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Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

MEXICO

This report, prepared for the sixth Trade Policy Review of Mexico, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Mexico on its trade policies and practices.

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## SUMMARY

1. Mexico's economic growth accelerated over the period 2012-2016: GDP grew at an annual average rate of 2.5%, higher than the 1.4% recorded over the period 2007-2011, while per capita GDP rose to approximately US\$10,000. Economic growth has been driven both by stronger domestic demand and increased exports of manufactures to the United States. Inflation remained under control, within a range of 2% to 4% annually, corresponding to the fluctuation band determined by the Bank of Mexico.

2. In 2013, Mexico introduced an ambitious programme of reform in 11 different sectors, including: competition policy, tax policy, energy, financial services and telecommunications. The implementation of some of these reforms (energy, competition, telecommunications) called for amendment of the Constitution. The tax reform programme provided for a review of taxation in order to improve tax collection. The measures adopted included an expansion of the base for calculating income tax, fewer exemptions from payment of valued added tax (VAT), revised taxation for the mining sector and the introduction of "green" taxes, leading to growth in tax revenue, from 9.7% of GDP in 2013 to 13.1% in 2015, while government finances became significantly less dependent on oil revenue. Despite these efforts, however, the public sector deficit rose from 2.3% of GDP in 2014 to 3.2% in 2015 and is forecast to be 3.5% in 2016. The efforts at reform have, nonetheless, managed to install a general climate of macroeconomic stability, although Mexico is still facing major challenges, particularly as regards the wide disparity in income, insecurity and shortcomings in governance, as well as high dependence on a single market.

3. Mexico recorded a moderate but growing current account deficit over the review period, amounting to 2.9% of GDP in 2015 and mainly caused by the deterioration in the oil balance. The trade deficit in goods is fairly modest (1.3% of GDP), but is worsening because of deficits in the services and income balances, the latter notwithstanding remittances from workers abroad, which amounted to US\$25,200 million in 2015.

4. Mexico's export markets remain highly concentrated; exports to the United States accounted for 81.2% of the total in 2015, four percentage points more than in 2012, while imports from the United States in 2015 accounted for 47.4% of the total, compared to 50.1% in 2012. The growth of merchandise trade slowed during the review period. Between 2012 and 2015, exports grew by just 2.7% in US dollar terms, reflecting the drop in oil exports in particular, while imports expanded by just 6.6%. Mexico's exports are dominated by manufactures, which represented 85% of the total in 2015, while agricultural products accounted for less than 8%, and products of the oil and extractive industries 7.2%, compared to 15.5% in 2012. This change mainly reflects the lower value of petroleum exports, owing to the fall in oil prices. The principal manufactures exported are still electrical machinery and appliances, and transport equipment, which jointly represented 57.6% of total exports in 2015.

5. Mexico receives a large amount of foreign direct investment (FDI). In 2015, FDI inflows amounted to US\$32,864 million, while for the first nine months of 2016 they totalled US\$19,773 million. The main FDI-recipient sectors in 2011-2015 were the manufacturing industries, which absorbed an average of 54.4% of all FDI flows, followed by mining (8.5%) and commerce (7.7%). FDI from the United States represented over 50% of the total in 2015, followed by flows from various European Union countries.

6. The foreign trade objectives are set out in the National Development Plan for 2013-2018. As pertains to international trade, the aim is to reaffirm Mexico's commitment to free trade, the mobility of capital and integrated production, for which two strategies have been formulated: furthering and deepening the policy of trade liberalization and promoting Mexico's integration in the region by establishing strategic economic partnerships and deepening existing ones. Emphasis is also placed on the importance of strengthening Mexico's presence in regional and multilateral forums and bodies, including the WTO. These goals and strategies are developed in the sectoral programme of the Ministry of the Economy for 2013-2018 as the Ministry is responsible for formulating and implementing the measures needed to meet the trade-related aims of the National Development Plan. Following the structural reforms introduced in 2013, Mexico set up new institutions for the Plan's implementation.



7. Mexico participates actively in the multilateral trading system, both in the regular work of the WTO and in the Doha Development Agenda negotiations, and in July 2016 ratified the Agreement on Trade Facilitation. As regards participation in the WTO plurilateral agreements, Mexico is not a party to the Agreement on Trade in Civil Aircraft or the Agreement on Government Procurement, nor does it have observer status in the committees that administer those Agreements. Mexico is not party to the Information Technology Agreement (ITA) either. In August 2015, Mexico notified the Council for Trade in Services of the granting of preferential treatment for services and service suppliers of least developed countries in accordance with the services waiver adopted by the Eighth WTO Ministerial Conference. Mexico submitted numerous notifications to the WTO during the review period, not only those required on a regular basis (agriculture, anti-dumping, subsidies) but also ad hoc notifications (technical regulations, sanitary and phytosanitary measures, regional agreements, rules of origin, etc.). Mexico has not been a defendant in any dispute since the previous review, but has been a complainant in two disputes and a third party in 11.

8. Mexico has signed a large number of preferential agreements, which play an increasingly important role in its trade policy. In addition to the NAFTA, the CAFTA-DR and the Association Agreement with the European Union, Mexico has also signed free trade agreements with Chile, Colombia, EFTA, Israel, Japan, Panama, Peru and Uruguay. It also belongs to the Pacific Alliance with Chile, Colombia and Peru.

9. In order to increase investment flows and boost the country's competitiveness, Mexico adopted a series of reforms to the FDI regime during the review period, mainly affecting telecommunications and broadcasting, as well as the financial and energy sectors. Both FDI registration formalities and statistical reporting requirements were simplified and permission is not required to invest. FDI in unrestricted fields receives national treatment, subject to the permanent residency requirement. There are three types of FDI restriction: activities reserved exclusively for the State, activities reserved exclusively for Mexicans and activities subject to specific regulation, in other words, to a maximum FDI percentage. Following the reforms effected during the period under review, the activities reserved exclusively to the State are currently the following *inter alia*: exploration for and extraction of hydrocarbons; electricity transmission and distribution; generation of nuclear energy; radioactive minerals; telegraph and radio telegraph services; postal services; and control, supervision and surveillance of ports, airports and heliports.

10. During the period under review, Mexico continued the reform efforts of previous years to simplify customs procedures and promote trade. The key reforms were: establishment of the Mexican Digital Window for Foreign Trade (Digital Window) and abolition of the requirement to use the services of a customs broker. The use of new technologies for inspecting goods has been boosted and it is now possible to rectify the import declaration at any stage of customs clearance. In order to avoid undervaluation as well as tax evasion, Mexico still uses estimated prices as a reference for the customs valuation of certain goods and these are currently used for imports of used vehicles, textiles and clothing, and footwear, regardless of the origin of the imports. Mexico uses preferential and non-preferential rules of origin, with non-preferential rules being used to determine the origin of imports subject to anti-dumping or countervailing duties in order to prevent circumvention by means of reshipment of goods through third countries.

11. Mexico substantially and unilaterally reduced applied tariffs during the review period; the average MFN tariff fell from 6.2% in 2012 to 5.5% in 2016. This reduction is principally due to the lower protection afforded to agricultural products (WTO definition), which decreased from 20.9% in 2012 to 14.3% in 2016. Non-agricultural products are subject to a lower average tariff of 4.6%, which did not vary during the review period. The zero rate is the most frequent tariff rate and is applied to 58.1% of tariff lines (58.3% in 2012). Even though the vast majority of tariffs are *ad valorem*, Mexico still applies compound tariffs on 44 eight-digit tariff lines in the HS 2012. Mexico bound all its tariff lines in the Uruguay Round, with bound rates ranging from 0 to 254%. About 77% of the total were bound at 35%, 9% at levels below 35%, and the remainder at levels above 35%.

12. Mexico still uses three types of tariff quota: those negotiated in the WTO, unilateral quotas and preferential quotas. Unilateral quotas are determined by the Ministry of the Economy in order to provide better access to the Mexican market for imported products, when necessary; to cope with higher international prices; to provide better access for imported inputs; or to meet domestic demand when there is a shortfall in supply. Some products are subject both to quotas negotiated

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in the WTO and to unilateral quotas, although the unilateral quota usually gives better access terms so the WTO-negotiated quotas are not used.

13. Mexico imposes non-tariff measures to protect national security, public health, plant and animal health or the environment and for balance-of-payments reasons. Mexico therefore prohibits the import of certain chemicals and drugs (22 products of the HS 2012 at eight-digit level). The list has not changed since the previous review. Mexico also has an import licensing system. In 2013, it resumed using automatic import licences (automatic permits or notices), which had been abolished in 2005. Thus, Mexico currently uses both automatic licensing and non-automatic licensing (prior permits). The purpose of these licences is not to restrict the quantity or value of the imports. Automatic licensing is used to monitor trade flows and concerns products such as iron, textiles and footwear; whereas the purpose of non-automatic licensing is to regulate trade in specific products.

