Mexico heads the executive branch of the federal government and appoints the Ministers that lead different executive agencies.¹⁴ The legislative branch is the bicameral Congress of the Union (*Congreso de la Unión*), with its Chamber of Deputies (*Cámara de Diputados*, lower chamber with 500 members) and Senate (*Senado de la República*, upper chamber with 128 members).¹⁵

The judicial power is shared at the state and federal level, with the Supreme Court of Justice (*Suprema Corte de Justicia de la Nación*, 11 judges appointed for 15-year terms) as the country's highest court.¹⁶ The Mexican Constitution also contemplates the existence of 'autonomous public bodies' (*Órganos Constitucionales Autónomos or OCAs*), which through their functional and financial independence perform specific duties that the Constitution defines on topics that are considered of particular relevance for the country. Some of the areas covered by OCAs are electoral matters (*Instituto Nacional Electoral*),¹⁷ telecommunications (*Instituto Federal de Telecomunicaciones*), human rights (*Comisión Nacional de los Derechos Humanos*)¹⁸, monetary policy (*Banco de México*)¹⁹ and economic competition (*Comisión Federal de Competencia Económica*).²⁰

- **Form of state:** Mexico is a federal democratic republic composed of 31 states plus Mexico City (the country's capital).²¹ Each state has its own executive (the Governor, elected for six-year terms), legislature (unicameral) and judiciary.²² Mexico has 2469 municipalities at the local level, as well as 16 territorial demarcations (*alcaldías*) within Mexico City.²³ Municipal governments are primarily responsible for providing public services, regulating and administering local territorial and land use issues, and assisting both the local and federal levels of government.²⁴

- Legal system:** Mexico has a civil law legal system, derived primarily from the Spanish and Napoleonic codes. Federal legislation is found in six significant regulations: the Civil Code,²⁵ Commercial Code,²⁶ Criminal Code,²⁷ Fiscal Code,²⁸ Civil Procedures Code²⁹ and the Criminal Procedures Code.³⁰ Most local state codes are similar to those found at the federal level. The question of whether federal or state codes apply to a particular situation depends upon the situation's specific subject matter, territory and person at hand.³¹ Moreover, in the Mexican Constitution, indigenous customary law is firmly established.³² A constitutional amendment in 2001 established this source of law even further as it recognized the autonomy and self-determination of indigenous communities.³³ This amendment has given the indigenous peoples the right to decide over their own economic, political, cultural and social organization insofar as it does not contravene human rights or the dignity of women. Therefore, indigenous customs are also applicable in parts of the country where these communities are found, and states shall recognize the rights of these communities in their local constitutions.³⁴
- How legislation is passed:** The Mexican Constitution establishes that the President, members of both Chambers of Congress, state legislatures and individuals (representing 0.13 per cent of all registered voting-age citizens) may propose new bills, decrees or amendments to existing laws in Congress.³⁵ A bill must be discussed and voted in both chambers before it is sent to the President, who can either approve it and publish it in the official gazette (*Diario Oficial de la Federación*) or send it back with suggested amendments (known as the President's 'power of veto'). Even if the President chooses to send back the bill with suggestions, Congress can override the veto and continue with the publication of the law if two-thirds of both chambers vote in favour of it.³⁶
- Hierarchy of legal authority:** Article 133 of the Constitution establishes the principle of 'constitutional supremacy' [*supremacía constitucional*]. According to this article, and as clarified by the Supreme Court, '[. . .] international treaties are hierarchically below the Constitution and above the rest of the legal norms that are part of the Mexican normative framework'.³⁷ Although the Constitution does not explicitly address the hierarchy of human rights contained in international treaties, the Mexican Supreme Court clarified this issue in 2011. A constitutional amendment to Article 1 of the Constitution took place in that same year, which recognized the following: 'In the United Mexican States, all persons shall enjoy the human rights recognized in this Constitution and in the international treaties to which the Mexican State is a party'.³⁸ In this regard, the Court clarified that there is no hierarchical difference between constitutional or conventional human rights (i.e., those contained or derived from treaties); they are in this regard considered at the same hierarchical level as that of the Constitution. This constitutional priority of human rights treaties even extends to the rights they may imply. A good example is the American Convention of Human Rights (*Convención Americana sobre Derechos Humanos*), which has the Inter American Court (*Corte Interamericana de Derechos Humanos*) as its specialized interpretative organ. Mexico has accepted the jurisdiction of the Inter American Court, and Mexico's Supreme Court has said that the country is bound by its resolutions, which usually include more extensive interpretations of the rights established in the Convention. The Court justified this by saying that, since the Convention became part of the domestic legal order after its approval, any interpretation of it is an interpretation of Mexico's own 'constitutional block' of human rights.³⁹

General laws (*leyes generales*), those distributing competencies among the

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different levels of government (federal, state and local), are found directly below international treaties.⁴⁰ The next hierarchical level is occupied by regulatory laws (*leyes reglamentarias*), which provide a more detailed regulation for certain constitutional provisions (such as those relating to labour and the *Amparo* trial). Finally, as mentioned above, all local and federal laws (ordinary laws, *leyes ordinarias*) share together the last hierarchical level. Regulatory laws are only considered to have the same hierarchical level as ordinary laws in cases where the regulatory law's effects are limited to the federal level of government.⁴¹ Within the Mexican legal system, there are also many other legal norms of lesser hierarchy, such as the regulations issued by the Executive, municipal provisions, indigenous normative systems and a plethora of individual legal norms.

- **How administrative law is managed:** The Constitution grants the President the power to issue regulations (*reglamentos de ejecución*) to facilitate the implementation of laws passed by Congress.⁴² This faculty (known as '*facultad originaria*' or 'primary competence') allows the President (often through the administration in practice) to complement a law if it needs further development of the relevant provisions for its application, limited to not contradicting the law itself or the Constitution. A particular type of regulation, known as *reglamento autónomo*, can be issued without a previous legislative act.⁴³ The Constitution only provides for the issuance of such regulations in a limited number of cases, including threats to public safety and the circulation of goods within the territory (including imports and exports tariffs) in cases deemed as 'urgent' for the country.⁴⁴ The Supreme Court has implicitly expressed that such regulations can also be issued for matters relating to governance and policing at the municipal level (*reglamentos gubernativos y de policía*).⁴⁵ Although the authority to issue such regulations is only granted to the

President, in practice it is 'delegated' to other organs in the public administration.⁴⁶ For example, Article 28 of the Constitution grants the Federal Economic Competition Commission (COFECE) and the Federal Telecommunications Institute (IFT) the authority to enact regulations in their spheres of competence. This has resulted, for example, in regulations on transparency, access to public information and protection of personal information and data.⁴⁷

Other ministries and commissions from the federal public administration issue technical, sanitary and phytosanitary regulations known as *Normas Oficiales Mexicanas* (NOMs, Official Mexican Standards).⁴⁸ These standards regulate different activities, procedures, products and services with the common aim of promoting the public interest, for example, through the protection of public health, safety and the environment.⁴⁹ Legal scholars have criticized the issuance of such regulatory acts from lower authorities in the federal administration (and other kinds of regulatory norms like 'circulares,' 'resoluciones', 'reglas generales'), arguing that such should only be issued by the President according to the Constitution.⁵⁰

Since 2000, Mexico created an administrative authority called '*Comisión Nacional de Mejora Regulatoria*' (CONAMER), which is the authority that aims to promote the improvement of regulations and the simplification of procedures and services, as well as transparency in their preparation and application. Until now, each administrative entity may have its own specific procedures for promulgating regulations and similar acts. The Commission aims to ensure that not only the benefits of regulations are greater than their costs, but also that the public can be involved in the elaboration of these regulations.⁵¹ Among other activities, it provides technical assistance and training to regulatory authorities, revises and proposes measures to improve the national

regulatory framework and promotes regulatory simplification programs.⁵²

At the local level, governors and municipalities also have limited regulatory authority under the conditions set by the local state's constitution and Article 115 of the Federal Constitution.⁵³ Congress and the Federal Judiciary have regulatory authority to create laws for regulating their internal structure and functioning,⁵⁴ which the President is not allowed by the Constitution to regulate.⁵⁵

- **Relationship of legislation with international law:** The Mexican legal system can be considered monistic. Article 133 of the Mexican Constitution establishes that international treaties that are in conformity with the Constitution and ratified by the President with the approval of the Senate (by two-thirds of its members) are considered, together with the Constitution itself and the laws issued by the Congress of the Union, as the supreme law of the Mexican legal system. Mexican domestic law also refers to customary international law in certain areas.⁵⁶ The adoption of treaties, along with the Constitutional requirements set in Articles 76 and 89, must comply with the procedures set in the Law on the Celebration of Treaties (*Ley sobre la celebración de tratados*).⁵⁷ This law distinguishes between treaties and a lower category of international agreements called Inter-institutional Agreements (*acuerdos interinstitucionales*), which are limited to the capacities of the Secretariats or authorities that celebrate them. The approval of international treaties on economic matters, on the other hand, must follow the guidelines of a specific law (known in Spanish as *Ley sobre la aprobación de tratados internacionales en materia económica*⁵⁸). This law contains the guiding principles regarding the formation and content of trade agreements, communication between the Senate and the executive branch, the documents needed before the approval, and the participation of regional actors and business representatives.⁵⁹

Mexico has been part of the Vienna Convention on the Law of Treaties since 1975, and therefore its principles regulate and apply to Mexico's relationship with international and local law.

- **Place of international treaties in the legal system:** All international treaties must be ratified to be in force in Mexico. To be ratified, treaties must fulfil two criteria: (1) They shall not contravene the Constitution; (2) they must have been entered into by the President of the Republic and approved by the Senate with a majority vote (two-thirds) of the senators present.⁶⁰ However, a distinction can be drawn between different treaties according to their content. The Mexican Supreme Court has expressed that human rights provisions in international treaties have the same legal hierarchy as the Constitution.⁶¹ Meanwhile, non-human rights provisions from international treaties are below the Constitution, although they are above federal, general and local laws.⁶² Once approved and published in the official gazette, legal requirements in treaties are applicable and enforceable as any other domestic law.⁶³ The Constitution gives federal courts the competence to resolve controversies regarding compliance with international treaties. However, courts at the local level can also solve such disputes if a plaintiff brings a case regarding private interests.⁶⁴ In 2020, for example, a number of 'amparo' trials were brought before Mexico's federal courts following a modification of an Official Mexican Standard (NOM) to impose a compulsory new labelling system for packaged foods and drinks.⁶⁵ The complainants argued, among other things, that this new labelling system was inconsistent with the newly adopted USMCA agreement,⁶⁶ as well as other WTO agreements such as the Agreement on Technical Barriers to Trade, General Agreement on Tariffs and Trade and Agreement on the Trade-Related aspects of Intellectual Property.⁶⁷
- **Role of courts:** The judicial branch is divided into federal and state systems.

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Some federal judicial bodies have jurisdiction over specific areas such as electoral (*Tribunal Electoral del Poder Judicial de la Federación*) or fiscal (*Tribunal Federal de Justicia Administrativa*) matters.⁶⁸ Constitutional judicial review in Mexico follows a hybrid model, with elements from both the American and continental European tradition.⁶⁹ Although there is a Supreme Court in charge of implementing three different mechanisms of constitutional review, lower federal courts can also carry out such review through the *amparo* trial. There is a three-tier system encompassing the Supreme Court, Circuit Courts, and District Courts at the federal level. District Courts (*Juzgados de Distrito*) act as federal first instance courts, and Circuit Courts (*Tribunales de Circuito*) act as federal appellate courts.⁷⁰ Regional board courts (*plenos regionales*) are also part of the federal judiciary, and they help solve contradictory opinions delivered by the Circuit Courts under their jurisdiction.⁷¹ The Supreme Court is the country's highest court divided into two chambers (one for criminal and civil law, the other for administrative and labor law). Its constitutional review can take place through an *amparo* trial (to defend citizens against human rights violations), constitutional controversy (related to the distribution of competencies between authorities), or action of unconstitutionality (promoted by legitimated authorities against specific norms or laws).⁷² The Supreme Court can, on its own or by request of the Office of the Attorney General of the Republic (*Fiscalía General de la República*), assume jurisdiction over *amparo* cases brought before the Collegiate Circuit Courts, due to their relevance or significance,⁷³ although it usually exercises its jurisdictional power upon an aggrieved party's request.