14. The regulatory framework governing anti-dumping, countervailing and safeguard measures has not changed since the previous review. Mexico is an active user of anti-dumping (AD) measures and had 64 definitive AD measures in force at 30 November 2016, representing a 68.4% increase over the number reported for the previous review at December 2011, when there were 38 measures. This number is, however, below that recorded in previous periods. At 30 November 2016, Mexico applied definitive AD measures on imports of various products coming from 17 countries or territories. Approximately 60% of the definitive AD duties in force at November 2016 were imposed on steel products or steel manufacturing materials, machinery and equipment. Other imports subject to AD measures in November 2016 included in particular food, chemicals, plastics, paper, household products and textiles. During the period 2012 to November 2016, Mexico initiated 34 new AD investigations, as well as 35 sunset reviews of AD measures, 20 of which were completed during this period. In 80% of the cases, the investigations led to renewal of the duties. Mexico had three definitive countervailing measures in force at 30 November 2016, which concerned imports of medicaments from India. Mexico did not have recourse to global safeguard measures during the review period.

15. There have been no major changes to the regulatory framework or the procedure for preparing, issuing or revising standards, technical regulations and sanitary and phytosanitary measures since the previous review. Such measures are prepared in accordance with the principles of consensus and transparency and in general follow international regulations. The main change as regards standardization during the review period was the result of the reforms in the hydrocarbons, energy and telecommunications sectors. Previously, *Petróleos Mexicanos* (PEMEX) and the Federal Electricity Commission (CFE) issued Reference Standards (NRFs) (industrial or sectoral standards); these ceased to be issued as of 2012 and are currently being reviewed with a view to converting them into Mexican Official Standards (NOMs) (technical regulations) or Mexican Standards (NMXs). Likewise, since 2013, the Federal Telecommunications Institute (IFT), set up following the constitutional reform, has issued "technical provisions" that are mandatory for the telecommunications and broadcasting sector.

16. The most important development since the previous review in respect of export requirements has been the computerization of customs procedures using the Digital Window. Customs clearance can be effected directly by the exporter or a customs broker. Exporters certified as "authorized economic operators" (OEA) may use the "FAST" tracks available in certain customs offices.

17. Mexico regulates exports and imposes export duties in order to guarantee supplies or to protect human health, the environment, fauna, flora and the cultural heritage. During the review period, the number of tariff lines (at the eight-digit level in the HS 2012) subject to export taxes fell sharply, from 25 in 2012 to just two in 2016 (bitumen and asphalt and bituminous mixtures). Moreover, the rate applied was lowered from 50% to 25%. As was the case in 2012, Mexico still bans the export of certain chemical products and drugs and also makes use of automatic licensing (automatic permits) and non-automatic licensing (prior permits) for exports. Automatic licensing (automatic permits) is used for the purpose of keeping a record of foreign trade transactions. Non-automatic licensing (prior permits) is used for the purpose of regulating trade in specific products. In 2016, non-automatic export licensing applied mostly to chemical products.

18. Mexico has two export promotion programmes: the programme for the promotion of the manufacturing, maquila and export services industry (IMMEX) and the import duty drawback

programme, which were already operating at the time of the previous review and have not changed to any great extent. The IMMEX programme is extremely important for Mexico's trade. Over the period 2012-2015, some 69.7% of Mexico's exports and 50.5% of its imports on average were attributable to firms benefiting from the IMMEX programme. During the first nine months of 2016, firms benefiting from the IMMEX programme were responsible for 58% of exports and 44% of imports. Mexico also has a number of support programmes to promote productivity, attract investment and create jobs and implements some sectoral programmes, mostly aimed at micro, small and medium-sized enterprises, which provide financial assistance, tax incentives and technical training. In this regard, mention should be made of the sectoral promotion programmes (PROSEC) and of some tax concessions for payment of income tax (ISR) and the special tax on production and services (IEPS), consumption of diesel fuel and the import of environmentally friendly machinery, *inter alia*. Mexico has notified several of these programmes to the WTO.

19. During the review period (2012-2016), the legal framework for Mexico's competition policy underwent far-reaching changes. Amendments to the Constitution were introduced and the new Federal Law on Economic Competition was published, repealing the 1992 Federal Economic Competition Law, which had governed this area up to 2014. Furthermore, in 2014, the Federal Telecommunications and Broadcasting Law was published, repealing the specific laws that had applied to these sectors and affecting competition therein. Following these reforms, there are now two authorities responsible for implementing the Federal Law on Economic Competition, one of which – the Federal Telecommunications Institute – is solely responsible for regulating competition in this sector. During the review period, the competition authorities initiated 57 investigations into violations of the competition law, of which eight led to sanctions. Mexico imposes regulations or controls on the price of natural gas, liquefied petroleum gas, gasoline (petrol), diesel fuel, electricity and medicines.

20. The State continues to play an important role in Mexico's economy, and the State sector consists of both financial and non-financial enterprises. The latter may receive transfers, allocations and/or subsidies from the Government if their income fails to cover their production costs or to allow them to invest in facilities or make financial investments. PEMEX is still the largest State-owned enterprise.

21. The regulatory framework for government procurement was amended during the review period in order to exclude totally from application of the legislation regulating government procurement in general acquisitions, leases and services contracts entered into by State-owned production enterprises (PEMEX and the Federal Electricity Commission (CFE)) and their subsidiaries. Previously, this exclusion only applied partially to these two enterprises. In open international bidding, Mexico still gives preferences to Mexican bidders over bidders from countries with which it has no trade agreement on government procurement. The margin of preference is 15% of the lowest price in the domestic market for goods of Mexican origin in comparison with imported goods. Moreover, since 2014, a margin of preference has also been given to Mexican companies which implement policies for gender equality or for disabled persons or companies employing disabled workers, and to micro, small or medium-sized enterprises producing goods incorporating technological innovation. Mexico has not signed the WTO Agreement on Government Procurement and does not participate as an observer in the WTO Committee on Government Procurement.

22. The main change to the legal framework of the regime protecting intellectual property rights during the review period concerned the registration of trademarks. Since 2016, the Mexican Industrial Property Institute (IMPI) has published both registrations granted and applications, whereas previously it only published registrations granted. Moreover, in August 2016, a system came into force allowing registration of a trademark to be opposed prior to its registration. There have been no other major amendments to other industrial property rights, copyright or related rights. Mexico continues to make efforts to strengthen enforcement of intellectual property rights, both at the border and within Mexico.

23. Mexico regards the agricultural and fishery sector as strategic because of its contribution to poverty reduction and economic development. One of the most important objectives of Mexico's agricultural policy is guaranteeing food security by increasing productivity. The authorities therefore consider it necessary to protect and support this sector. Even though the average tariff on agricultural products (WTO definition) fell from 20.9% in 2012 to 14.3% in 2016, it is still higher than the average tariff (5.5%). On average, the highest duties by WTO category continue

to be applied to agricultural products, specifically sugar and confectionery, and to animals and animal products, with tariffs of 40.9% (63.3% in 2012) and 24.8% (48.2% in 2012), respectively. Some agricultural products are subject to seasonal tariffs and others to compound tariffs which vary depending on the sugar content. Mexico continues to provide the sector with support through a series of programmes drawn up each year, the majority of which are nationwide in scope and cover any kind of agricultural activity. However, there are some specific programmes, whose sole beneficiaries are small coffee, bean and maize producers or people living in extreme poverty.

24. In 2013, Mexico adopted a constitutional amendment which concerned the energy and telecommunications sectors. As regards energy, the constitutional reform is aimed, *inter alia*, at encouraging investment in the sector. Accordingly, some restrictions on private investment (domestic and foreign) were lifted, except in "strategic" activities. Despite the reform, whose aim was to increase competition in the sector, both PEMEX and the CFE still have a large share of the market. Nevertheless, the State may give contracts to private enterprises to participate in such activities if the State-owned companies have neither the technology nor the resources required.

25. Following reform of the energy sector, basic petrochemicals and electricity generation and sale are no longer regarded as strategic areas, in other words, they are no longer reserved exclusively to the State. Likewise, FDI may now be as much as 100% in the marketing of petrol and distribution of liquefied petroleum gas, previously reserved to Mexican nationals and Mexican firms, with a foreigners exclusion clause. The same applies to the construction of pipelines to transport oil and its derivatives, as well as the drilling of oil and gas wells, which previously required a favourable decision for FDI to be able to exceed 49%. Mexico has also established a fund to manage, invest and distribute the income derived from hydrocarbon exploration and exploitation and to build up a long-term savings reserve. The reserve has not yet been set up as income has not reached the minimum necessary to activate it (4.7% of GDP).