In Mexico, jurisprudence (*jurisprudencia* in Spanish) is the term used to refer to the idea of binding legal decisions. The notion of

jurisprudencia is now similar to the common law notion of precedent that binds judicial authorities to the reasoning of their past decisions.⁷⁴ *Jurisprudencia* is the set of principles, arguments and criteria that judges are bound to use to interpret the law. It can be created either by the Supreme Court, regional board Courts or Circuit Courts through three methods: reiteration, resolution of contradictory opinions and single-judgment precedent.⁷⁵ Through reiteration, an opinion becomes *jurisprudencia* when Circuit Courts uphold the same point of law in five consecutive decisions.⁷⁶ The second method, the resolution of contradictory opinions, operates when the Supreme Court or regional board Courts settle an interpretive contradiction between the decisions delivered by the Supreme Court (only the Supreme Court can determine this) or by Circuit Courts (either the Supreme Court or regional board Courts can settle this, depending on the matter of the case).⁷⁷ A recent constitutional reform published in the official gazette on 11 March 2021 has created the third method, the single-judgment method, to create *jurisprudencia*. Under this new reform, the Supreme Court is now clearly considered a Constitutional Tribunal and can create a new precedent through a single judgment if that judgment receives eight votes by the Full Court or four votes by one of its chambers, without the need to reiterate it on consecutive occasions, as required before the amendment.⁷⁸

II. Trade

a. General

Mexico has gradually established itself as one of the leading international trade players in Latin America as well as in the world.⁷⁹ From being a closed economy until the 1970s,⁸⁰ it has become one of the most open economies for the import and export of goods and services. Currently ranked as the second-largest economy in Latin America⁸¹ (based on GDP), 'World Bank analysts have predicted that by 2050 the Mexican economy will be the sixth-largest economy in the world'.⁸² Mexico's success in international trade can be attributed

to its large and skilled labour market, geographical location, consistent economic growth, skilled negotiating teams and multiple free trade agreements to which it has become a party.

Mexico is now the thirteenth largest exporting and twelfth largest importing economy in the world.⁸³ Its top exports include cars, vehicle parts, delivery trucks and computers, and its main exporting partners are the US, Canada and China. Mexico is the largest exporter of flat-screen TVs, refrigerators and freezers in the world.⁸⁴ Its top imports are refined petroleum, vehicle parts, integrated systems, computer parts and broadcasting accessories. These goods are primarily imported from the US, China, Japan, Germany and South Korea.⁸⁵ Together, exports and imports contribute almost 80 per cent to Mexican GDP.⁸⁶

In the mid-1980s, facing domestic pressure from the fall in oil prices and increased interest rates as well as the global turn toward neoconservative thinking promoted by the Washington Consensus, Mexico undertook the process of trade liberalization. Its officials opened up its economy to trade and investment through market-oriented policies, putting an end to an era of closed economy that employed the policy of import substitution for almost 50 long years.⁸⁷ Trade liberalization reforms, in the form of elimination or reduction of tariffs and non-tariff barriers to trade, coincided with the international developments in which Mexico was actively taking part. In 1986, Mexico became a member of the General Agreement on Tariffs and Trade (GATT 1947). Upon joining GATT, Mexico also joined the Tokyo Round Anti-Dumping Code. In 1986 it passed legislation dealing with unfair trade practices, thereby becoming one of the first developing countries in the world to have a national trade defence system.⁸⁸ In 1993, it signed NAFTA with the US and Canada, and commenced negotiations of other FTAs with Latin American countries. Mexico also participated actively in the Uruguay Round negotiations, and joined the WTO in 1995 as an original member.

b. Responsibility for trade policy

Under the Constitution, the Congress of the Union is primarily responsible for trade policy in Mexico.⁸⁹ However, the Constitution also endows upon the Federal Executive the extraordinary power to legislate on foreign trade matters with the approval of Congress.⁹⁰ This faculty is exercised by the Ministry of Economy (*Secretaría de Economía*), with the assistance of the Commission of Foreign Trade (*Comisión de Comercio Exterior*) and Mixed Commission for the Promotion of Exports (*Comisión Mixta para la Promoción de las Exportaciones*).⁹¹ Both commissions are composed of representatives from different federal agencies, with the latter also including representatives from several private sector organizations.⁹² The Ministry of Foreign Affairs (*Secretaría de Relaciones Exteriores*, SRE) is also involved in the formulation and implementation of foreign trade policy through its participation in the negotiation process of trade agreements, trade and investment promotion activities through its overseas offices, and its regional divisions focused on trade and investment relations with specific regions.⁹³ Most recently – and to comply with the WTO Trade Facilitation Agreement requirements (Article 23.2) – the Trade Facilitation National Committee (*Comité Nacional de Facilitación del Comercio*) was established on 22 January 2021.⁹⁴ It is headed by the Minister of Economy and composed of representatives from nine different federal agencies; it can also invite private sector representatives and representatives from other federal agencies depending on the matter being discussed for gathering practical inputs and evidence.

c. Structure of foreign trade agency

The Ministry of Economy (*Secretaría de Economía*, SE) is headed by the ‘Minister of Economy’, who is appointed by the President, as part of their cabinet. The Ministry is currently organized in two under-secretariats (Under-secretariat of Industry and Commerce and Under-secretariat of Foreign Trade), ten

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administrative units, 36 directorate generals, ten coordination units, two outreach offices and a decentralized administrative body (CONAMER). In addition, it has several representative agencies throughout the country and other representative agencies abroad.⁹⁵

The Under-secretariat of Foreign Trade (*Subsecretaría de Comercio Exterior*) is in charge of designing and implementing foreign trade policy; it has two administrative units and nine Directorate Generals. Its administrative units, the Global Economic Intelligence Unit (*Unidad de Inteligencia Económica Global*) and the International Trade Negotiations Unit (*Unidad de Negociaciones Comerciales Internacionales*), participate in different trade-related activities.⁹⁶ Some of its Directorate Generals deal primarily with the negotiation of trade agreements and the compliance with them. This is the case for the Directorate General of Negotiation Planning and Strategies (*Dirección General de Planeación y Estrategias de Negociación*) and the Directorate General for the Tracking, Administration and Supervision of Trade Agreements' Compliance (*Dirección General de Seguimiento, Administración y Supervisión del Cumplimiento de Tratados Comerciales*).⁹⁷ The other Under-secretariat under the Ministry of Economy is the Under-secretariat of Industry and Commerce, which is responsible for implementing foreign trade policies that are mostly related to heavy and light domestic industries, and is responsible for all the administrative antidumping and anti-countervailing investigations through the Unit on International Trade Practices (*Unidad de Prácticas Comerciales Internacionales*, hereinafter 'UPCI').⁹⁸ According to the Ministry's Organization Manual, 'heavy industry' covers the production of automobiles, aeronautics, naval, electronics, electronic manufactures, iron and steel, fabrication of metallic products, machinery and equipment and construction. The sectors considered 'light industry' include: agricultural, agro-industrial, textiles, footwear, wood-paper, editorial-graphic arts, wood-furniture, hydrocarbons, petrochemicals, pharmaceutical, plastics, cosmetics, personal care and medical tools.⁹⁹

Recent reforms to the Ministry's Internal Regulations on 12 April 2021 have brought about some changes in its organizational structure. These reforms (taken in the shape of austerity measures by the current administration) include, but are not limited to, the substitution of all adjunct directorate generals for coordination units, discontinuance of the Under-secretariat of Mining (*Subsecretaría de Minería*), and the transfer of economic competition and regulatory powers to the Unit of Normativity, Competitiveness and Competition (*Unidad de Normatividad, Competitividad y Competencia*).¹⁰⁰

The Commission of Foreign Trade is composed of eight general directors and eight undersecretaries from six federal and two autonomous agencies. The Mixed Commission for the Promotion of Exports, on the other hand, includes the heads of 12 federal agencies and institutions, representatives from each state, representatives from private sector organizations and other representatives from private or public entities depending on the issues being covered.¹⁰¹

The Ministry of Economy is not alone in determining trade policies. The Ministry of Foreign Affairs (*Secretaría de Relaciones Exteriores*, SRE) is also involved. The Ministry of Foreign Affairs has three under secretariats, one head of unit, two executive directorates, one administrative and financial unit, a legal office, 28 directorate generals, two commissions for border affairs, passport offices in every state of the country and three decentralized administrative bodies.¹⁰² This Ministry cooperates with the Ministry of Economy on different foreign trade activities through its Consultative Commission of Foreign Policy (*Comisión Consultiva de Política Exterior*), each of its five directorate generals covering specific geographic regions, the Directorate General of Global Economic Promotion (*Dirección General de Impulso Económico Global*)¹⁰³ and through its overseas offices (in coordination with the Ministry of Economy's trade agencies).¹⁰⁴

The Constitution grants the Mexican Senate the power to oversee the work of the Federal Executive in respect of foreign trade

policy.¹⁰⁵ The Senate exercises this power in four major ways: (1) reviewing annual reports submitted by the President on the subject; (2) providing approval for the country to enter into an international treaty; (3) soliciting information from different departments engaged in the management of foreign trade policy; and (4) coordinating with trade negotiators during the negotiation of free trade agreements.¹⁰⁶

d. Subnational governments in the trade policy process

Subnational governments in Mexico cannot formulate foreign trade policy themselves. Still, they can participate in the trade policy process through the Commission of Foreign Trade, the Mixed Commission for the Promotion of Exports, Senate committees, the Mexican Association of Economic Development Ministers, and the National Governors' Conference.

- The Commission of Foreign Trade can solicit the assistance of state representatives if a particular foreign trade policy discussion involves an industry or economic sector in which their input could be considered relevant.¹⁰⁷
- The Mixed Commission for the Promotion of Exports includes state representatives as its permanent members. The Commission can invite these representatives to provide their inputs in discussions regarding industries that affect their economic interests.¹⁰⁸
- Subnational governments can participate in the discussion and negotiation of trade agreements by communicating their concerns or proposals to the Senate committees involved in that process.¹⁰⁹
- The Mexican Association of Economic Development Ministers (*Asociación Mexicana de Secretarios de Desarrollo Económico A.C.*, 'AMSDE') and the National Governors' Conference (*Conferencia Nacional de Gobernadores*, 'CONAGO') are two forums wherein states can discuss, among other things, their economic con-

cerns and proposals.¹¹⁰ Depending on the issue and political climate, the Federal Executive might take the input from these organizations into account.

The Ministry of Economy has Representative Offices in each state; these offices can deal with state governments' foreign trade concerns or proposals from state governments as well, insofar as they do not fall under the competence of a specific administrative unit within the Ministry of Economy.¹¹¹

State authorities and local governments can also send their comments or proposals to the Senate, which should consider them during international trade agreements' negotiation and approval process.¹¹²

e. Non-governmental entities in the trade policy process

Although public-private coordination has been a visible element in Mexico's foreign trade policy over recent decades, it continues to be significantly dependent on the country's political context. Some of the public-private mechanisms through which this coordination has taken place are the following:

- Among its members, the Mixed Commission for the Promotion of Exports includes 11 private-sector representatives that include the National Confederation of Chambers of Commerce, National Chambers of Industrial Transformation, Business Coordinating Council, National Association of Importers and Exporters in Mexico and National Council of Agriculture and Livestock, among others. This Commission allows for public-private coordination to promote exports and industrial activities.¹¹³
- Since the NAFTA negotiations in the 1990s, Mexico has employed a mechanism known as '*Cuarto de Junto*' ('The Room Next Door') in which representatives from different industries assist government officials in the negotiation process of trade agreements.¹¹⁴ Through this mechanism, private stakeholders (mostly industry

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representatives) can increase the government's capacity to participate in trade negotiations, as they can provide required resources such as information and evidence, research support and assistance with systematic lobbying even though it does not give them a seat at the formal negotiation table.¹¹⁵

- NAFTA's renegotiation also featured a research-led strategy known as '*Cuarto de Inteligencia*' ('The Intelligence Room'). Different Mexican industries formed this team to research and share information regarding NAFTA's importance for the US economy. They produced State-by-State reports that were presented to their American counterparts from different economic sectors as a lobbying effort to influence negotiations.¹¹⁶
- Since the Transpacific Partnership negotiations, private sector representatives and citizens have been able to participate in the discussions of trade agreements by communicating their concerns or proposals to the Senate committees involved in the process.¹¹⁷ For example, in the recent USMCA negotiations, the Senate opened an online participation mechanism in which citizens could submit their concerns, proposals, or any comment about the agreement. The website's final report reflecting the concerns, comments, and proposals was sent to the Ministry of Economy and Foreign Affairs.¹¹⁸

The participation of Mexican NGOs in the foreign trade policy process is not yet a developed practice in Mexico, as most Mexican NGOs work in areas like human rights, health and anti-corruption. However, more recently, there has been some development in this respect through the creation of think tanks such as TradeTankMx.¹¹⁹ Moreover, Mexican academia benefits from the WTO Chairs Program, as one of its prominent universities – ITAM – holds a WTO Chair and is responsible under this Program for developing understanding and capacity in the area of international trade law.¹²⁰

f. The direct effect of trade agreements

Once approved by the Senate, signed by the President and published in the Federation's Official Gazette, legal provisions from trade agreements are applicable and enforceable as any other domestic law. Direct effect for individual complainants is theoretically possible, but procedurally unlikely to succeed. An individual could file a claim in local courts against the authority that is applying WTO provisions in Mexico if by applying them they are breaching constitutional provisions. However, to have a standing in court, the plaintiff would have to prove that the application of the WTO provision resulted in a direct disadvantage to the plaintiff. Since most of the WTO regulations are applied through national legislation that is in compliance with the WTO, the chance of successfully filing a claim in local courts related with the direct application of the WTO agreements is negligible.¹²¹

g. Responsibility for negotiation of FTAs / WTO

The Ministry of Economy leads all international trade agreement negotiations, together with the Ministry of Foreign Affairs.¹²² The Ministry of Economy is the main federal authority in charge of conducting and coordinating the negotiation process;¹²³ its officials head negotiation groups and they might invite representatives from other specialized federal authorities if relevant to the matters being discussed in the negotiation.¹²⁴ The Under-secretariat of Foreign Trade plays a key role with respect to the research and strategy behind the negotiation of trade agreements, and particularly during the negotiation itself. Officials from the Under-secretariat coordinate and represent Mexico's interests in these negotiations.¹²⁵ Mexico, like many other WTO Member States, has an Embassy in Geneva, where the Mexican Ambassador to the WTO (the only Ambassador designated by the Ministry of Foreign Affairs as part of the Ministry of Economy's personnel in Geneva), is appointed as

Permanent Representative of Mexico to the WTO. The Ambassador is head of the Mexican delegation that assists and participates in WTO negotiations, in coordination with the Director Generals and Undersecretaries from the Ministry of Economy, who provide instructions and guidance to the Geneva representatives before the WTO.