26. Conditions of access to Mexico's banking market have not changed since 2012. In 2014, Mexico undertook a financial reform aimed at greater expansion and inclusion of financial services. Measures were introduced to increase competition, raise the levels of lending by development and multiple (commercial) banks, and strengthen the financial system's prudential rules in order to make the institutions' performance more efficient. In the short term, the reform was followed by an increase in credit and its penetration index, lower interest rates and an improvement in financial inclusion indicators. Despite the reform, there is still a high degree of concentration in the banking market. As regards the insurance market, in 2014, following the reform, a new law was introduced in order to make the operations of insurance institutions more transparent, and the restriction on foreign investment was lifted. Nevertheless, as in the banking market, there is a high degree of concentration despite the large number of companies active in the insurance market.

27. By virtue of the financial sector reform, FDI may now be as much as 100% in insurance institutions, bonding institutions, currency exchange houses, general bonded warehouses, pension fund management firms, credit information companies, securities rating institutions and insurance agents. Prior to the reform, there had been a 49% ceiling on the share of FDI in those activities, which could be surpassed only in the case of credit information companies, securities rating institutions and insurance agents, with authorization.

28. During the review period, Mexico undertook a major reform of its telecommunications and broadcasting sector in order to boost its competitiveness so as to reduce prices and improve service quality. A new telecommunications law was enacted to implement the reform and the Federal Telecommunications Institute (IFT) was created as the regulatory body. Following the reform, restrictions on FDI were lifted; previously subject to a 49% ceiling, it can now be as much as 100% in fixed telephony and satellite communications. In the broadcasting sector, the reservation to Mexican nationals and to Mexican firms with a foreigners exclusion clause was eliminated; FDI of up to 49% is currently permitted (subject to the principle of reciprocity). A new concessions regime was also introduced, giving the right to provide any type of public telecommunications service; previously, a concession was required for each type of service.

29. During the review period there were no changes to the FDI regime for the air transport sector. Foreign investment is permitted, but foreigners may only invest a maximum of 25% in airline companies and 49% in airports and the supply of aviation fuel, although higher amounts may be authorized in airports under certain circumstances. Cabotage is prohibited. The operation

of private flights in Mexican territory is authorized under the multiple entry procedure. To build, manage and operate airports, a concession, awarded for 50 years (renewable), is required. As regards maritime transport, foreign investment is permitted but is limited to 49% in some services, such as port operators, shipping companies engaged in maritime transport in territorial waters and cabotage, and port and related services. Harbour pilots must be Mexican nationals and cabotage is reserved for Mexican shipping companies with Mexican vessels, although foreign vessels may be given temporary permission to provide cabotage services.

30. Mexico was among the world's top ten tourist destinations in 2015 and the sector makes an important contribution to GDP, both directly and indirectly. The National Tourism Development Fund (FONATUR) contributes to the promotion and development of tourism and tourism resources and helps to promote the financing of private investment through agreements with development banking.

## 1 ECONOMIC ENVIRONMENT

### 1.1 Macroeconomic trends

#### 1.1.1 Structure, growth and employment

1.1. Since its previous review, Mexico has implemented a series of structural reforms to boost competitiveness and attain sustainable growth over the medium term (see below). The reforms have also sought to raise levels of competition in the economy, particularly in sectors where this was insufficient, with the aim of reducing costs and enhancing consumer welfare.

1.2. In terms of the sectoral composition of gross domestic product (GDP), the share of mining shrank during the review period (2012-2016) while manufactures and services both expanded (Table 1.1). Agriculture maintained its 2011 GDP share of about 3.5% at basic prices between 2012 and 2015; while manufacturing continued to make a major contribution to the Mexican economy, generating 18.8% of GDP in the latter year. Mining activity saw its share shrink during the period, from 8.7% of GDP at basic prices in 2012 to just 4.4% in 2015, reflecting lower oil prices and reduced oil production. Services continued to expand their share in the review period, contributing 63.9% of GDP at basic prices in 2015 compared to 60.2% in 2012. However, this partly reflects the cross-sectoral adjustment associated with the decrease in the share of the oil sector, and the positive effect of structural reforms in the services sector. Within the latter, trade makes the largest contribution to GDP, followed by real estate services.

1.3. In 2011-2015, Mexico's real GDP grew at an average annual rate of 2.8%, an increase over the previous review period, when annual GDP growth averaged 1.4%. This stronger growth performance mainly reflects the results achieved in 2011 and 2012, when the economy grew by 4% in both cases, before entering a slower growth phase with expansions of 1.4%, 2.2% and 2.5%, respectively over the next three years. Mexico's per capita income remained around US\$10,000 during the review period.

**Table 1.1 Basic economic indicators, 2011-2016 (first half)**

	2011	2012	2013	2014	2015	2016 <sup>a</sup>
<b>I. Gross domestic product (GDP)<sup>b</sup></b>						
Current GDP (MEX\$ billion)	14,527	15,599	16,079	17,217	18,195	18,780
Current GDP (US\$ billion)	1,169	1,185	1,259	1,295	1,148	1,040
Real GDP, growth rate (%)	3.9	4.0	1.4	2.2	2.5	2.5
Per capita GDP (current MEX\$)	125,579	133,266	135,808	143,819	150,363	153,591
Per capita GDP (US\$)	10,108	10,119	10,633	10,820	9,488	8,503
<b>By branch of activity (percentage of GDP at basic prices)</b>						
Agriculture, forestry, fishing and hunting	3.5	3.5	3.5	3.5	3.7	3.9
Mining	9.3	8.7	7.6	7.2	4.4	4.1
Utilities	1.8	1.6	1.7	2.0	1.9	1.7
Construction	8.2	8.2	7.6	7.5	7.7	7.6
Manufacturing	17.1	17.9	17.6	17.7	18.8	18.9
Services	60.4	60.2	62.2	62.3	63.9	63.8
Trade	15.5	15.6	16.1	16.4	17.5	16.8
Transport, postal and warehousing services	6.1	6.3	6.5	6.5	6.6	6.7
Information in mass media	2.5	2.3	2.3	2.2	2.1	1.9
Financial and insurance services	3.2	3.1	3.5	3.5	3.6	3.6
Real estate, rental and leasing of movable and intangible property	12.0	11.7	11.9	11.7	11.7	11.9
Professional, scientific and technical services	2.2	2.2	2.2	2.2	2.3	2.4
Corporate services	0.6	0.6	0.6	0.6	0.6	0.6
Business support and waste management and remediation services	3.2	3.2	3.3	3.3	3.3	3.4
Educational services	4.0	4.1	4.3	4.3	4.4	4.4
Health and social services	2.2	2.2	2.4	2.3	2.4	2.4
Leisure, cultural, sporting and other recreational services	0.5	0.5	0.5	0.45	0.45	0.4
Hotel and restaurant services	2.1	2.1	2.2	2.2	2.4	2.4
Other services except public administration	2.1	2.1	2.1	2.1	2.1	2.2
Public administration	4.1	4.2	4.3	4.4	4.4	4.6
Product taxes, net	3.5	3.1	3.9	5.2	5.9	7.6
<b>II. Other economic indicators (percentage of current GDP)</b>						
Gross national saving	22.3	23.1	21.7	21.5	22.7	22.6
<b>III. Employment</b>						
Employment rate (%)	94.8	95.1	95.1	95.2	95.7	96.0 <sup>c</sup>
Unemployment rate (%)	5.2	4.9	4.9	4.8	4.3	4.0 <sup>c</sup>

	2011	2012	2013	2014	2015	2016 <sup>a</sup>
<b>IV. Memorandum item</b>						
Economically active population (%)	59.7	60.4	60.3	59.8	59.8	59.27
Total population (million)	115.7	117.1	118.4	119.7	121.0	122.3

- a Six months. Annualized GDP.
- b The quarterly GDP figures shown here include the adjustment to the annual calculation of the revised 2014 Goods and Services Account and the latest statistical information available from economic surveys and administrative records, for which reason there are differences in the amounts and variations that were published at the time.
- c Figures to August.

Source: National Institute of Statistics and Geography (INEGI); Bank of Mexico.

1.4. Economic growth in Mexico has continued to be driven largely by domestic demand and exports to the United States, particularly manufactured products. Weaker growth in that country affects various export sectors, especially the automotive industry, with consequent negative effects on gross capital formation. The slowdown in economic growth in 2013 was partly due to the weakness of domestic demand, specifically lower rates of gross capital formation, but this was partly in response to softer demand from the United States, where 2013 saw a dip in economic growth. In 2014, Mexican GDP growth rebounded on the back of recoveries in both domestic demand and exports. Nonetheless, the stronger domestic demand mainly reflected a revival of investment, since private consumption growth remained relatively weak.

1.5. In 2015, the Mexican economy expanded by 2.5%, slightly ahead of expectations.<sup>1</sup> This expansion was supported by an upturn in final demand, particularly private consumption, but also gross capital formation; and it occurred despite the adverse effects on the Mexican economy of the lower oil price and the slowdown in industrial production in the United States.

1.6. In the first half of 2016, the Mexican economy continued to perform strongly, posting annualized GDP growth of about 2.5%. This occurred even though GDP shrank in the second quarter in seasonally adjusted terms, reflecting the weakness of external demand and investment, and the slowdown in consumption relative to previous quarters.<sup>2</sup> The slackness of world trade, the relative stagnation of United States manufacturing output and lacklustre global growth undermined Mexico's manufacturing exports, both to the United States and to the rest of the world. Automotive exports to the United States trended downwards in the quarter, partly owing to temporary shutdowns in several assembly plants and flat sales of light vehicles on the United States market. Oil exports staged something of a recovery in April-July 2016, but remained at decidedly low levels.<sup>3</sup> The Mexican economy displayed a modest recovery in the third quarter of 2016, following the previous quarter's contraction, fuelled mainly by a pick-up in external demand, which led to a recovery in manufacturing exports, and by private consumption, while gross fixed investment remained sluggish.<sup>4</sup>

1.7. Reflecting the results obtained in the first three quarters of 2016 and the persistence of an adverse external environment, the Mexican authorities downgraded their forecast ranges for economic growth in 2016 and 2017. The Bank of Mexico now expects Mexican GDP to expand between 1.8% and 2.3% in 2016, compared to the 2.0%-3.0% recorded in the first quarter and 1.7%-2.5% estimated for the second. Similarly, the forecast range for 2017 was revised down to between 1.5% and 2.5%, compared to previous forecasts of 2.3%-3.3% and 2.0%-3.0%, respectively. The authorities hope that the structural reforms implemented (see below), in conjunction with their efforts to strengthen the stability of the macroeconomic framework, will foster the recovery of private domestic expenditure and gradually generate a more favourable growth environment leading to stronger growth of consumption and investment. Considering these

<sup>1</sup> Bank of Mexico (2016), *Quarterly Report, October-December 2015. Summary*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html> .

<sup>2</sup> Bank of Mexico (2016), *Quarterly Report, April-June 2016*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html> .

<sup>3</sup> Ibid. *Summary*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html> .

<sup>4</sup> Bank of Mexico (2016), *Quarterly Report, July-September 2016*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html> .

growth forecasts, the output gap is expected to remain negative in 2016 and 2017, without price pressures from the trend of aggregate demand. The authorities have also identified certain downside risks associated with the growth forecast, particularly: (i) the possibility that Mexican exports will remain in the doldrums; and (ii) the political and economic panorama prevailing in the United States could hamper Mexican growth, as investment falters. Upside risks include the possibility that: (i) the structural reforms will boost growth sooner than expected; and (ii) consumption will achieve a more pronounced and longer lasting sustainable revival.<sup>5</sup> For 2018, GDP growth is expected to come in at between 2.2% and 3.2%, depending on the economic policies to be adopted by the new United States administration.<sup>6</sup>

1.8. Private consumption grew faster than GDP every year in the review period except for 2014 (Table 1.2), when it slowed down before rebounding in 2015, and in the first two quarters of 2016 it again outpaced GDP. In the last few years, consumption has been underpinned by positive trends in employment and real wages, and easier access to credit. Family remittances continued to be a major source of financing for consumption, totalling US\$24,785 million or 2.3% of GDP in 2015.

**Table 1.2 Structure of GDP by expenditure, 2011-2016 (Q1 and Q2)**

	2011	2012	2013	2014	2015	2016 (Q1) <sup>a</sup>	2016 (Q2) <sup>a</sup>
<b>As a percentage of current GDP</b>							
<b>Supply</b>							
Gross production	170.6	171.9	171.1	169.8	171.2	173.2	175.2
Imports of goods and services	32.5	33.8	32.7	33.4	37.5	37.5	39.5
<b>Use</b>							
Intermediate demand	70.6	71.9	71.1	69.8	71.2	73.2	75.2
Final demand	132.5	133.8	132.7	133.4	137.5	137.5	139.5
Total consumption	77.8	79.1	80.7	80.1	81.5	81.9	80.2
Private consumption	66.3	67.3	68.6	67.9	69.2	69.5	68.2
Government consumption	11.6	11.8	12.2	12.2	12.3	12.3	12.0
Gross fixed capital formation	21.7	22.3	21.1	21.0	22.2	21.4	22.4
Changes in inventory	0.5	0.7	0.6	0.6	0.5	0.3	1.1
Exports of goods and services	31.3	32.6	31.8	32.3	35.4	35.8	37.7
Statistical discrepancy	1.1	-1.0	-1.5	-0.6	-2.2	-1.9	-1.9
<b>GDP by expenditure at constant prices, growth rate (%)</b>							
GDP	4.0	4.0	1.4	2.2	2.5	2.4	2.5
<b>Supply</b>							
Gross production	3.8	4.1	1.4	2.3	2.6	2.3	2.4
Imports of goods and services	8.1	5.5	2.6	6.0	5.0	2.1	0.8
<b>Use</b>							
Intermediate demand	3.5	4.3	1.4	2.5	2.8	2.1	2.1
Final demand	5.0	4.4	1.7	3.1	3.1	2.4	2.1
Total consumption	4.5	4.7	2.0	1.8	3.0	2.8	2.4
Private consumption	4.8	4.9	2.1	1.8	3.1	3.3	2.6
Government consumption	2.4	3.5	1.0	2.1	2.3	-0.4	1.7
Gross fixed capital formation	7.8	4.8	-1.6	2.9	3.8	0.6	0.6
Exports of goods and services	8.2	5.8	2.4	7.0	9.0	1.4	0.6

a Preliminary figures.

Source: National Institute of Statistics and Geography (INEGI).

1.9. The pace of gross capital formation, which ran ahead of GDP growth in 2012, largely owing to higher levels of private investment in machinery and construction, shrank by 1.6% in 2013. This reflected worsening expectations and the deteriorating global economic situation. Investment growth regained momentum in the following year, when again it outstripped GDP; but it lost steam once more in the first half of 2016, partly owing to weaker investment in the oil sector.<sup>7</sup> Capital

<sup>5</sup> Bank of Mexico (2016), *Quarterly Report, April-June 2016. Summary*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html>.

<sup>6</sup> Bank of Mexico (2016), *Quarterly Report, July-September 2016*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html>.

<sup>7</sup> In the first half of 2016, gross fixed investment, valued at constant 2008 prices, grew by just 0.6%, compared to 5.5% in the year-earlier period.



expenditure also faltered in that semester both in construction and in machinery and equipment; imports of machinery and equipment in particular fell by 3.2% compared to the same period of 2015, whereas the domestic equivalent grew by 7.6%. Public investment contracted by 9.1% in the first six months of 2016, while private sector investment grew by 2.6%.

1.10. Exports of goods and services grew at an average rate of 6.7% per year in 2011-2015, outpacing GDP growth every year, while imports of goods and services also grew faster than GDP at an average annual rate of 6.1%.

1.11. The relative economic stability enjoyed by Mexico in the review period has been matched by declining unemployment, as the rate fell from 5% in 2012 to 4.3% in 2015, and to 4% according to preliminary figures for 2016.

1.12. Mexico continues to face the challenge of increasing labour productivity and making the economy generally more competitive. During the review period, the Government introduced policy changes to that end, including a programme of 11 structural reforms covering various sectors and areas. These were:

- energy reform: a new law was passed that substantially reforms the energy sector (Section 4.2). The aim is to secure energy requirements, specifically oil, electricity, renewable energy and natural gas, while laying the foundations for modernization of the sector to attract investment and boost economic growth and job creation;
- economic competition reform: a new law was passed to enforce market competition laws, while protecting consumer rights (Section 3);
- reform of telecommunications and broadcasting: a new law aims to generate effective competition in the sector, reduce prices and increase coverage (Section 4);
- tax reform: amendments to the tax laws aim to increase revenue collection and its efficiency, making it possible to allocate more substantial funding to certain areas of development, such as education, social security and infrastructure (see below);
- financial reform: the aims of the new legislation include making credit more accessible to families and firms (Section 4);
- labour reform: the new regulations aim to make the labour market more flexible and combat informality;
- education reform: the new law aims to improve access to education and raise its quality;
- new Amparo law: mechanisms to avoid cases of abuses of power by public officials are reinforced;
- National Code of Criminal Procedure;
- political-electoral reform; and
- transparency reform.