Once the instruction to negotiate a free trade agreement is given by the Ministry of Economy and/or Ministry of Foreign Affairs with the approval of the President's office, the Ministry of Foreign Affairs examines the potential benefits and risks of the proposed agreement in accordance with the information provided by the Ministry of Economy. They also determine the importance of such a treaty and the government departments that should participate in its negotiation process, as required by the Mexican negotiators from the Ministry of Economy.¹²⁶

h. Management of FTA / WTO membership

In accordance with the Ministry of Economy's Internal Regulations, free trade agreements in Mexico are managed by the Directorate-General for the Tracking, Administration and Supervision of Trade Agreements' Compliance, which is part of the Ministry of Economy's Sub-secretariat of Foreign Trade.¹²⁷ However, in practice, each Director-General and their personnel work on the day-to-day administration and conflict resolution derived from FTAs and WTO.

Mexico has a Permanent Mission to the WTO managed by the Ministry of Economy's Under-secretariat of Foreign Trade.¹²⁸ The country's Permanent Representation to the OECD and its participation in the UNCTAD, however, are managed by the Ministry of Foreign Affairs (although the Ministry of Economy participates through a Minister at the Embassy of Paris and the WTO Ambassador in Geneva).¹²⁹

The Ministry of Economy also has representative offices in Brussels, Tokyo, Washington DC, Ottawa and Montevideo.¹³⁰ The representatives in Canada and the United

States (formerly the NAFTA office) maintain close contact with foreign officials and Mexicans doing business in North America. The representative office in the city of Montevideo, Uruguay conducts relations with LAIA (Latin American Integration Association, which has its headquarters in Montevideo) and its members, with whom Mexico has trade agreements under said institution.

The invocation of dispute settlement provisions in trade agreements falls within the responsibilities of the Ministry of Economy's Directorate General of Legal Consulting for International Trade (*Dirección General de Consultoría Jurídica de Comercio Internacional*). This division represents the country throughout the dispute settlement process with the assistance of the Ministry of Economy's Legal Assistance Unit (*Unidad de Apoyo Jurídico*).¹³¹ For matters concerning the WTO's dispute settlement mechanism, Mexico's Permanent Mission to the WTO coordinates with the Directorate General of Legal Consulting for International Trade.¹³² Since joining the WTO in 1995 as an original member, Mexico has actively participated at the WTO dispute settlement system, acting as a complainant in 25 disputes, respondent in 15 disputes and third party in 107 disputes.¹³³

i. How many FTAs?

Mexico currently has 24 free trade agreements (in force and notified to WTO) with 89 different countries.¹³⁴ Though most of its agreements are bilateral in nature, Mexico has also negotiated a few regional and mega-regional agreements, such as the Pacific Alliance,¹³⁵ the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)¹³⁶ and USMCA.¹³⁷

III. Investment

a. General

Mexico is one of the top ten State recipients of foreign investment.¹³⁸ This, in part, responds to its open economy and favourable regulations towards foreign investment. Mexico's openness to foreign investment runs significantly in

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parallel with its trade liberalization process. Mexico's privatization of relevant state-owned enterprises during the period of the 1980s up to 1994 coincides with the eventual entry into force of NAFTA's Chapter 11 investment protection guarantees, and similar chapters of other FTAs and Bilateral Investment Treaties (BITs), through which Mexico has offered foreign investors treaty-based protection of their projects.

Another factor that has proven favourable for foreign investment is that it is primarily regulated at the federal level providing a single and stable legal framework; the Mexican Ministry of Economy plays a key role in this centralized regulatory approach, and the current administration recently launched an initiative to facilitate and foster foreign investment in the country,¹³⁹ signalling that it seeks to counter certain past actions. Nevertheless, state and local municipal authorities may still participate in an indirect manner through local incentives (construction permits, and land or rental facilities).¹⁴⁰

b. Responsibility for foreign investment policy

The Congress of the Union is the body with the constitutional competence to regulate foreign investment. Article 73 of the Mexican Constitution states that Congress has the authority to 'issue laws aimed at promoting Mexican investment, [and] regulating foreign investment'.¹⁴¹ For day-to-day foreign investment management, however, the Ministry of Economy is the main authority. One of the Ministry's established objectives is 'to stimulate national and foreign investment, [. . .] promoting the productivity and competitiveness of industrial sectors, to allow their integration into regional and global value chains, in order to contribute to generating well-being for Mexicans'.¹⁴² The Ministry of Economy thus regulates and administers many commercial and trade activities relating to foreign investment, including negotiating international investment agreements (IIAs) through the Undersecretariat of Foreign Trade.¹⁴³

Regarding institutions focusing exclusively on foreign investment, the Mexican Foreign Investment Law (FIL) establishes a Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras*, hereinafter 'the Commission') which has the competence, *inter alia* to:

- dictate policy guidelines on foreign investment and design mechanisms to promote investment in Mexico;
- determine market access terms and conditions for foreign investment;
- advise the federal administration's other dependencies and entities on matters of foreign investment; and
- establish the criteria for applying the legal and regulatory provisions on foreign investment.¹⁴⁴

c. Structure of investment agency / legislature

The Foreign Investment Commission is chaired by the Minister of Economy and is composed of the Ministers of State, Foreign Affairs, Treasury, Social Development, Environment, Energy, Communications and Transportation, Labor, Tourism and Economy. Undersecretaries appointed by Ministers can participate in their representation as 'Committee representatives', of which the Under Secretary of Economy is the Executive Secretary and the Director-General of Foreign Investment from the Ministry of Economy is the Technical Secretary.¹⁴⁵ The Commission is a collective administrative body, without any specific location or address, and its operations are not subject to any legislative oversight. Private sector representatives may be invited and are allowed to participate in the meetings of the Commission even though they have no vote on decisions.¹⁴⁶

- *Is there any reporting to Congressional committees after treaties are ratified?*

The Senate must accept IIAs – as all international treaties – with a two-thirds majority vote. Subsequent to ratification, there is no general obligation on the Ministry

to report on investment agreements to congressional committees. It is possible, however, for the Senate to request an ‘appearance’ of officials or ministers to provide specific information or details related to the administration or enforcement of an international treaty.¹⁴⁷

During such appearances, legislators may question or ‘criticize’ the Executive’s policies.¹⁴⁸ It is understood that the role of the Mexican Congress as an independent branch of government includes the possibility to question the Executive’s actions or inactions, including with regard to specific or relevant aspects of foreign affairs.¹⁴⁹

d. Foreign investment law

The Mexican constitutional framework maintains an open economy approach and contains no specific language with regard to foreign investment other than: (1) the capacity of Congress to enact and regulate on foreign investment;¹⁵⁰ (2) its relevance to promote competitiveness;¹⁵¹ (3) specific restrictions to foreigners’ ownership of water, mines and land on the border territory;¹⁵² and (4) the regulation of the electric and hydrocarbons activities.¹⁵³

Foreign investment is more specifically regulated under the Mexican Foreign Investment Law¹⁵⁴ (*Ley de Inversión Extranjera*, hereinafter ‘FIL’). The FIL was enacted in December 1993 after the conclusion of the NAFTA negotiations (in part to comply with the obligations of the agreement) and before the agreement entered into force in January 1994. It has been subject to periodic amendments, the latest of which dates to 2018.¹⁵⁵

The objective of said law is to ‘establish the rules to channel foreign investment into the country and encourage it to contribute to national development’.¹⁵⁶ It originally included 13 activities that were reserved to the Mexican State, but many of these have been eliminated or prescribed over time. Of the original restrictions on foreign investment found in Article 5, eight are still in place,¹⁵⁷ three of them were eliminated entirely¹⁵⁸ and two of them were limited after the 2013

constitutional changes allowing foreign participation in specific energy sector activities that had been reserved to the state-owned oil and electricity enterprises Pemex (*Petroleos Mexicanos*) and CFE (*Comisión Federal de Electricidad*).¹⁵⁹ Amendments were also made in the telecommunications sector, establishing a renewed institutional framework for the telecom authority, placing limits on the preponderant economic agents and fostering competitiveness.¹⁶⁰

FIL’s Article 6 still reserves certain activities for Mexican nationals: national land transportation of passengers, tourism and cargo (not including courier and parcel services); development banking institutions (as defined by Mexican legislation);¹⁶¹ and certain professional and technical services. Additionally, Article 7 of FIL prescribes maximum participation percentages for foreign direct investment in certain activities, and Article 8 states which activities require the authority’s approval to increase foreign investment participation by over 49 per cent.

Notwithstanding the abovementioned existing foreign investment restrictions, as well as any other existing registry authorization requirements provided in the FIL,¹⁶² foreign investments and investors may still participate indirectly in such activities through neutral share participation (*inversión neutra*), which is not considered as part of the foreign investment maximum participation allowed,¹⁶³ and/or through private contracts¹⁶⁴ as required by the Mexican authorities.¹⁶⁵

Other federal laws or sectoral regulations may have specific provisions related to foreign investment, such as financial regulations or those which reserve activities to the State.¹⁶⁶ As a member of WTO, Mexico is subject to the obligations contained in its Agreement on Trade-Related Investment Measures Agreement (TRIMs).¹⁶⁷ TRIMs and Mexico’s FTAs are the main international substantive treaties dealing with investment obligations for the country.¹⁶⁸

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e. Foreign investment promotion agency

Foreign investment's institutional framework has been subject to changes in recent years. In May 2019, the office in charge of promoting Mexican exports and foreign investment into the Country (PROMEXICO) was eliminated.¹⁶⁹ A Presidential decree issued on 17 May 2019¹⁷⁰ established the National Council for the Promotion of Investment, Employment and Economic Growth,¹⁷¹ creating a new institutional framework for investment promotion.

The National Council was created for the benefit of the Executive as a consultative body to assist in the planning, design and coordination of the actions of the public, private and social sectors. This was done to promote investment, foster the development of public finances and the economic financial system and strengthen the sources of employment in the country.¹⁷² The National Council will meet at least once a year and rely on an Executive Committee to follow up on its agenda, activities and programs. The National Council has, among others, the following tasks:

- To propose and support the designing and coordination of policies, programs, and actions of the Government of Mexico in matters of investment, economic development and job creation;
- To analyze the possible impact of new actions or public policies by the State in terms of investment and economic development in order to ensure that they are consistent and coherent to achieving the strategic growth objectives; and
- To propose and assist in the designing of policies, programs and actions to increase the exchange of goods and services abroad, as well as to make Mexico a preferred destination for national and foreign private investment.

Along with this new institutional framework, the Ministry of Foreign Affairs (which has always had authority over foreign relations, including the negotiation of any international trade and investment agreement, in spite of the authority delegated to the Ministry of Economy) has taken a more active pro-

motion role through its participation in the USMCA negotiations and by recently concluding coordination agreements with the Ministry of Economy¹⁷³ and the Foreign Trade Bank (BANCOMEXT) to promote Mexico's foreign investment and trade.¹⁷⁴

f. Foreign investment screening mechanism

Due to the direct implementation of international trade agreements within the Mexican legal system, foreign investment is allowed without significant restrictions or requirements, although certain sectoral limitations remain in place. These limitations on foreign investment are monitored through the National Foreign Investment Registry (*Registro Nacional de Inversiones Extranjeras*, 'RNIE'), which sits within the Ministry of Economy and is directed by the Executive Secretary of the Commission. RNIE's sole objective is 'to obtain information on the behaviour of foreign direct investment in Mexico', information that is classified as confidential. For statistical purposes, registered entities are divided into three groups: (1) foreign individuals and legal entities that regularly carry out commercial acts in Mexico; (2) Mexican companies with foreign investment in their capital stock; and (3) trusts that grant rights in favour of foreign investment.

g. Subnational governments and foreign investment

At the state level, the Ministries of Economic Development (*Secretarías de Desarrollo Económico*, 'SEDECOS') are the regular contact point of state governments with regard to the promotion of foreign investment and no incentive or promotion activity may contravene federal law. Each state may have its own 'incentive' programs, although these must have a legislative basis.¹⁷⁵ While programs vary, in the past, states have offered both financial and non-financial incentives such as the exemptions or discounts on local taxes, transfers of state land at preferential prices, financial support in the acquisition of

properties, improvements of local public service infrastructure, tax and financial support for companies and scholarships for local employment opportunities.¹⁷⁶

SEDECOs coordinate their work by participating in the Mexican Association of Economic Development Ministers (*Asociación Mexicana de Secretarios de Desarrollo Económico*, AMSDE). This is a non-profit civil association created to promote regional economic development and business activity through the implementation and promotion of public policies.¹⁷⁷

h. Non-governmental entities and foreign investment policy making

As mentioned before, all private actors can participate in or be invited to the sessions of the Foreign Investment Commission. Many industries are organized through and represented by their Chambers of Commerce and Industry at the federal, state, and local levels to carry out work to promote foreign investment. There are certain specialized associations focused on promoting foreign investment, such as the Mexican Association of Industrial Parks (*Asociación Mexicana de Parques Industriales*, 'AMPIP'), which groups the main industrial sectors of the country. Other associations include the Mexican Business Council of Foreign Trade, Technology and Investment (*Consejo Empresarial Mexicano de Comercio Exterior, Inversión y Tecnología, A.C.*; 'COMCE'), which can be a relevant contact point to obtain support and information. Moreover, NGOs, academia or civil society may be involved through the lobbyists (*cabilderos*) inside the Legislative Chambers to participate in the different Commissions.