1.13. As a result of the Article IV Consultation in 2015, the International Monetary Fund (IMF) noted that Mexico has faced a complex global environment over the last year, characterized by a rise in global financial market volatility and the collapse of oil prices. Nonetheless, the Fund reports that the Mexican economy has continued to grow at a moderate pace, and capital outflow pressures have been limited. The flexible exchange rate has helped the economy absorb external shocks, while inflation has remained low and stable. Mexico is implementing a broad range of structural reforms, which should help lift potential growth over the medium term.<sup>8</sup>

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<sup>8</sup> IMF Press Release No. 15/519: *IMF Executive Board Concludes 2015 Article IV Consultation with Mexico*. Viewed at: <http://www.imf.org/es/News/Articles/2015/09/14/01/49/pr15519>.

1.14. During the review period, Mexico signed three agreements with the IMF under the Flexible Credit Line (2012, 2014 and 2016), making six arrangements of this type thus far, which Mexico intends to treat as precautionary. The latest was signed on 27 May 2016, for US\$88 billion, cancelling the previous US\$67 billion arrangement of 2014. The IMF stresses that Mexico's macroeconomic policies and financial regulation and supervision framework remain strong. It also considers that the economy has shown capacity to recover from the global growth slowdown of the last few years; economic activity is growing at a steady pace, inflation is low and stable, and the financial system is sound. Nonetheless, it stresses that the economy remains exposed to external risks. In addition, the Fund indicates that the authorities remain committed to enhancing Mexico's resistance to external shocks by implementing fiscal consolidation plans.<sup>9</sup>

1.15. The Organisation for Economic Co-operation and Development (OECD) recommends implementing reforms to promote economic growth and reduce informality, making it possible to share the fruits of growth. The reforms recommended by the OECD to promote growth and reduce informality include strengthening administrative capacity and the rule of law, addressing security problems and reducing corruption. In addition, to share the fruits of growth, the OECD recommends improving the equity and efficacy of education spending, concentrating on improving the quality of teaching; promoting access to quality medical care by improving coordination between health institutions to avoid redundancies; and encouraging women to join the formal labour market.<sup>10</sup>

### 1.1.2 Fiscal policy

1.16. The Ministry of Finance and Public Credit (SHCP) is responsible for formulating fiscal policy in Mexico, while the Federal Budget and Treasury Accountability Law (LFPRH) and its reforms constitute the most important fiscal legislation.<sup>11</sup> Article 42 of that Law requires the SHCP to submit a draft Revenue Law and a proposed Expenditure Budget for approval by Congress each year; and it defines budgetary balance as the key objective of the non-financial public sector (NFPS). Nonetheless, in exceptional circumstances the Law allows the SHCP to put forward a budget that is in deficit; but in such cases it must inform Congress of the specific amount of funding needed to cover the deficit with the corresponding justifications, and specify the actions and number of fiscal years needed to restore fiscal balance. Investment expenditure by the State-owned oil company Petróleos Mexicanos (PEMEX) and its subsidiary production enterprises (EPS) is not considered for budgetary-balance purposes.<sup>12</sup> A reform of the LFPRH introduced in 2014 provided that the financial balance of State-owned production enterprises must contribute to the financial health of the Federal Government and to an orderly evolution of the historical balance of the public sector's financing requirements.

1.17. The LFPRH requires the estimated amount of oil revenues to be included in each Revenue Law and Expenditure Budget. It also provides that if oil revenues decline owing to a fall in oil prices during the fiscal year, as is currently the case, stabilization funds may be drawn down; but when these run out, expenditure cuts must be made. Adjustment mechanisms are also contained in the LFPRH.<sup>13</sup>

1.18. Following an improvement in 2012 and 2013, federal government finances deteriorated slightly in 2014 and 2015; and in 2014 Congress was asked to authorize a deficit, as a countercyclical measure and to support the reforms. The public sector balance ended these last two years with deficits of 3.2% and 3.5% of GDP, respectively, with corresponding primary deficits of 1.1% and 1.2% (Table 1.3).

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<sup>9</sup> IMF Press Release No. 16/250, *IMF Executive Board Approves New Two-Year US\$88 Billion Flexible Credit Line Arrangement with Mexico*, of 27 May 2016. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2016/cr16137.pdf>.

<sup>10</sup> OECD (2015), *OECD Economic Surveys: Mexico, January 2015*. Viewed at: <http://www.oecd.org/eco/surveys/Mexico-Overview-2015.pdf>.

<sup>11</sup> The latest reform was published in the Official Journal of the Federation (DOF) of 30 December 2015.

<sup>12</sup> Article 17 of the LFPRH.

<sup>13</sup> *Ibid.*, Article 21.

Table 1.3 Balance of the federal non-financial public sector (NFPS), 2011-2016 (Q2)

(Percentage of GDP)

	2011	2012	2013	2014	2015 <sup>a</sup>	2016 (Q2) <sup>a</sup>
<b>Budgetary income</b>	<b>22.5</b>	<b>22.5</b>	<b>23.6</b>	<b>23.1</b>	<b>23.5</b>	<b>11.5</b>
Tax revenue	8.9	8.4	9.7	10.5	13.1	6.9
Income system	5.3	5.1	5.9	5.6	6.7	3.8
Income	5.0	4.9	5.6	5.7	6.8	3.8
Flat-rate business tax	0.3	0.3	0.3	-0.1	-0.1	0.0
Value added	3.7	3.7	3.5	3.9	3.9	1.8
Gasoline (petrol) <sup>b</sup>	0.6	0.5	0.6	0.6	n.a.	n.a.
Other	3.1	3.2	2.9	3.3	3.9	1.8
Production and services	-0.5	-0.8	0.0	0.6	2.0	1.0
Gasoline (petrol) and diesel	-1.0	-1.3	-0.5	-0.1	1.2	0.7
Federal	-1.1	-1.4	-0.7	-0.2	1.1	0.6
State	0.1	0.1	0.1	0.1	0.1	0.1
IEPS, other	0.5	0.5	0.5	0.7	0.7	0.3
Imports	0.2	0.2	0.2	0.2	0.2	0.1
PEMEX	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.2	0.2	0.2	0.2	0.2	0.1
Accessories	0.2	0.2	0.2	0.1	0.1	0.1
Other tax revenues	0.1	0.1	0.0	0.0	0.1	0.0
Non-tax income	7.1	7.3	7.1	6.3	4.5	2.3
Duties	6.1	6.2	5.6	4.8	0.3	0.2
Hydrocarbons	5.8	5.9	5.3	4.5	0.1	0.0
Of which: oil extraction	5.0	4.9	4.5	3.8	-0.1	0.0
Non-oil duties	0.2	0.3	0.3	0.3	0.3	0.2
Other revenue ( <i>aprovechamientos</i> ) <sup>c</sup>	0.9	1.1	1.4	1.4	1.9	1.4
Transfers from the Mexican Petroleum Fund for Stabilization and Development	0.0	0.0	0.0	0.0	2.2	0.7
Fees ( <i>productos</i> )	0.0	0.0	0.0	0.0	0.0	0.0
Income of organizations and firms	6.5	6.8	6.8	6.4	6.0	2.3
<b>Memorandum item</b>						
Oil revenues <sup>d</sup>	8.6	8.9	8.3	7.1	4.7	1.6
<b>Budgetary expenditure</b>	<b>25.0</b>	<b>25.1</b>	<b>25.9</b>	<b>26.3</b>	<b>27.0</b>	<b>12.1</b>
Programmable <sup>e</sup>	19.7	19.9	20.6	20.8	21.1	9.1
Current	14.8	15.1	15.1	15.6	15.9	6.8
Personal services	5.9	5.9	6.0	5.9	5.9	2.4
Direct	3.4	3.4	3.4	3.4	3.4	1.4
Indirect	2.6	2.5	2.6	2.5	2.5	1.0
Other operating expenses	5.7	5.9	5.7	5.8	6.1	2.5
Materials and supplies	1.7	1.7	1.7	1.4	1.3	0.5
General services	3.6	3.7	3.8	4.0	4.3	1.9
Other outgoings	0.4	0.4	0.2	0.4	0.5	0.1
Subsidies and transfers	3.2	3.3	3.5	3.8	3.9	1.9
Capital	4.8	4.7	5.4	5.2	5.2	2.3
Physical investment	4.5	4.4	4.6	4.8	4.3	1.7
Direct	3.1	2.9	2.8	3.0	2.6	1.1
Indirect	1.4	1.4	1.7	1.8	1.7	0.6
Other capital expenditure	0.4	0.4	0.9	0.4	0.9	0.6
Direct	0.2	0.2	0.8	0.4	0.9	0.5
Indirect	0.2	0.2	0.1	0.0	0.0	0.0
Non-programmable expenditure	5.3	5.2	5.3	5.5	5.9	3.1
Financial cost	1.9	2.0	2.0	2.0	2.3	1.2
Shareholdings	3.3	3.2	3.3	3.4	3.5	1.7
Arrears from prior fiscal years ( <i>Adefas</i> ), other	0.1	0.1	0.1	0.1	0.2	0.1
<b>Public sector balance</b>	<b>-2.4</b>	<b>-2.6</b>	<b>-2.3</b>	<b>-3.2</b>	<b>-3.5</b>	<b>-0.6</b>
Budget balance	-2.5	-2.6	-2.3	-3.2	-3.5	-0.6
Federal Government	-2.5	-2.6	-2.4	-2.8	-3.0	-0.5
Entities under direct budgetary control	0.2	0.3	0.3	0.3	0.2	0.4
IMSS	0.1	0.1	0.1	0.1	0.1	0.3
ISSSTE	0.1	0.2	0.2	0.2	0.2	0.1
State-owned production enterprises	-0.2	-0.2	-0.2	-0.6	-0.7	-0.6
PEMEX	-0.3	-0.2	-0.2	-0.8	-0.8	-0.6
CFE	0.1	0.0	0.0	0.2	0.2	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Entities under indirect budgetary control	0.0	0.0	0.0	0.0	-0.1	0.0
Non-budgetary balance	0.0	0.0	0.0	0.0	0.0	0.1
Differences with financing sources	0.0	0.0	0.0	0.0	-0.1	0.0
<b>Primary balance</b>	<b>-0.6</b>	<b>-0.6</b>	<b>-0.4</b>	<b>-1.1</b>	<b>-1.2</b>	<b>0.6</b>
Budget balance	-0.6	-0.6	-0.4	-1.2	-1.2	0.5
Federal Government	-0.9	-1.0	-0.8	-1.1	-1.3	0.5
Organizations and firms	0.2	0.3	0.3	0.3	0.2	0.4