Although there is no specific mechanism to comment on or object to investment regulations, federal and local tribunals are at the disposal of any interested party objecting to the constitutionality or legality of any existing or imminent regulations. Regulations can be subject to an administrative process where public comments are admissible or even solicited before CONAMER.¹⁷⁸ Subject to

meeting the criteria of a bilateral investment treaty (BIT), foreign investors could challenge and obtain compensation from the Mexican government if said regulations breach a BIT protective standard and government measures are considered discriminatory, arbitrary, expropriatory or otherwise if adopted in 'bad faith' and that may cause damage to their investment.

i. Responsibility for IIA negotiations

The Ministry of Economy, through the Undersecretariat of Foreign Trade, and specifically with the participation of officials from the Directorate General of Foreign Investment (*Dirección General de Inversión Extranjera*) and the Directorate General of Legal Consulting for International Trade (*Dirección General de Consultoría Jurídica de Comercio Internacional*), leads all the negotiations of International Investment Agreements (hereinafter 'IIAs').

j. Policy of the state regarding IIAs

Mexico has maintained an ongoing policy of negotiating IIAs since the 1990s without any foreseeable changes in its approach. The most recent IIA was the BIT negotiated by Mexico and the Government of the Hong Kong Special Administrative Region of the People's Republic of China dated June 2021.¹⁷⁹

1. How many IIA memberships?

Since NAFTA negotiations (1992), Mexico has concluded more than 13 FTAs with Investment Chapters, and more than 32 Bilateral Investment Treaties.¹⁸⁰ One of the few revised agreements was the BIT with Spain, which replaced the 1996 BIT.¹⁸¹

2. Model BIT?

Mexico does not have a Model BIT, but it would be fair to say that the latest IIA/BIT is always a reference for the subsequent Mexican BIT negotiations. It is possible to identify how Mexico has adopted different approaches towards foreign investment protection

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standards, abandoning some overarching interpretations and providing additional clarifications in newer IIAs/BITs. It could also be said that NAFTA's Chapter 11 contains the blueprint for all future FTA Investment Chapters Mexico has subscribed to.

k. ICSID membership

1. *Responsibility for managing ICSID membership*

Notwithstanding Mexico's longstanding participation in Investor-State Dispute Settlement Proceedings under the ICSID Additional Facility Rules, it was one of the latest countries to join the International Centre for Settlement of Investment Disputes (ICSID).¹⁸² It did so on 26 August 2018.¹⁸³

2. *Representation of the state in ICSID*

According to the ICSID list of Representatives and Alternate Representatives, the Minister of Finance and Public Credit (*Secretario de Hacienda y Crédito Público*) is the Mexican Representative to the ICSID, and the Undersecretary of Foreign Trade (*Subsecretario de Comercio Exterior*) is the Alternate Representative.¹⁸⁴ Arbitrators and conciliators, on the other hand, are appointed to the ICSID list by the Ministry of Economy.

3. *Appointment of arbitrators / conciliators to the ICSID lists*

The Ministry of Economy appoints the arbitrator and conciliators to the ICSID list.

l. Defence of the state in ISDS

The Ministry of Economy is responsible for 'coordinating' the Mexican defence in the dispute resolution procedures established in accordance with the international trade treaties to which Mexico is a party. This is mostly overseen by the Directorate General of Legal Consulting for International Trade,¹⁸⁵ with the participation of the Ministry of Foreign Affairs and other agencies and entities of the Federal Public Administration.¹⁸⁶

m. The New York Arbitration Convention

Mexico has been a contracting State of the New York Convention since 14 April 1971 (accession), without any declaration or reservations made.¹⁸⁷ Participating in the New York Convention is also a requirement contained in other international trade agreements such as NAFTA (now USMCA).¹⁸⁸

n. Sovereign immunity

Although there is no legislation on this matter to provide clarity on the standard,¹⁸⁹ Mexican courts seem to adhere to the principle of *no-unlimited immunity* in specific circumstances. These include when the State itself renounces such immunity protection and when the acts of the State are considered as private acts and not in the exercise of its sovereignty. Such a qualification is made based on reciprocity from the other State.¹⁹⁰

The Mexican standard is based on the Executive's practice and a judicial decision¹⁹¹ declaring restricted immunity, for example, with regard to labour claims. In accordance with said criteria, it could be argued that any commercial activity, if performed by a private actor that is not considered a sovereign act of the State, would not enjoy immunity.

o. Investment insurance

There is no bilateral investment insurance provider.

p. MIGA policy

Mexico has been part of the Multilateral Investment Guarantee Agency ('MIGA', a branch of the World Bank in charge of promoting and protecting foreign investment)¹⁹² since 17 June 2008. It has also subscribed to older agreements with the International Finance Corporation (IFC),¹⁹³ which is a member of the World Bank and invests in companies through loans, equity investments, debt securities and guarantees, and mobilizes capital from other lenders and investors through loan participations. Mexico is also a

part of the International Fund for Agricultural Development (IFAD)¹⁹⁴ since 1977, which is an international financial institution (a specialized United Nations agency) that provides grants and low-interest loans to projects.

IV. Financial regulation

a. General

Financial services represent an economic sector of institutions, markets, and entities through which financial activity is organized in Mexico. With globalization, commercial banks' services have gained an increasing role in the foreign exchange and deposit markets; subsequently, international banks' asset and loan markets have increased significantly.¹⁹⁵ Companies looking to obtain funds or investors looking for investment opportunities are not just limited to their domestic financial markets; globalization has made it possible to look for options in other countries' financial markets. The factors that have led to the integration of financial markets worldwide include the liberalization of markets and activities of their participants within the leading financial centres of the world, technological advances and the increasing institutionalization of financial markets.

Mexico City is the country's main financial centre. With the financial reform of 2013, the total assets reported by financial institutions in Mexico increased significantly. The granting of credits has increased even more significantly over these years, meaning a greater penetration of credit in the country's economy. After the global financial crisis of 2008, Mexico adopted the Financial Reform of 2013; this reform had the following fundamental objectives:

- Increase competition in the financial sector;
- Promote credit through Development Banking;
- Expand credit through private financial institutions;
- Maintain a sound and prudent financial system; and

- Make financial institutions more responsive to the actions of the authorities in this area.

In 2017, Mexico saw a boom in the number of fintech companies starting to focus in areas such as insurance, finance management business, payments and remittances, financial education and savings and personal finance management. With the highest bank asset concentration index in Latin America, the overregulation of the financial sector and persisting lack of financial inclusion, Mexico presents ideal conditions for a FinTech breeding ground, as 75.5 per cent of its population has a mobile phone, 91.8 per cent of mobile phone users have a smartphone and 72 per cent of its population is connected to the internet.¹⁹⁶ As a response to this booming fintech industry, Mexico launched its Fintech Law in 2018.¹⁹⁷ This Law is aimed at promoting and regulating innovation and the use of technologies in financial services.¹⁹⁸ It is based on the principles of innovation, consumer protection and preservation of financial stability. It is also based on the principle of financial inclusion, as it recognizes the need to bring financial services closer to people and sectors that have not traditionally been part of the financial system.

According to the *Encuesta Nacional de Inclusión Financiera* (National Survey on Financial Inclusion, or 'ENIF') published by the *Instituto Nacional de Geografía y Estadística* ('INEGI') in 2018, there are disparities in financial inclusion between women and men in Mexico.¹⁹⁹ A deeper analysis reveals that the gender gap in the possession of deposit accounts between men and women is 13.73 percentage points (pp) in favour of men; in mortgage loans from multiple banks, the gap is of 17.29 pp in favour of men; in bank credit cards, it is 3.67 pp in favour of men; and in bank debit cards, it is 2.14 pp in favour of women.²⁰⁰ With Mexico taking the lead in encouraging the use of innovative technologies in the delivery of financial services through its Fintech law, it is expected that this gap can be closed in the future. More recently, in March 2022, 11 public and private

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financial institutions in Mexico have joined to create a committee on gender equality with the aim to achieve a better representation of women in the executive positions of Mexican financial institutions.²⁰¹

Financial authorities in Mexico have also issued the National Policy for Financial Inclusion (*Política Nacional de Inclusión Financiera*).²⁰² One of the objectives of this Policy is to generate information and research to identify the barriers and areas of opportunity for the financial inclusion of the population. In 2021, the Financial Inclusion Report (*Reporte de Inclusión Financiera*, prepared by the National Banking and Securities Commission²⁰³ indicated some improvements in financial inclusion, as it confirmed an increase in the number of bank transfers from 146 per cent to 160 per cent as a percentage of GDP from the fourth quarter of 2019 to the same period of 2020. From October 2019 to December 2020, the transfers sent by CoDi increased considerably in number from 38.3 to 154.4 thousand operations, as well as in amount from 19.1 to 159.3 million pesos. This period witnessed a similar increase in foreign remittances sent to Mexico.

1. Unitary regulator?

Several authorities regulate the Mexican financial system. On the one hand, the Ministry of Finance and Public Credit (SHCP) is in charge of supervising the financial sector,²⁰⁴ supported by the three following authorities:

- (1) National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*, 'CNBV')
- (2) National Bonding and Insurance Commission (*Comisión Nacional de Seguros y Fianzas*, 'CNSF')
- (3) National Commission for the Pensions System (*Comisión Nacional del Sistema del Ahorro para el Retiro*, 'CON SAR')

Another key player is the Central Bank (*Banco de México* or 'Banxico'), which is responsible for conducting monetary policy, assuring and supervising the payment sys-

tem's operability and regulating the financial system's functioning.²⁰⁵ Additionally, two other national financial authorities are the Institute for the Protection of Bank Savings (*Instituto para la Protección al Ahorro Bancario*, 'IPAB') and the National Commission for the Protection and Defense of Financial Service Users (*Comisión Nacional para la Protección y Defensa de los Usuarios de Servicios Financieros*, 'CONDUSEF').

All of the previously mentioned financial authorities, except for CONDUSEF, are part of the Financial System Stability Council (*Consejo de Estabilidad del Sistema Financiero*, 'CESF'), which is an instance of permanent coordination, evaluation and analysis of Mexico's financial stability risks.²⁰⁶ CESF was created in July 2007, mainly as a response to a World Bank and IMF evaluation of Mexico that highlighted the need for more institutional coordination in the context of the international financial crisis that was starting in the same year. The international financial crisis revealed the need to adopt prudential mechanisms that can allow the financial authorities to identify and evaluate the economic or financial phenomena that could generate interruptions or substantial alterations in the functioning of the financial system, and if any risk of this nature is detected, to provide a coordinated response mechanism.

b. Banking

1. General

Mexico's commercial banks offer a range of financial services ranging from deposit accounts, consumer and commercial lending, corporate finance, trusts and mutual funds to foreign exchange and money market trading. Currently, there are close to 50 banks operating in Mexico. Mexico's commercial banking sector is open to foreign competition, and as a result, almost all major banks (with very few exceptions) are under the control of foreign banks. This can be seen as a result of the financial sector's openness and financial globalization.

The COVID-19 pandemic and the economic disruptions caused by it are additional

and relevant challenges faced by financial authorities around the world. A recent report by the Bank of Mexico shows that the Mexican economy continues to face an economic and financial crisis due to the pandemic's effects. During the COVID-19 pandemic, the Mexican banking system has continued to show resilience and, in general, a solid position with capital and liquidity levels above regulatory minimums.²⁰⁷ However, grant of credit has seen some disruption. Even though economic activity has seen some recovery, there is still no or a marginally slow reactivation in the granting of credit. The indicators of different non-banking financial intermediaries show mixed prospects for the credit sector. Given its relatively small participation within the system, the contracting of access to credit in Mexico does not represent a potential systemic risk. However, to increase the financial sector's contribution to the economy, it is necessary to strengthen the legal framework of the financial system, increase the amount of financing in the economy, reduce the cost of credit, promote effective competition in the sector and encourage the entry of new participants. Likewise, the system's stability must be fostered through sound prudential practices and their effective regulation by the corresponding authorities.