	2011	2012	2013	2014	2015 <sup>a</sup>	2016 (Q2) <sup>a</sup>
IMSS	0.1	0.1	0.1	0.1	0.1	0.3
ISSSTE	0.1	0.2	0.2	0.2	0.2	0.1
State-owned production enterprises	0.0	0.1	0.1	-0.3	-0.2	-0.3
PEMEX	-0.1	0.0	0.0	-0.5	-0.4	-0.4
CFE	0.1	0.1	0.1	0.3	0.2	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Entities under indirect budgetary control	0.0	0.0	0.0	0.0	0.0	0.1
<b>Memorandum items</b>						
Current expenditure	20.1	20.3	20.5	21.1	21.8	9.8
Capital expenditure	4.9	4.8	5.5	5.2	5.2	2.3
Pension spending	2.7	2.7	2.9	3.1	3.2	1.5
Net domestic debt of the federal public sector (Mex\$ billion)	3,258.5	3,770.0	4,230.9	4,804.3	5,379.9	5,412.6
Net external debt of the federal public sector (US\$ million)	113,632	121,659	130,950	145,617	161,610	175,387
Net total debt of the federal public sector (% of GDP)	33.3	34.3	36.9	40.3	45.0	43.0

n.a. Not available.

a Preliminary figures as a percentage of annual GDP.

b As from 2015, information on VAT levied on petrol cannot be obtained from the records on revenue from budgetary income, so it is considered not available.

c In January-June 2016, includes revenue in respect of the remainder of Bank of Mexico operations, amounting to Mex\$239,093.8 million.

d Up to 2014, includes PEMEX own revenue and hydrocarbons levies. As from 2015 includes PEMEX own revenue, transfers from the Mexican Petroleum Fund for Stabilization and Development, and income tax levied on contractors and allocation holders in respect of hydrocarbons production.

e To avoid double-counting of public revenue and expenditure, counterparty operations are excluded, i.e. transactions that represent an income for entities under direct budgetary control and expenditure for the Federal Government (subsidies, transfers and contributions to the ISSSTE).

Note: The subtotals and variations may differ owing to rounding.

Source: Ministry of Finance and Public Credit (SHCP), Government Finance and Budget.

1.19. During the review period, Mexico made a considerable effort to increase its tax revenue (see below). The results of these efforts, implemented mostly since late 2013, can be seen in the growth of tax revenue from 9.7% of GDP in 2013 to 13.1% in 2015. In particular, higher revenue was obtained from income tax (ISR), value added tax (VAT) and the special tax on production and services (IEPS). In 2015, ISR achieved the largest increase in all federal government revenue categories, with total revenue equivalent to 6.8% of GDP. Taxes on foreign trade generate only small amounts, equivalent to 0.2% of GDP, or 0.6% of import value. This reflects the fact that a large proportion of trade is conducted free of duty with preferential partners, particularly the United States.

1.20. As a result of the tax reform and the fall in the oil price, government finances became significantly less dependent on oil revenues during the review period. Whereas hydrocarbons generated 39.4% of total federal public sector income in 2012, and 35.4% in 2013, in the two ensuing years they represented 30.8% and 19.8% of total income, respectively. Oil revenues shrank from 8.6% of GDP in 2012 to 7.1% in 2014, and to 4.7% a year later.

1.21. Budgetary expenditure grew from 25.2% of GDP in 2013 to 27% in 2015. The GDP share of current expenditure rose by 0.8 percentage points between 2012 and 2015. Non-programmable expenses increased by 0.7 percentage points of GDP during the period.

1.22. Total public sector financing requirements remained broadly stable between 2011 and 2013, but rose by around one percentage point as from 2014 (Table 1.3).

1.23. As part of the structural reform process, in late 2013 Mexico introduced a tax reform that aimed to increase revenue collection and make it more efficient. To that end, it adopted several measures, including an expansion of the tax base, a hike in the personal ISR rate, and the

abolition of certain taxes and introduction of new ones, as described in Box 1.1.<sup>14</sup> Measures were also adopted to improve equity by making the tax scale more progressive and eliminating certain deductions and exemptions to increase revenue. Steps were also taken to make it easier for taxpayers to fulfil their obligations by simplifying tax payment and eliminating certain levies, to encourage formality by creating a special regime, and to improve public expenditure quality.<sup>15</sup>

1.24. The tax reform established a structural balance rule for government finances, which made fiscal responsibility a State policy. This rule aims to strengthen macroeconomic management by establishing a medium-term fiscal anchor and by simplifying the regime governing surplus revenue and stabilization funds.

### Box 1.1 Key measures of the 2014 Tax Reform

#### Changes to the Law on Income Tax (ISR)

The reform abolished the flat-rate business tax (IETU) and the tax on cash deposits (IDE), and passed a new Income Tax Law, which expands the corresponding tax base so as to generate the same revenue as the three taxes that existed in 2013. Tax payments were also simplified, by eliminating most of the preferential regimes and special treatments. To simplify and promote formality among private individuals engaging in business activities, the tax inclusion regime (RIF) was created, as a temporary arrangement offering graduated discounts on the payment of income tax over a ten-year period for taxpayers joining the regime. The reform also created a specific ISR payment regime for the primary and road transport sectors.

The immediate deduction incentive for investment was abolished.

A ceiling was placed on the percentage of employee tax-exempt income that can be claimed by the company as an ISR-deductible expense.

Measures were introduced to make the personal tax scale more progressive:

- the reform established a 10% tax on personal income from capital gains obtained from the sale of shares on the stock exchange and dividend distribution;
- a global limit was set for personal income tax deductions;
- the marginal ISR rate was raised from 30% to 32% for taxpayers with annual incomes of at least Mex\$750,000, 34% for those with annual incomes above Mex\$1 million and 35% for annual incomes above Mex\$3 million;
- adjustments were made to the maquila regime;
- personal deductions were capped at four times the annualized minimum wage or 10% of the taxpayer's annual income, whichever is smaller.

#### Law on Value Added Tax (VAT)

The changes made to VAT aim to eliminate or downsize special regimes.

The changes made include alignment of the rate payable at the border with that applicable in the rest of the country, and abolition of the exemption for temporary imports. Prior to the reform, operations in the border zone were taxed at a preferential rate of 11%. Since the reform, the 16% rate has been applied throughout the country. In addition, the zero-rating of pet food and chewing gum was abolished.

#### Green taxes

- A flat-rate tax on fossil fuels was established, based on carbon content. In 2015, the rates charged on different types of fuel were as follows: propane: Mex\$5.91 cents per litre; butane: Mex\$7.66 cents per litre; gasoline (petrol) and aviation fuel: Mex\$10.38 cents per litre; jet fuel and other kerosenes: Mex\$12.40 cents per litre; diesel: Mex\$12.59 cents per litre; fuel oil: Mex\$13.45 cents per litre; petroleum coke: Mex\$15.60 per tonne; coking coal: Mex\$36.57 per tonne; coal: Mex\$27.54 per tonne; other fossil fuels: Mex\$39.80 per tonne of carbon contained in the fuel. The amount of the tax will be adjusted annually according to the variation in the national consumer price index, so as to remain constant in real terms.
- The reform also introduced an *ad valorem* tax on pesticides, herbicides and fungicides, based on the product's toxicity category, with rates of between 0% and 9% as from 2015 (in 2014 the rates were between 0% and 4.5%). In the case of imports, the tax base is the value used for tariff purposes, plus other levies payable, except for VAT.

#### Taxes on products harmful to health

The reform created taxes that discourage the consumption of goods that are harmful to health because of their effect on obesity and associated diseases:

- A tax of Mex\$1 per litre was imposed on beverages containing added sugar.
- An 8% tax was imposed on high-calorie non-staple foods.
- Basic consumer foods, e.g. those belonging to the maize and wheat chains, and other cereal foods not containing sugar, were exempted from the tax.

<sup>14</sup> Government of Mexico (2014), *Reforma de la Hacienda Pública. Resumen Ejecutivo*. Viewed at: <http://bibliotecadigital.tamaulipas.gob.mx/archivos/descargas/9242255a20e055e6430a107fe5c331160a43fa4f.pdf>.

<sup>15</sup> Government of Mexico (2014), *Explicación Ampliada de la Reforma Hacendaria*. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/2926/Explicaci\\_n\\_Ampliada\\_de\\_la\\_Reforma\\_Educativa.pdf](https://www.gob.mx/cms/uploads/attachment/file/2926/Explicaci_n_Ampliada_de_la_Reforma_Educativa.pdf).

**Reform to the Mining Tax Regime (new Federal Law on Duty (LFD) of 11 December 2013)**

The reform established additional levies on mining activities, designed to enable the State to obtain revenue more efficiently and in proportion to the economic value generated. Three new levies were created under the LFD:

- the special 7.5% levy on net profit from the disposal or sale of the extractive activity;
- the extraordinary mining levy, corresponding to 0.5% of the proceeds obtained from sales of gold, silver and platinum; and
- an additional mining levy per hectare in concession areas that are not being explored or worked. It consists of 50% of the top rate of the mining levy and applies to concession holders that do not undertake demonstrable exploration and production works in two consecutive years, during the first 11 years of the concession, counted from the date of issuance of the respective title. The rate will be increased by 100% if the inactivity continues in the 12th year and beyond.

The additional revenues generated by the new mining regime will mainly benefit the localities where mining activity is carried on. Municipal governments in those localities will receive 50% of the proceeds, the states will receive 30% and the Federal Government 20%.

A tax incentive is granted to the holders of mining concessions and allocations whose total gross income per year from the sale or disposal of minerals is less than Mex\$50 million, by allowing the special mining levy to be credited against the income tax payable by the mining concession or allocation holders.

**Fight against informality**

The tax inclusion regime (RIF) was created to provide a path to formality for firms and their workers. The objective is to encourage non-tax-paying firms and individuals to formalize their activities, by allowing them to start paying income tax at reduced rates. A graduated payments schedule is offered spanning a maximum 11-year period, in which no tax is paid in the first year, but the payment proportion rises by 10 percentage points in each subsequent year until the ISR is being paid in full.

Source: Ministry of Finance and Public Credit (SHCP).

1.25. The IMF welcomed Mexico's efforts to enhance fiscal discipline and accountability, while at the same time retaining sufficient flexibility to respond to changing circumstances. In the context of the Article IV Consultation held in 2015, the Fund recommended that the authorities explore possible initiatives to further strengthen the Fiscal Responsibility Law over time, including consideration of a long-term nominal anchor and tighter exceptional circumstance clauses, as well as institutional enhancements. The IMF also expressed its support for the proposed fiscal responsibility framework for state and local governments, stressing that capacity building at the local government level is key to its implementation.<sup>16</sup>

1.26. The public sector's net total debt grew relative to GDP during the review period, from 34.2% in 2012 to 45% in 2015. The pace of growth accelerated in both 2014 and 2015, with debt levels rising by about 4.5 percentage points of GDP in each of these years. Domestic debt represented around two thirds of the total, and external debt accounted for the other third. Despite the recent increase, the IMF expects the public debt to be held at sustainable levels, given the moderate recovery of the economy in the medium term and the commitment that has been assumed to reduce the fiscal deficit. The IMF recommended an amendment to the Fiscal Responsibility Law to include an explicit ceiling on the NFPS deficit, corresponding to a desirable expansion path for the public debt.<sup>17</sup> According to the authorities, this suggestion was addressed through an amendment to the LFPRH, which provided that, as from 2015, the public sector borrowing requirement (PSBR) may not exceed 2.5% of GDP. In 2009-2014, the PSBR averaged 4.2% of GDP.

**1.1.3 Monetary and exchange rate policy**

1.27. The Bank of Mexico (Banxico) is responsible for formulating, implementing and supervising monetary policies. Article 28 of the Constitution defines the bank's prime objective as maintaining stability in the purchasing power of the currency. Article 51 of the bank's Charter (Law on the Bank of Mexico) requires it to send a document to the Federal Government and Congress setting out the monetary policy to be pursued in the year ahead. A legal amendment introduced in January 2014 expanded that requirement, by also requiring the bank to submit a report to the Federal Government and Congress, no later than 45 business days after the end of each quarter, on inflation, economic trends, and the behaviour of the country's economic indicators in the

<sup>16</sup> IMF (2015), Press Release No. 15/519: *IMF Executive Board Concludes 2015 Article IV Consultation with Mexico*. Viewed at: <http://www.imf.org/es/News/Articles/2015/09/14/01/49/pr15519>.

<sup>17</sup> IMF staff suggest that a fixed ceiling of 2.5% of GDP could be set for 2019 and beyond. IMF (2015), *IMF Country Report No. 15/313. Mexico 2015 Article IV Consultation—Press Release; and Staff Report*. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2015/cr15313.pdf>.

quarter in question, also covering monetary policy execution for the quarter and the bank's activities during the period.<sup>18</sup>

1.28. Since 2001, Banxico has been operating an inflation targeting scheme, to provide a framework for its conduct of monetary policy. It has defined the permanent goal of attaining annual inflation of 3%, as measured by the national consumer price index (INPC), and holding it in a range of plus or minus one percentage point around that level.<sup>19</sup>

1.29. To meet the inflation target, the bank uses monetary instruments such as the management of interest rates and open-market operations. The overnight interbank interest rate is the target variable used to attain the inflation target.<sup>20</sup>

1.30. During the review period, as many as three subperiods can clearly be identified in relation to the conduct of monetary policy. Throughout 2012 and in the first two months of the following year, the policy stance was broadly neutral, as the Board of Directors of the Bank of Mexico kept the target interest rate at 4.5%. In March 2013, the rate was cut to 4%; and between the middle of that year and late 2015, monetary policy was expansionary, as the bank lowered the target rate on two further occasions in the last four months of 2013, to a level of 3.5%, and once again in June 2014, to 3%. The rate remained at that level until December 2015 when a change of trend occurred, and the target rate was raised to 3.25%. Since then, monetary policy has been progressively tightened, with three hikes in the target interest rate during the first nine months of 2016, to reach a level of 4.75% in October.<sup>21</sup>

1.31. Reflecting the relatively expansionary policy in 2011-2015, the monetary base grew at an annual average rate of 12.4%, and the monetary aggregates M1 and M4 behaved in a similar way (Table 1.4).

**Table 1.4 Main monetary indicators, 2011-2016 Q3**

	2011	2012	2013	2014	2015	2016 Q3 <sup>a</sup>
<b>Monetary aggregates</b>						
Monetary base (annual variation, %) <sup>b</sup>	10.1	10.8	8.5	15.8	16.8	16.7
M1 (annual variation, %)	13.6	9.5	10.3	14.5	16.4	14.2
M4 (annual variation, %)	16.1	14.5	9.1	12.4	5.7	7.7
<b>Interest rates (period average)</b>						
Target rate	4.5	4.5	4.0	3.2	3.0	3.8
28-day Cetes (Treasury bill) rate	4.2	4.2	3.8	3.0	3.0	3.8
28-day TIIE rate (Interbank Equilibrium Interest Rate)	4.8	4.8	4.3	3.5	3.3	4.2
20-year Treasury bond rate (constant maturity rate)	3.62	2.54	3.12	3.07	2.55	2.13
<b>Inflation (12-month variation, end of period)</b>						
Inflation target	3.0+/-1.0	3.0+/-1.0	3.0+/-1.0	3.0+/-1.0	3.0+/-1.0	3.0+/-1.0
National Consumer Price Index (INPC, end of period)	3.8	3.6	4.0	4.1	2.1	3.0
National Consumer Price Index (INPC, annual average)	3.4	4.1	3.8	4.0	2.7	2.7
National Producer Price Index (INPP, end of period)	5.7	1.5	1.7	3.7	4.2	6.2
<b>Exchange rate</b>						
Exchange rate, end of period (Mex\$/US\$)	14.0	13.0	13.1	14.7	17.2	19.4
Exchange rate, average (Mex\$/US\$)	12.4	13.2	12.8	13.3	15.9	18.3

<sup>18</sup> The amendment was published in the Official Journal of 10 January 2014.