2. Status of central bank

Mexico's central bank (Banxico) is a legal entity subject to public law. It is autonomous in its functions and administration under paragraphs six and seven of Article 28 of the Political Constitution of the United Mexican States.²⁰⁸ In the terms established by the Constitution and with the corresponding intervention of competent authorities, the central bank procures stability of the domestic currency's purchasing power and regulates financial intermediation and services.²⁰⁹

3. National and / or subnational regulators

Banking is regulated at the federal level, and there are no subnational regulators in this sector.

4. Role of the legislator in international standard setting

Although legislators have no direct role in the international banking standard-setting, they have the power to legislate on financial services.²¹⁰ Mexico is part of the Basel Committee on Banking Supervision (BCBS), the International Organization of Securities Commissions (IOSCO), the European Banking Authority (EBA) and other financial bodies. This implies that the country, mainly through the Ministry of Finance and in coordination with other Ministries through ad-hoc hearing and consultation procedures, must follow their best practices to comply fully with international rules and procedures.

5. IMF representation

The Minister of Finance and Public Credit represents the country to the IMF, and the alternate representative is the Governor of the Bank of Mexico. Mexico, together with Colombia, Costa Rica, El Salvador, Guatemala, Honduras and Spain, has a shared seat on the IMF Executive Board. Currently, Mexico is an alternate Director in that group.²¹¹

6. Targets of the central bank

The Central Bank conducts monetary policy and provides the national currency to the Mexican economy (Mexican Peso, MXN). Its main objective is to procure the stability of the currency's purchasing power, promote the development of the financial system and foster the proper functioning of the payment systems.²¹²

7. Membership of the Bank for International Settlements (BIS)?

Mexico is a member of the Bank for International Settlements (BIS), and it is represented in said institution by the Governor of the Central Bank.²¹³ The country has also accepted and complies with the Basel Core Principles (BCPs). The National Banking and Securities Commission and the Bank of Mexico are both members of the Basel Committee on Banking Supervision (BCBS).²¹⁴

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c. Insurance*1. General*

One consequence of the financial and economic crises that the world has experienced over the last decades has been an intensified interest in measuring, predicting and managing risk. Regulatory bodies, companies, governments and relevant political actors need information on these issues in order to better regulate, elaborate policies and supervise the financial entities that make up the international financial system. New technological tools and digital resources provide the opportunity to detect and manage such risks, and they offer new means of innovation for private financial actors as well. Some insurance companies, for example, have already begun employing new technologies to develop progressive programs that deal with previously time-consuming and error-inducing processes, such as those relating to the fight against fraud operations.²¹⁵

The Mexican insurance market is heavily concentrated, with the largest five companies having nearly half of the market share. It is also a foreign-influenced market, with over half of the insurance companies' being subsidiaries of foreign ones. Some of the recent trends observed in the market are innovative products in healthcare insurance for the population that lacks medical coverage, as well as cybercrime coverage.²¹⁶

In the case of Mexico, the COVID-19 pandemic highlighted the importance of the insurance sector for the country, but also the low level of penetration it still has. Since 2017, the penetration of insurance has been increasing. Between 2010 and 2020, the average annual growth rate for the Mexican insurance sector was 9.2 per cent.²¹⁷ The strongest areas of growth have been relating to pensions, life insurance and medical insurance. The COVID-19 pandemic has halted this growth trajectory, with lower levels of profits and a high-risk environment due to challenges relating to business interruptions, the emergence of new virus variants, risks of inflation, a rise in interest rates and a drop in income. The loss of employment and

lowering of wages have also affected the demand for insurance and the rates of insurance premiums.

2. National and / or subnational regulators

Mexico has a national insurance regulator, the National Bonding and Insurance Commission (CNSF). The Commission is an independent agency within the Ministry of Finance. The CNSF authorizes insurance and reinsurance activities and issues the regulatory rules governing such activities. There are no subnational regulators.²¹⁸

3. Role of the legislator in international standard setting

The Mexican Congress does not have a direct role in establishing international standards.

4. Membership of the International Association of Insurance Supervisors (IAIS)?

Mexico is a member of the International Association of Insurance Supervisors (IAIS). The National Insurance and Bond Commission (CNSF) represents it in said institution.²¹⁹ The country accepts the Insurance Core Principles (ICPs) and follows their best practices as much as possible to be fully compliant.²²⁰

d. Pensions, investment, special funds authority and sovereign wealth funds

Mexico has a national pensions regulator, the National Commission for the Pensions System (CONSAR). There are no subnational regulators. Although the National Banking and Securities Commission has a role in supervising investment funds, pension funds are handled by retirement fund management service companies (*Administradoras de Fondos para el Retiro, Afores*) directly under the supervision of CONSAR.²²¹

e. Stock exchanges

1. General

Mexico's first stock exchange, *Bolsa Mexicana de Valores* (BMV), was created in 1886 and is now the second-largest stock exchange in Latin America, only after Brazil's BM&F Bovespa.²²² A second stock exchange, *Bolsa Institucional de Valores* (BIVA), began operations in 2018. Both stock exchanges trade the same instruments, including equities, debts, warrants and other derivative instruments.²²³ In addition, BMV has a derivatives subsidiary known as *Mercado Mexicano de Derivados* (MexDer), which began operations in 1998. The MexDer offers futures and options contracts on interest rates, stock indexes, currencies, among others.²²⁴

After a brief period of optimism with the economic reforms of 2013, Mexico's stock exchanges have experienced a slowdown in activity in recent years. From 2018 to the end of 2021, the number of stocks with \$10 million of daily trading volume has fallen by almost half.²²⁵ Besides, the stock exchanges have followed a trend of trading more in foreign equities than domestic companies, which has further limited the ability of companies to raise funds from local investors. Some of the reasons behind this contraction of the stock market are the failure to reduce red tape and tax hurdles, and political uncertainty for investors.²²⁶

The inability to implement worldwide-accepted criteria is another challenge faced by stock exchange authorities in Mexico. Although the National Banking and Securities Commission ('CNBV', the national stock exchange regulator) is a signatory of the Multilateral Memorandum of Understanding (MMoU) of the International Organization of Securities Commissions (IOSCO), it is not a signatory to the Enhance MMoU of IOSCO, and it does not have the legal capacity to cooperate with other jurisdictions on certain matters. For example, it cannot request voluntary declarations from a natural or legal person that it does not supervise, freeze assets, obtain and share internet service provider records or compel physical attendance for

testimony. Furthermore, even though all regulations issued by the CNBV are open to comments and criticism before being published (on CONAMER's website), it is not obliged to consider these comments in any way and has no incentive to change its regulatory standards.

2. Number of stock exchanges

There are currently two stock exchanges in Mexico: the Mexican Stock Exchange (*Bolsa Mexicana de Valores*, 'BMV') and the Institutional Stock Exchange (*Bolsa Institucional de Valores*, 'BIVA'). The BMV is part of the Latin American Integrated Market (MILA) due to an agreement signed between the Chilean, Colombian and Peruvian Stock Exchanges.²²⁷

3. Regulator

Mexico has one national stock exchange regulator, the National Banking and Securities Commission (CNBV). There are no subnational regulators.

4. Role of the legislator in international standard setting

The Mexican Congress has no direct role in the stock exchange international standard setting. However, Mexico is part of the Board at the International Organization of Securities Commissions (IOSCO), and there are commitments to fully comply with their best practices and recommendations.²²⁸

5. Membership of the International Organization of Securities Commissions (IOSCO)?

Mexico has been a member of IOSCO since 1983.²²⁹

a. Who represents the country in the IOSCO?

The CNBV represents Mexico at IOSCO. The CNBV became an IOSCO Multilateral Memorandum of Understanding (MMOU) signatory in 2003.

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f. FinTech

A Mexican Fintech law ('Law to Regulate Financial Technology Institutions', LRFTI)²³⁰ was issued in March 2018, allowing e-payment institutions and crowdfunding institutions to become licensed fintech entities. However, the law only applies to e-wallets and crowdfunding entities. Other fintech entities may operate, but they are not under the scrutiny of this law. By the end of 2021, roughly 90 fintech entities had filed an application with the CNBV to get their license approved, and 52 applications (38 conditioned on amending their filings) had been approved.²³¹ As of 10 June 2022, there are ten crowdfunding institutions and 15 e-payment institutions that have initiated operations.²³² There are another eight financial technology institutions that have been authorized but have not initiated operations yet.²³³

Cryptocurrencies, another recent innovation in the financial market, have not been allowed by the central bank to operate as a currency in Mexico yet. Consequently, no cryptocurrencies are traded within the Mexican financial system, and the Fintech law does not change this situation. However, their monitoring and supervision are currently in the hands of the Mexican Internal Revenue Services (M-IRS/SAT).²³⁴

The Law to Regulate Financial Technology Institutions is based on the principles of financial inclusion, innovation, consumer protection, preservation of financial stability, promotion of healthy competition and the prevention of money laundering and terrorist financing. The principle of financial inclusion seeks to bring financial services closer to people and sectors that have not traditionally been part of the financial system, promoting more financial education and advice on these new alternatives. Likewise, the principle of innovation seeks to create tools that increase the use of financial services and contribute to a wider financial inclusion.

Two particular concerns about the development of fintech services in Mexico stand out. The first one is related to the risk of money laundering and terrorist financing.

Anti-money laundering controls are a fundamental principle of Mexico's Fintech law. They aim to prevent and mitigate the risk through an adequate regulatory framework and minimum customer identification standards. The second concern is related to technological risk and cybersecurity, which is why the Fintech law empowers both the CNBV and Bank of Mexico to issue regulations aimed at mitigating such risks. So far, these regulations have proven to be effective.

V. Tax**a. General**

Mexico is not considered a tax haven, as the country taxes individuals and corporations based on their income. Taxes are the result of a constitutional obligation to contribute to the nation.²³⁵ In this regard, taxes are the same for those who fall under the same legal criteria and conditions. However, under certain conditions, the law establishes a different treatment for tax subjects residing in Mexico and those residing abroad. Article 9 of the Fiscal Code of the Federation,²³⁶ Article 1 of the Law on Income Tax²³⁷ and Article 1 of the Law of Value Added Tax²³⁸ refer to this differential fiscal treatment based on residence.

In Mexico, the taxation for importers is mainly regulated in the Customs Law (*Ley Aduanera*),²³⁹ Foreign Trade Law (*Ley de Comercio Exterior*)²⁴⁰ and the General Import and Export Tax Law (*Ley de Impuestos Generales de Importación y Exportación*).²⁴¹ The General Import and Export Tax Law, for example, establishes an eight-digit code system by which traded goods are classified and assigned different taxation schemes. Some of the taxes applied to imports are the General Import Tax (*Impuesto General de Importación*, IGI), Value Added Tax (*Impuesto al Valor Agregado*, IVA), Tax on New Automobiles (*Impuesto sobre Automóviles Nuevos*, ISAN) and the Special Tax on Production and Services (*Impuesto Especial sobre Producción y Servicios*, IEPS). Exports, on the other hand, are generally tax-free because of Mexico's trade liberalization policy. However, some goods related to endangered or

protected species are subject to taxation. These include tortoise shells and hooves, the *Rawolfia heterophila* root, exotic animals, and so on. Additionally, importers and exporters are also expected to pay a special Customs Transit Right (*Derecho de Trámite Aduanero*) and Storage Right (*Derecho de Almacenaje*) for the use of customs installations and the storage of their goods.²⁴²

Although depending on each case the investors might receive fiscal incentives as per the type and size of their investment, foreign investors in Mexico face the same fiscal obligations as national investors. The taxes applicable to foreign investors are mainly found in the Income Tax Law (*Ley del Impuesto sobre la Renta*),²⁴³ Value Added Tax Law (*Ley del Impuesto al Valor Agregado*)²⁴⁴ and the different legal instruments for imports and exports are discussed above. These taxes may vary depending on whether the foreign investor at hand resides in Mexico or abroad, depending on the specific tax.

During the present administration, close and permanent supervision has been enacted by the Mexican Internal Revenue Services (IRS) named Tax Administration Service (*Servicio de Administración Tributaria*, 'SAT'). Even though the tax revenue is below the average of the OECD countries, the government is planning an amendment to be more inclusive since roughly 60 per cent of its population remains outside of the formal economy.

b. Tax regulator

Mexico has a national tax regulator, the SAT. No subnational regulators collect the income tax nor the value-added tax. Other state or municipal taxes (for example the property tax on land or the circulation tax for vehicles) are left to the local authorities to collect. The only requirement by law is not to tax a corporation or individual for the same concept twice.

c. Member of a regional tax organization?

Based on the OECD's schemes, Mexico is part of different groups and organizations. Exchange of information is agreed with the US under the FATCA (Foreign Account Tax Compliance Act) Law.²⁴⁵

d. Role of the legislator in international standard setting?

The Mexican Congress has no direct role in international tax standard setting. Nevertheless, the SAT is included in the following international OECD agreements, including the Base Erosion and Profit Shifting Project (BEPS, as discussed below).

e. Double taxation avoidance agreements

DTAAs are an integral and a standard part of the Mexican Tax process. Roughly, there are 71 double taxation avoidance agreements.²⁴⁶ The negotiation of these agreements is carried out by the Ministry of Finance.

f. Membership of the Base Erosion and Profit Shifting Project (BEPS)?

Mexico is a member of BEPS.

g. The MLI Convention

Since Mexico is an OECD Member, it follows the protocols to adopt the BEPS guidance. It is expected that Mexico, by being part of BEPS, could benefit from the international cooperation among tax authorities. The officials in BEPS member states will be able to exchange on experiences, share information and take part in technical assistance, studies and training services, thus contributing to the overall strengthening of the tax administration.

h. The Mutual Administrative Assistance Convention

The Multilateral Convention on Mutual Administrative Assistance in Tax Matters, developed jointly by the OECD and the

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Council of Europe, was signed by Mexico on 27 May 2010. Since 1 September 2012, it has been in force in the country.²⁴⁷

i. Permit Patent Boxes

On different occasions, Mexico's private sector has pushed the government to include this stimulus in technological development (as it permits fostering innovation and development of patents). However, it is not included in the law to date, so companies cannot benefit from them.

j. Commitments to minimum corporate tax

The country has agreed to a Global Minimum Corporate Tax rate of 15 per cent, as proposed during the talks hosted by the OECD in October 2021.²⁴⁸

VI. Artificial Intelligence (AI)

The Fintech Law (LRITF), recognizing that innovation in financial services will not stop, created a regulatory Sandbox framework. It establishes that the financial authorities may grant temporary authorizations to entities or other companies to operate with innovative models when using technologies other than those existing in the market, such as artificial intelligence. Even though there is no specific regulation on AI, this type of innovation is left open through Articles 80 and 86 of the LRITF.

For the granting of such temporary authorization, the financial authorities will evaluate, among other aspects, compliance with the following criteria and conditions stated in Article 82:²⁴⁹

- I. That the proposal is a new model;
- II. The product to be offered or the service to be provided to the public must require testing in a controlled environment;
- III. How the reserved activity is intended to be carried out must represent a benefit to the client of the product or service in question concerning what exists in the market;

- IV. The project must be at a stage where the start of operations can be immediate;
- V. The project must be able to be tested with a limited number of clients, and
- VI. Where appropriate, others are determined by the competent financial authorities through general provisions.

CARLOS VÉJAR, JOSÉ ANTONIO QUESADA
AND AMRITA BAHRI²⁵⁰

Notes

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4. National Geographic, 'Olmec Civilization' (*National Geographic Society Resource Library*, 11 August 2020) <<https://www.nationalgeographic.org/encyclopedia/olmec-civilization/>> accessed 3 December 2021.
5. History, 'History of Mexico' (*History*, 9 November 2009) <<https://www.history.com/topics/mexico/history-of-mexico>> accessed 3 December 2021.
6. Mexico Business News, 'Hunt for gold and silver in New Spain' (Mexico Business News, 2013) <<https://mexicobusiness.news/mining/news/hunt-gold-and-silver-new-spain>> accessed 29 March 2022; MexConnect, 'The Economy of New Spain' (MexConnect) <<https://www.mexconnect.com/articles/1560-the-economy-of-new-spain-mexico-s-colonial-era/>> accessed 29 March 2022.
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8. Political Constitution of the United Mexican States of 1917 (*Constitución Política de los Estados Unidos Mexicanos de 1917*).
9. Penélope Pacheco-López and Anthony P Thirlwall, 'Trade liberalization in Mexico: Rhetoric and Reality' (*University of Kent's Department of Economics*, 2004) <<https://>

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 12. See for instance the Political Constitution of the United Mexican States of 1917, arts 27, 18 and 115.
 13. Political Constitution of the United Mexican States of 1917, arts 80, 81.
 14. Political Constitution of the United Mexican States of 1917, art 80. The list of ministries and federal entities that compose the Executive branch can be found in the Organic Law of the Federal Public Administration of 1976 (*Ley Orgánica de la Administración Pública Federal 1976*), as amended, published on the Official Gazette of the Federation on 29/12/1976 (DOF:29-12-1976).
 15. Political Constitution of the United Mexican States of 1917, arts 50, 51, 52, 56.
 16. Political Constitution of the United Mexican States of 1917, art 94; Organic Law of the Federal Judicial Branch of 1995 (*Ley Orgánica del Poder Judicial de la Federación 1995*), as amended, published on the Official Gazette of the Federation on 26/05/1995 (DOF: 26-05-2014), arts 10, 11, 21.
 17. Political Constitution of the United Mexican States of 1917, art 41 para V.
 18. Political Constitution of the United Mexican States of 1917, art 102 s B para IV.
 19. Political Constitution of the United Mexican States of 1917, art 28 para VI.
 20. Political Constitution of the United Mexican States of 1917, art 28 para XIV.
 21. Political Constitution of the United Mexican States of 1917, arts 40, 43, 44.
 22. Political Constitution of the United Mexican States of 1917, arts 116, 122.
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 24. Political Constitution of the United Mexican States of 1917, art 115.
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 31. The University of Arizona, 'Mexican Law' (*The University of Arizona*) <<https://libguides.library.arizona.edu/law-library/mexicanlaw/legalsystem/#s-lg-box-14978971>> accessed 19 April 2021.
 32. See for instance the Political Constitution of the United Mexican States of 1917, arts 27, 18 and 115.
 33. Decree by which the proposal to add a second and third paragraph to article 1, reform article 2, derogate the first paragraph of article 4 and add a sixth paragraph to article 18, and a last paragraph to the third fraction of article 115 of the United Mexican States Constitution is approved (*Decreto por el que se aprueba el diverso por el que se adicionan un segundo y tercer párrafos al artículo 1o, se reforma el artículo 2o, se deroga el párrafo primero del artículo 4o, y se adicionan un sexton párrafo al artículo 18, y un último párrafo a la fracción tercera del artículo 115 de la Constitución Política de los Estados Unidos*

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34. Political Constitution of the United Mexican States of 1917, art 2.
 35. Political Constitution of the United Mexican States of 1917, art 71; Organic Law of the General Congress of the United Mexican States of 1999 (*Ley Orgánica del Congreso General de los Estados Unidos Mexicanos 1999*), as amended, published on the Official Gazette of the Federation on 03/09/1999 (DOF: 03-09-1999), arts 130, 134.
 36. Political Constitution of the United Mexican States of 1917, art 72.
 37. Political Constitution of the United Mexican States of 1917, art 133; Thesis P. LXXVII/1999 (*Tesis P. LXXVII /1999*).
 38. Decree by which the denomination of Chapter I of the First Title is modified and several articles of the Political Constitution of the United Mexican States are reformed (*Decreto por el que se modifica la denominación del Capítulo I del Título Primero y reforma diversos artículos de la Constitución Política de los Estados Unidos Mexicanos*), published on the Official Federal Gazette on 10/06/2011 (DOF: 10-06-2011). The relevant quote from the decision (in Spanish) is as follows 'El primer párrafo del artículo 1º constitucional reconoce un conjunto de derechos humanos cuyas fuentes son la Constitución y los tratados internacionales de los cuales el Estado Mexicano sea parte. De la interpretación literal, sistemática y originalista del contenido de las reformas constitucionales de seis y diez de junio de dos mil once, se desprende que las normas de derechos humanos, independientemente de su fuente, no se relacionan en términos jerárquicos [. . .]'. Thesis Contradiction 293/2011 (*Contradicción de Tesis 293/2011*).
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 49. *Ibid* art 10.
 50. Miguel Alejandro López Olvera, 'La Facultad Reglamentaria del Poder Ejecutivo en México. Un estudio histórico' (*Instituto de Investigaciones Jurídicas UNAM*, 2006).
 51. Gobierno de México, '¿Qué hacemos?' (Comisión Nacional de Mejora Regulatoria) <<https://www.gob.mx/conamer/que-hacemos>> accessed 3 September 2021; General Law of Regulatory Improvement of 2018 (*Ley General de Mejora Regulatoria 2018*), as amended, published on the Official Gazette of the Federation on 18/05/2018 [DOF:18-05-2018].
 52. *Ibid*.
 53. Political Constitution of the United Mexican States of 1917, art 115 (II).
 54. Organic Law of the General Congress of the United Mexican States of 1999 (*Ley Orgánica del Congreso General de los Estados Unidos Mexicanos 1999*), as amended, published on the Official Gazette of the Federation on 03/09/1999 (DOF: 03-09-1999); Ordinance for the Internal Government of the General Congress of the United

- Mexican States of 1934 (*Reglamento para el gobierno interior del Congreso General de los Estados Unidos Mexicanos 1934*), as amended, published on the Official Gazette of the Federation on 20/03/1934 (DOF: 20-03-1934); Organic Law of the Federal Judicial Branch of 1995 (*Ley Orgánica del Poder Judicial de la Federación 1995*), as amended, published on the Official Gazette of the Federation on 26/05/1995 (DOF:26-05-2014).
55. Political Constitution of the United Mexican States of 1917, arts 70, 94.
 56. Political Constitution of the United Mexican States of 1917, art 27 (paragraphs 4 and 5) and 42 (sections V and VI).
 57. Law on the Celebration of Treaties 1992 (*Ley sobre la celebración de tratados de 1992*), published on the Federation's Official Gazette on 02/01/1992 (DOF: 02-01-1992).
 58. Law on the approval of international treaties on economic matters of 2004 (*Ley sobre la aprobación de tratados internacionales en materia económica 2004*), published on the Official Gazette of the Federation on 02/09/2004 (DOF: 20-03-1934).
 59. *Ibid* arts 4, 5, 6, 8, 11, 12.
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 61. Thesis Contradiction 293/2011 (*Contradicción de Tesis 293/2011*).
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 70. Supreme Court of Mexico, 'Supreme Court of Mexico. A visitor's guide.' (SCJN)

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 72. Amparo Law of 2013, Regulatory of articles 103 and 107 of the Political Constitution of the United Mexican States (*Ley de Amparo, Reglamentaria de los artículos 103 y 107 de la Constitución Política de los Estados Unidos Mexicanos 2013*), as amended, published on the Official Gazette of the Federation on 02/14/2013 (DOF: 02-04-2013), art 40.
 73. See note 69.
 74. Political Constitution of the United Mexican States of 1917, art 94 (amended, 11 March 2021); Before this amendment jurisprudence could only occur after five judicial sentences were issued in the same sense. See ‘El precedente y el (futuro) desarrollo de la doctrina constitucional de la Suprema Corte de Justicia de la Nación’, 11 August 2021, published by the Supreme Court of Justice Constitutional Studies Center, available here: <<https://www.sitios.scjn.gob.mx/cec/blog-cec/el-precedente-y-el-futuro-desarrollo-de-la-doctrina-constitucional-de-la-suprema-corte-de>> accessed 29 March 2022.
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 76. *ibid* arts 222–224.
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 78. See note 74.
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 90. Political Constitution of the United Mexican States 1917, art 131 para II.
 91. Foreign Trade Act 1993 (*Ley de Comercio Exterior de 1993*), published on the Federation’s Official Gazette on 27/07/1993 (DOF: 27-07-1993), arts 5, 6, 7.
 92. Regulations under the Foreign Trade Act 1993 (*Reglamento de la Ley de Comercio Exterior de 1993*), published on the Federation’s Official Gazette on 30/12/1993 (DOF: 30-12-1993), arts 4, 5, 178.
 93. Internal Regulations of the Ministry of Foreign Affairs (*Reglamento Interior de la Secretaría de Relaciones Exteriores*), published on the Federation’s Official Gazette on 14/06/2021 (DOF: 14-06-2021), arts 18, 19, 20, 21, 25.
 94. Accord through which the Trade Facilitation National Committee is created with a

- permanent character (*Acuerdo por el que se crea, con carácter permanente, el Comité Nacional de Facilitación del Comercio*), published on the Federation's Official Gazette on 22/01/2021 (DOF:22-01-21).
95. General Organization Guide of the Secretariat of Economy of 2020 (*Manual de Organización General de la Secretaría de Economía 2020*), published on the Federation's Official Gazette on 27/11/2020 (DOF: 27-11-2020).
 96. Internal Regulations of the Ministry of Economy (*Reglamento Interior de la Secretaría de Economía*), published on the Federation's Official Gazette on 12/04/2021 (DOF: 12-04-2021), art 26.
 97. Ibid.
 98. Ibid, art 8.
 99. General Organization Guide of the Secretariat of Economy of 2020 (*Manual de Organización General de la Secretaría de Economía 2020*), published on the Federation's Official Gazette on 27/11/2020 (DOF: 27-11-2020).
 100. Decree by which several provisions in the Ministry of Economy's Internal Regulations are amended, added and repealed (*Decreto por el que se reforman, adicionan y derogan diversas disposiciones del Reglamento Interior de la Secretaría de Economía*), published on the Federation's Official Gazette on 12/04/2021 (DOF: 12-04-2021).
 101. See note 96.
 102. See note 97, art 6.
 103. Ibid
 104. See note 97, arts 38, 80, 18, 19, 20, 21, 25, 5.
 105. Political Constitution of the United Mexican States 1917, art 76 para I.
 106. Ibid; Law on the approval of international treaties on economic matters of 2004 (*Ley sobre la aprobación de tratados internacionales en materia económica 2004*), published on the Official Gazette of the Federation on 02/09/2004 (DOF: 20-03-1934), arts 5–10; Political Constitution of the United Mexican States 1917, art 93.
 107. See note 96, art 8.
 108. Ibid art 178.
 109. Ibid art 12.
 110. AMSDE, '¿Quiénes Somos?' (*AMSDE*, 2020) <<http://amsde.mx/amsde/>> accessed 7 July 2021; CONAGO, 'Sobre la CONAGO' (*CONAGO*, 2020) <<https://www.conago.org.mx/acercade/sobre-la-conago>> accessed 7 July 2021.
 111. See note 100, art 67 para II; In the recent negotiations of the EU-Mexico Global Agreement, Mexico agreed for the first time to open government procurement processes at the subnational level (only for a limited number of states) to a trade agreement. This will imply that purchases made by local entities will require, in some cases, bidding processes in which European companies are allowed to participate and some states will be required to change their local legislation accordingly. The Ministry of Economy during this negotiation process reached out to the state governments to seek their authorization in this respect.
 112. Law on the approval of international treaties on economic matters of 2004 (*Ley sobre la aprobación de tratados internacionales en materia económica 2004*), published on the Official Gazette of the Federation on 02/09/2004 (DOF: 20-03-1934), art 12.
 113. See note 96, art 178.
 114. Interview with an industry stakeholder (details withheld).
 115. Interviews with three former negotiators and four industry stakeholders (details withheld).
 116. Interview with a representative from Cuarto de Inteligencia team (details withheld).
 117. See note 113, art 11.
 118. Notimex, '¿Cómo se puede participar en la consulta sobre el TLCAN?' *El Economista* (Ciudad de México, 19 July 2017).
 119. TradeTankMx, 'About Us' (*TradeTankMx*, 2019) <<https://tradetankmx.com/about/>> accessed on 10 July 2021.
 120. For more details on these activities, see WTO webpage <<https://wtochairs.org/mexico>>
 121. <https://archivos.juridicas.unam.mx/www/bjv/libros/7/3065/11.pdf> See pages 279–80.
 122. Law on the Celebration of Treaties 1992 (*Ley sobre la celebración de tratados de 1992*), published on the Federation's Official Gazette on 02/01/1992 (DOF: 02-01-1992), art 6.
 123. Law on the approval of international treaties on economic matters of 2004 (*Ley sobre la aprobación de tratados internacionales en materia económica 2004*), published on the Official Gazette of the Federation on 02/09/2004 (DOF: 20-03-1934), art 4 para V.
 124. See note 96, art 27.
 125. Ministry of Economy, 'Foreign Trade' (*Government of Mexico*, 2021) <<https://www.gob.mx/se/acciones-y-programas/trade-and-investment>> accessed 8 June 2021.
 126. See note 112, art 6.

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127. See note 100, art 50.
128. Ministry of Economy, 'Organización Mundial de Comercio' (*Ministry of Economy*, 2010) <<http://www.2006-2012.economia.gob.mx/comunidad-negocios/comercio-exterior/tlc-acuerdos/organismos-multilaterales/organizacion-mundial-de-comercio>> accessed 30 June 2021; see note 100, para XXI.
129. See note 97, arts 39, 28.
130. See note 99.
131. See note 100, arts 48, 19 para XVI.
132. Ibid art 25.
133. As on the date of this writing (i.e., 1 June 2021); Source: Mexico and the WTO, https://www.wto.org/english/thewto_e/countries_e/mexico_e.htm.
134. The expression 'Free trade agreements' or 'FTA' in this chapter is used to refer to all international trade agreements (except the WTO multilateral agreements) and may include regional trade agreements, plurilateral agreements, bilateral agreements, economic partnership agreements, economic complementation agreements, integration agreements, and such others; of Mexico's 24 trade agreements: nine were notified under GATT's Enabling Clause, ten under GATT's Art XXIV and five were notified under both the Enabling Clause and Art XXIV.
135. Framework Agreement of the Pacific Alliance (enforced, 1 May 2016).
136. Comprehensive and Progressive Agreement for Trans-Pacific Partnership (enforced, 30 December 2018).
137. United States-Mexico-Canada Agreement (enforced, 1 July 2020).
138. UNCTAD, 'World investment report 2021' (UNCTAD, 2021) <https://unctad.org/system/files/official-document/wir2021_en.pdf> accessed 7 April 2022.
139. Ministry of Economy, 'Invest in Mexico' (*Secretaría de Economía*, 2021) <<https://www.economia.gob.mx/invest-in-mx/>> accessed 22 December 2021.
140. See note 100, arts 39, 28.
141. Political Constitution of the United Mexican States 1917, art 73 para XXIX-F.
142. Ministry of Economy, '¿Qué hacemos?' (*Secretaría de Economía*) <<https://www.gob.mx/se/que-hacemos>> accessed 22 December 2021; Organic Law of the Federal Public Administration of 1976 (*Ley Orgánica de la Administración Pública Federal 1976*), as amended, published on the Official Gazette of the Federation on 29/12/1976 (DOF:29-12-1976), art 34 subpara IV.
143. Foreign investment and Investment as an international discipline is covered under the umbrella of Mexico's international trade authority (please refer to the trade section of Mexico to better comprehend who is responsible for trade negotiations).
144. Foreign Investment Law of 1993 (*Ley de Inversión Extranjera 1993*), as amended, published on the Federation's Official Gazette on 27/12/1993 (DOF:27-12-1993), art 26.
145. Ibid arts 23, 24, 25; Regulations under the Foreign Investment Law and the National Register of Foreign Investments of 1998 (*Reglamento de la Ley de Inversión Extranjera y del Registro Nacional de Inversiones Extranjeras 1998*), as amended, published on the Federation's Official Gazette on 08/09/1998 (DOF:08-09-1998), art 26.
146. See note 144, art 23.
147. Internal Regulations of the Senate of the Republic 2010 (*Reglamento del Sennado de la República 2010*), as amended, published on the Federation's Official Gazette on 04/06/2010 (DOF: 04-06-2010), arts 72, 266-74.
148. Ibid. The latest participation of a Minister of Economy before the Senate, took place on 27 October 2021, reporting, among others, on the relevance of Trade Agreements: <<https://www.gob.mx/se/prensa/mensaje-inicial-de-la-secretaria-de-economia-tatiana-clouthier-en-comparecencia-ante-la-comision-de-economia-del-senado-de-la-republica?idiom=es>>.
149. Political Constitution of the United Mexican States 1917, arts 69, 93.
150. Ibid, art 72 para XXIX-F.
151. Ibid, art 25.
152. Ibid, art 27 para I.
153. Political Constitution of the United Mexican States 1917, arts 25, 27, 28; Decree by which several provisions from the Political Constitution of the United Mexican States on the subject of Energy are reformed and added (*Decreto por el que se reforman y adicionan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos en Materia de Energía*), published on the Federation's Official Gazette on 20/12/2013 (DOF: 20-12-2012).
154. See note 144.
155. CEPAL, 'La Inversión Extranjera en México' (CEPAL, 2000) <<https://www.cepal.org>>

- org/es/publicaciones/4462-la-inversion-extranjera-mexico> accessed 5 April 2020.
156. See note 144, art 1.
 157. Nuclear energy, Radioactive minerals; Telegraphs, Radiotelegraphy, Postal services, Coin mintage and Currency bills impression; Control, supervision and surveillance of ports, airports and heliports.
 158. Satellite Telecommunications; basic petrochemical and Railroads.
 159. Decree by which several provisions from the Political Constitution of the United Mexican States on the subject of Energy are reformed and added (*Decreto por el que se reforman y adicionan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos en Materia de Energía*), published on the Federation's Official Gazette on 20/12/2013 (DOF: 20-12-2012).
 160. Ministry of Transport and Communications, 'A dos años de la publicación de la Reforma de Telecomunicaciones, avances y beneficios para la población: SCT' (*SCT*, 11 June 2015) <<http://www.sct.gob.mx/despliega-noticias/articulo/a-dos-anos-de-la-publicacion-de-la-reforma-de-telecomunicaciones-avances-y-beneficios-para-la-pob>> accessed 21 December 2021> accessed 4 April 2022.
 161. Law of Credit Institutions of 1990 (*Ley de Instituciones de Crédito 1990*), as amended, published on the Federation's Official Gazette on 18/07/1990 (DOF:18-07-1990), arts 2, 30; Banking and credit services can only be provided by two type of institutions: Private Banking and Development Banking. Development Banking institutions are part of the Federal Mexican Administration (each has its own legislation) and they have each its own regulations. Its main objective is to facilitate access to credit and financial services to individuals and legal entities, as well as providing them with technical assistance and training in terms of their respective organic laws in order to promote the Mexican Economic Development.
 162. See art 17 of the FIL, which requests foreign entities to request authorization from the Ministry of Foreign Affairs to perform commercial activities in the Mexican territory.
 163. *Ibid* art 19; 'Neutral investment' will not be considered as a percentage of the foreign investment participation in an entity, and their tenants will not have voting capacity in the company.
 164. Political Constitution of the United Mexican States 1917, art 27.
 165. Regulations under the Foreign Investment Law and the National Register of Foreign Investments of 1998 (*Reglamento de la Ley de Inversión Extranjera y del Registro Nacional de Inversiones Extranjeras 1998*), as amended, published on the Federation's Official Gazette on 08/09/1998 (DOF:08-09-1998).
 166. See for example specific provisions of laws such as: Law of General Communication Routes of 1940 (*Ley de vías generales de comunicación 1940*), published on the Federation's Official Gazette on 19/02/1940 (DOF: 19-02-1940).
 167. World Trade Organization, 'Agreement on Trade-Related Investment Measures (TRIMs)' (*WTO*) <https://www.wto.org/english/tratop_e/invest_e/trims_e.htm> accessed 22 December 2021.
 168. For a full list of treaties subscribed by Mexico see: Ministry of Economy, 'Comercio Exterior, Países con Tratados y Acuerdos firmados con México' (*Secretaría de Economía*, 10 May 2015) <<https://www.gob.mx/se/acciones-y-programas/comercio-exterior-paises-con-tratados-y-acuerdos-firmados-con-mexico?state=published>> accessed 21 December 2021; Mexico has recently negotiated a new trade agreement with the European Union, also containing investment protection, that is currently pending ratification and has not yet entered into force. This new treaty will derogate all existing BITs with the EU, replacing them with a new ISDS mechanism for all EU countries.
 169. Decree by which the disincorporation through extinction of the Public Trust Fund considered Parastatal Entity denominated as ProMexico is authorized (*Decreto por el que se autoriza la desincorporación mediante extinción del Fideicomiso Público considerado Entidad Paraestatal denominado ProMéxico*), published on the Federation's Official Gazette on 03/05/2019 [DOF: 03-05-2019].
 170. Decree by which the National Council for the Promotion of Investment, Employment and Economic Growth is created (*DECRETO por el que se crea el Consejo Nacional para el Fomento a la Inversión, el Empleo y Crecimiento Económico*), published on the Federation's Official Gazette on 17/05/2019 (DOF: 17-05-2019).

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171. The Decree was later amended to clarify its objectives and participants: Decree reforming the publication in which the National Council for the Promotion of Investment, Employment and Economic Growth is created, published on 17 May 2019 (*DECRETO por el que se reforma el diverso por el que se crea el Consejo Nacional para el Fomento a la Inversión, el Empleo y Crecimiento Económico, publicado el 17 de mayo de 2019*), published on the Federation's Official Gazette on 19/08/2020 (DOF:19-08-2020).
172. According to the 2019 Decree, the Chairperson of the National Council is to be the Chief of the Office of the President. However, after the elimination of this position from the President's staff in December 2020, it is not clear who will take over as chair of the Council.
173. Ministry of Economy, 'SRE y SE colaborarán para promover las exportaciones y la atracción de inversión extranjera directa' (*Ministry of Foreign Affairs*, 7 January 2019) <<https://www.gob.mx/sre/prensa/sre-y-se-colaboraran-para-promover-las-exportaciones-y-la-atraccion-de-inversion-extranjera-directa>> accessed 21 December 2021.
174. BANCOMEXT, 'Acuerdan SRE y Bancomext estrategia para promover a México en el exterior' (BANCOMEXT, 2014) <<https://www.bancomext.com/comunicados/24832>> accessed 21 December 2021.
175. Their address directory for each State can be found here: <<https://www.gob.mx/se/acciones-y-programas/oficinas-de-representacion-y-agregadurias-comerciales-de-la-secretaria-de-economia>> accessed 4 April 2022.
176. The list of items here identified are from the State of Puebla which are backed by the local Law of Sustainable Economic Development of the State of Puebla of 2015 (*Ley de Desarrollo Económico Sustentable del Estado de Puebla 2015*), published in their local gazette on 30/03/2015, See Chapter II on the valuation of Investment Projects.
177. See note 120.
178. General Law of Regulatory Improvement of 2018 (*Ley General de Mejora Regulatoria 2018*) https://www.diputados.gob.mx/LeyesBiblio/pdf/LGMR_200521.pdf, published on the Federation's Official Gazette on 18/05/2018 (DOF: 18-05-2018).
179. Agreement between the Government of the Hong Kong Special Administrative Region and the People's Republic of China and the Government of the United Mexican States for the promotion and reciprocal protection of investments (enforced, 16 June 2021).
180. See UNCTAD, International Investment Agreements Navigator for a list of Mexico's IIAs. <https://investmentpolicy.unctad.org/international-investment-agreements/countries/136/mexico>.
181. Promulgatory Decree of the Agreement for the Promotion and Reciprocal Protection of Investments between the United Mexican States and the Kingdom of Spain, signed in Mexico City, on 10 October 2006 (*Decreto Promulgatorio del Acuerdo para la Promoción y Protección Recíproca de Inversiones entre los Estados Unidos Mexicanos y el Reino de España, firmado en la Ciudad de México, el diez de octubre de dos mil seis*), published on the Federation's Official Gazette on 19/05/2008 (DOF:19-05-2008).
182. At the time there were uncertainties with regard to the US position on withdrawing or negotiating a new free trade agreement instead of NAFTA, joining ICSID sent a clear message to investors that Mexico would do its best to provide certainty to their investors (although ICSID would not solve the issue of US investors having access to a dispute settlement mechanism against the Mexican Government measures).
183. Promulgatory Decree of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done in the city of Washington, DC, on 18 March 1965 (*Decreto Promulgatorio del Convenio sobre Arreglo de Diferencias Relativas a Inversiones entre Estados y Nacionales de otros Estados, hecho en la ciudad de Washington, D.C., el dieciocho de marzo de mil novecientos sesenta y cinco*), published on the Federation's Official Gazette on 24/08/2018 (DOF:24-08-2018).
184. ICSID, 'Representative and Alternate Representative' (*Corporate Secretariat*, 2021) <<https://thedocs.worldbank.org/en/doc/286709b442966c826653b84870b42d34-0330032021/original/ICSIDAdminCouncil.pdf>> accessed 21 December 2021.
185. See note 99, art 25.
186. Ibid art 48 para VII. The Directorate General of Legal Consulting for International Trade is also the notifications office for any dispute settlement proceeding (see paragraph IX) and the office in charge of coordinating the compliance of the awards (see paragraph X).

187. Decree by which the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, celebrated in the headquarters of the United Nations in New York from 20 March to 10 June 1958, is promulgated (*Decreto por el que se promulga la Convención sobre el Reconocimiento y Ejecución de las Sentencias Arbitrales Extranjeras, celebradas en la sede de la Organización de las Naciones Unidas, en Nueva York, del 20 de marzo al 10 de junio de 1958*), published on the Federation's Official Gazette on 22/06/1971 (DOF: 22-06-1971).
188. United States-Mexico-Canada Agreement (USMCA) (enforced, 1 July 2020), art 31.22: Alternative Dispute Resolution – '1. Each Party shall, to the extent possible, encourage, facilitate, and promote through education, the use of arbitration, mediation, online dispute resolution and other procedures for the prevention and resolution of international commercial disputes between private parties in the free trade area. 2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards and settlement agreements in those disputes, and to facilitate and encourage mediation procedures. 3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to and is in compliance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on June 10, 1958, or the Inter-American Convention on International Commercial Arbitration, done at Panama on January 30, 1975.
189. An initiative was submitted before the Mexican Senate in 2005 (but never adopted) to clarify when the Mexican authorities should grant immunity to foreign States.
190. Mexico is not a signatory either of the United Nations Convention on Jurisdictional Immunities of States and Their Property, which has not entered into force.
191. Miguel Angel Reyes Moncayo, 'La inmunidad jurisdiccional de los Estados: diferencias normativas y prácticas entre México y Estados Unidos' (2017) 109 *Revista Mexicana de Política Exterior* 77–9. Available here: <<https://revistadigital.sre.gob.mx/images/stories/numeros/n109/reyesmoncayo.pdf>> accessed 5 April 2022.
192. Ministry of Foreign Affairs, 'Tratados Internacionales: Convenio Constitutivo del Organismo Multilateral de Garantía de Inversiones (MIGA)' (*Secretaría de Relaciones Exteriores*, December 2021) <https://aplicaciones.sre.gob.mx/tratados/muestratratado_nva.sre?id_tratado=1299&depositario=0> accessed 21 December 2021.
193. Ministry of Foreign Affairs, 'Tratados Internacionales: Convenio Constitutivo de la Corporación Financiera Internacional' (*Secretaría de Relaciones Exteriores*, December 2021) <https://aplicaciones.sre.gob.mx/tratados/muestratratado_nva.sre?id_tratado=195&depositario=0> accessed 21 December 2021.
194. Ministry of Foreign Affairs, 'Tratados Internacionales: Convenio Constitutivo del Fondo Internacional de Desarrollo Agrícola' (*Secretaría de Relaciones Exteriores*, December 2021) <https://aplicaciones.sre.gob.mx/tratados/muestratratado_nva.sre?id_tratado=350&depositario=0> accessed 21 December 2021.
195. Gerd Häusler, 'The Globalization of Finance' (2002) 39 *Finance & Development*, <<https://www.imf.org/external/pubs/ft/fandd/2002/03/hausler.htm>> accessed 15 April 2022.
196. INEGI, 'Comunicado: 094. ENDUITH 2020' (INEGI, IFT, SCT; 2020) <https://www.gob.mx/cms/uploads/attachment/file/647466/ENDUITH_2020_co.pdf> accessed 7 April 2022.
197. Law for the Regulation of Financial Technology Institutions 2018 (*Ley para Regular las Instituciones de Tecnología Financiera 2018*), published on the Federation's Official Gazette on 09 March 2018 (DOF: 09-03-2018).
198. PROMEXICO, 'Servicios Financieros en México' (PROMEXICO) <<https://ethic.com.mx/docs/Infografias/sectores/Servicios-financieros-Mexico.pdf>> accessed 16 March 2022.
199. INEGI, 'Encuesta Nacional de Inclusión Financiera' (INEGI, CNBV; 2021) <<https://www.inegi.org.mx/programas/enif/2021/#Documentacion>> accessed 15 April 2022.
200. Ibid.
201. Ministry of Finance, 'Comunicado No.18: Autoridades de las instituciones del sistema financiero instalan Comité de Igualdad de Género' (Secretaría de Hacienda, INMUJERES; 2022) <https://www.gob.mx/cms/uploads/attachment/file/710545/Comunicado_No_18_Comite_de_Igualdad_de_Ge_nero>

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- del_sistema_financiero.pdf> accessed 7 April 2022.
202. See note 200.
203. Comisión Nacional Bancaria y de Valores, 'Reporte de Inclusión Financiera 2021' <https://www.cnbv.gob.mx/Inclusi%C3%B3n/Anexos%20Inclusin%20Financiera/Panorama_IF_2021.pdf?utm_source=Panorama&utm_medium=email> accessed 16 March 2021.
204. Organic Law of the Federal Public Administration of 1976 (*Ley Orgánica de la Administración Pública Federal 1976*), as amended, published on the Official Gazette of the Federation on 29/12/1976 (DOF:29-12-1976), art 31.
205. Law of the Bank of Mexico of 1993 (*Ley del Banco de México 1993*), published on the Federation's Official Gazette on 23/12/1993 (DOF: 23-12-1993).
206. Law to Regulate Financial Groups of 2014 (*Ley para regular las Agrupaciones Financieras 2014*), published on the Federation's Official Gazette on 10 January 2014 (DOF: 10-01-2014), art 178.
207. Bank of Mexico, 'Financial Stability Report' (*Bank of Mexico*, December 2021) <<https://www.banxico.org.mx/publicaciones-y-prensa/reportes-sobre-el-sistema-financiero/%7B18265301-01FF-CE2A-F381-19BB9DCB1E4B%7D.pdf>> accessed 22 December 2021.
208. See note 205, art 1.
209. Political Constitution of the United Mexican States 1917, art 28.
210. Political Constitution of the United Mexican States 1917, art 73 section X.
211. IMF, 'IMF Members' Quotas and Voting Power, and IMF Board of Governors' (International Monetary Fund, 22 December 2021) <<https://www.imf.org/en/About/executive-board/members-quotas#3>> accessed 22 December 2021.
212. Law of the Bank of Mexico of 1993 (*Ley del Banco de México 1993*), published on the Federation's Official Gazette on 23/12/1993 (DOF: 23-12-1993), art 2.
213. BIS, 'BIS member central banks' (*BIS*) <https://www.bis.org/about/member_cb.htm> accessed 22 December 2021.
214. BIS, 'Basel Committee membership' (*BIS*, 30 December 2016) <<https://www.bis.org/bcb/membership.htm>> accessed 22 December 2021.
215. Marcin Nadolny, 'The state of digital fraud prevention in financial institutions' (*BusinessTech*, 16 November 2021) <<https://businessstech.co.za/news/industry-news/538074/the-state-of-digital-fraud-prevention-in-financial-institutions/>> accessed 22 December 2021.
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217. MAPFRE Economics, 'The Latin American insurance market in 2020' (MAPFRE, 2020) https://documentacion.fundacionmapfre.org/documentacion/publico/es/catalogo_imagenes/grupo.do?path=436.
218. Law of Insurance and Bonds Institutions of 2015 (*Ley de Instituciones de Seguros y de Fianzas 2015*), published on the Federation's Official Gazette on 04/04/2015 (DOF:04-04-2015), art 366.
219. IAIS, 'IAIS Members' (*International Association of Insurance Supervisors*) <<https://www.iaisweb.org/page/about-the-iais/iais-members>> accessed 22 December 2021.
220. World Bank Group and IMF, 'Mexico: IAIS Insurance Core Principles – Detailed Assessment of Observance' (*World Bank*, 23 March 2021) <<https://openknowledge.worldbank.org/handle/10986/16745?show=full>> accessed 22 December 2021.
221. Law of Retirement Savings Systems 1996 (*Ley de los Sistemas de Ahorro para el Retiro de 1996*), as amended, published on the Federation's Official Gazette on 23 May 1996 (DOF:23-05-1996), art 5.
222. Interactive Brokers, 'Mexican Stock Exchange' (*Interactive Brokers*) <<https://www.interactivebrokers.com/en/index.php?f=2588>> accessed 22 December 2021.
223. BIVA, 'Acerca de' (*BIVA*, 2018) <https://www.biva.mx/nosotros/acerca_de> accessed 22 December 2021.
224. See note 222.
225. Michael O'Boyle, 'There's a vicious cycle dragging down Mexico's stock market' (*Bloomberg*, 24 November 2021) <<https://www.bloomberglia.com/2021/11/24/theresa-vicious-cycle-dragging-down-mexicos-stock-market/Z/>> accessed 22 December 2021.
226. *Ibid.*
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- PRENSA/CTEN_BOLE/BMV_se_incorpora_MILA_210115%20(ing).pdf> accessed 22 December 2021.
228. IOSCO, 'Ordinary Members of IOSCO' (*International Organization of Securities Commissions*) <<https://www.iosco.org/about/?subsection=membership&>> accessed 22 December 2021.
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232. CNBV, 'Padrón de Entidades Supervisadas' (*CNBV*) <<https://www.cnbv.gob.mx/Paginas/PADR%C3%93N-DE-ENTIDADES-SUPERVISADAS.aspx>> accessed 10 June 2022.
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234. See the Tax section for more details.
235. Political Constitution of the United Mexican States of 1917, art 31.
236. Federal Fiscal Code of 1981 (*Código Fiscal de la Federación 1981*), published on the Federation's Official Gazette on 31 December 1981 (DOF:31-12-1981), art 19.
237. Law on Income Tax of 2013 (*Ley de Impuesto sobre la Renta 2013*), published on the Federation's Official Gazette on 11 December 2021 (DOF: 11-12-2013), art 1.
238. Law on Value Added Tax of 1978 (*Ley del Impuesto al Valor Agregado 1978*), published on the Federation's Official Gazette on 29 December 1978 (DOF: 29-12-1978), art 1.
239. Customs Law of 1995 (*Ley Aduanera 1995*), published on the Federation's Official Gazette on 15 December 1995 (DOF: 15-12-1995).
240. See note 95.
241. General Import and Export Tax Law of 2020 (*Ley de Impuestos Generales de Importación y Exportación 2020*), published on the Federation's Official Gazette on 1 July 2020 (DOF: 01-07-2020).
242. See note 239.
243. See note 237.
244. See note 238.
245. IRS, 'Foreign Account Tax Compliance Act (FATCA)' (*IRS*, 6 July 2021). <<https://www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca>> accessed 22 December 2021.
246. Ministry of Foreign Affairs, 'Búsqueda de tratados' (*SRE*, December 2021). <https://aplicaciones.sre.gob.mx/tratados/consulta_nva.php> accessed 22 December 2021.
247. OECD, 'Jurisdictions participating in the Convention on Mutual Administrative Assistance in Tax Matters – Status 10 May 2022' (*OECD*, May 2022) <https://www.oecd.org/ctp/exchange-of-tax-information/Status_of_convention.pdf> accessed 22 December 2022.
248. Ana Isabel Martínez, 'Mexico could raise \$1.5 bln with global minimum corporate tax of 15% - deputy finance minister' (*Reuters*, 1 July 2021) <<https://www.reuters.com/business/mexico-could-raise-15-bln-with-global-minimum-corporate-tax-15-deputy-finance-2021-07-01/>> accessed 22 December 2021.
249. *Ibid* art 82.
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