<sup>19</sup> Bank of Mexico (2016), *Quarterly Report, April-June 2016*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html>.

<sup>20</sup> Interest rate on interbank overnight funding operations.

<sup>21</sup> Bank of Mexico economic information system. Viewed at: <http://www.banxico.org.mx/SieInternet/consultarDirectorioInternetAction.do?accion=consultarCuadroAnalitico&idCuadro=CA51&sectorDescripcion=Precios&locale=es>; and Bank of Mexico (2016), *Quarterly Report, April-June 2016*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html>.

	2011	2012	2013	2014	2015	2016 Q3 <sup>a</sup>
Real effective exchange rate (1990=100) <sup>c</sup>	82.8	83.9	77.5	77.0	82.0	94.0
Real effective exchange rate, annual variation (%)	1.5	1.3	-7.6	-0.7	6.5	16.0

- a Preliminary figures.  
b Monetary base consisting of banknotes and coins in circulation and current account deposits held by commercial banks at the Bank of Mexico.  
c Estimated on the basis of the INPC with respect to a basket of 111 countries, weighted by each country's GDP.

Source: Statistical information from the Bank of Mexico, viewed at: <http://www.banxico.org.mx/>; Bank of Mexico (2016), Annual Report 2015, viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/anual/%7B2E95603A-807F-5308-402E-1D0CD179C999%7D.pdf>; and online information from INEGI, viewed at: <http://www.inegi.org.mx>.

1.32. As noted above, the Bank of Mexico placed emphasis on the permanent inflation target of 3% during the review period<sup>22</sup>, but the INPC breached the target with end-period rises of 4% in 2013 and 4.1% in the following year. Since 2015 however, inflation has eased, thanks partly to lower raw materials prices, plus the beneficial effects of the structural reforms which led to lower prices on some widely used inputs — such as the rates charged for telecommunication services and the prices of certain energy products — and supported by an appreciating dollar. In 2015, the INPC was held below 3%, dropping to levels of 2.1% (end of period) and 2.7% (annual average) (Table 1.4). According to INEGI data published on the Bank of Mexico portal in 2016, the variation in the INPC was below the upper limit of the fluctuation band, recording annual average inflation of 2.7% for the general index in September that year. Nonetheless, core inflation in the same period was slightly higher, around 3%, compared to a headline rate of 2%.<sup>23</sup> This reflects the positive effect of fuel and food prices, which are the most volatile components of the INPC.

1.33. The Bank of Mexico expects annual general inflation to rise gradually in the near future, and it envisages a level very close to 3% by the end of 2016 and a lower average for the year as a whole. It was also expecting annual core inflation to rise gradually throughout 2016, to end the year close to 3%. For 2017, the bank anticipates that both the headline and core inflation rates will be around the permanent inflation target. Upside risks for inflation include: (i) a subsequent depreciation of the Mexican peso, which could affect inflation expectations and the behaviour of prices; and (ii) increases in the prices of agricultural products. Downside risks include: (i) further reductions in the prices of some widely used inputs, such as telecommunication services, as a consequence of the structural reforms; and (ii) economic activity continuing weaker than expected.<sup>24</sup>

1.34. Exchange-rate policy in Mexico is the responsibility of the Foreign Exchange Commission, consisting of officials from the Ministry of Finance and Public Credit and the Bank of Mexico. Since late 1994, Mexico has operated a flexible exchange-rate regime, in which the rate is freely determined by market forces alone.<sup>25</sup> The Foreign Exchange Commission intervenes on the market by holding dollar auctions in situations of volatility.

#### 1.1.4 Balance of payments

1.35. The current account of Mexico's balance of payments recorded a modest shortfall throughout 2011-2015, and remained in deficit in the first half of 2016. The financial account, in contrast, has posted large surpluses (Chart 1.1), enabling reserves to be accumulated throughout most of the period, except in 2015.

<sup>22</sup> Bank of Mexico (2016), Press Release of 29 September 2016. *Anuncio de Política Monetaria: La Junta de Gobierno del Banco de México ha decidido aumentar en 50 puntos base el objetivo para la Tasa de Interés Interbancaria a un día a un nivel de 4.75%*. Viewed at: <http://www.banxico.org.mx/informacion-para-la-prensa/comunicados/politica-monetaria/boletines/%7B6D1F08BB-D257-6F47-5C57-389240925D55%7D.pdf>.

<sup>23</sup> Online statistical data from the Bank of Mexico. Viewed at: <http://www.banxico.org.mx/portal-inflacion/index.htm>.

<sup>24</sup> Bank of Mexico (2016), *Quarterly Report, April-June 2016, Summary*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html>.

<sup>25</sup> Online data from the Bank of Mexico. Viewed at: <http://www.banxico.org.mx/ayuda/temas-mas-consultados/politica-cambiaria.html>.

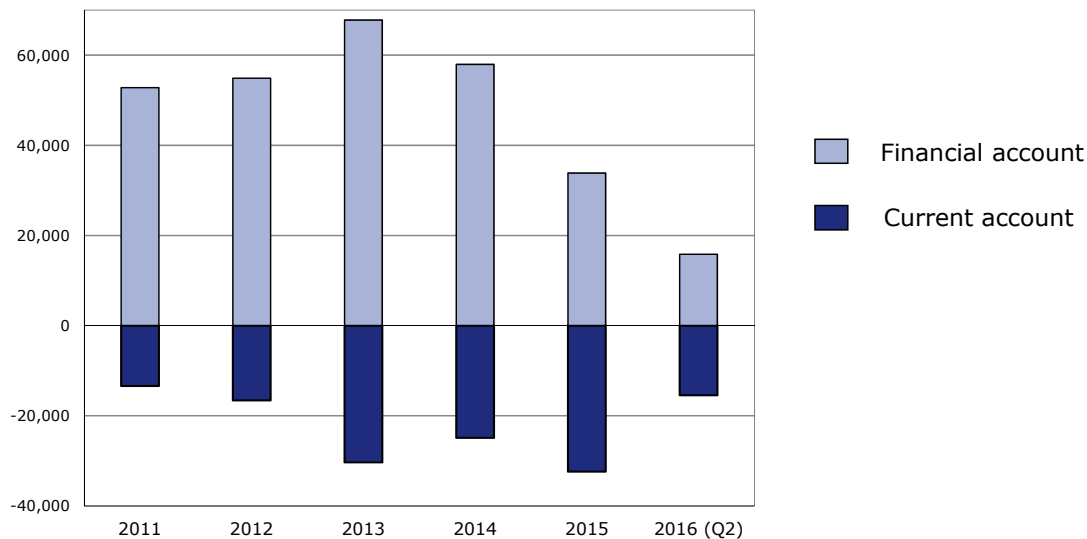


1.36. The balance-of-payments current account deficit averaged US\$24,175 million per year in 2011-2015. In 2011 and 2012, the deficit was held at US\$13,985 million (1.2% of GDP) and US\$16,957 million (1.4% of GDP), respectively; but in the ensuing years the gap widened to US\$30,978 million in 2013 (2.5% of GDP) and to US\$26,249 million (2.0% of GDP) in the following year, owing to larger deficits in services trade and on the income account (Table 1.5 and Chart 1.1). Broadly speaking, in addition to this and the deterioration in the oil balance, a narrowing of the transfers surplus (remittances) contributed to a worsening current account deficit, particularly between 2011 and 2013. The level of remittances has been rising again since 2014, however, and its upward trend continued in 2016.

1.37. In 2015, the merchandise trade balance posted a deficit of US\$14,609 million (1.3% of GDP). The current account deficit amounted to US\$32,707 million (2.9% of GDP). The change in the current account balance between 2014 and 2015 is mainly explained by the deterioration in the oil balance. Excluding oil, the current account recorded a deficit of 2% of GDP in 2015, similar to the year-earlier result.<sup>26</sup>

**Chart 1.1 Current account and financial account of the balance of payments, 2011-2016 (Q2)**

US\$ million



Source: Bank of Mexico.

**Table 1.5 Balance of payments, 2011-2016 (Q2)**

(US\$ million)

	2011	2012	2013	2014	2015 <sup>a</sup>	2016 (Q2) <sup>a</sup>
<b>Current account (% of GDP)</b>	<b>-1.2</b>	<b>-1.4</b>	<b>-2.5</b>	<b>-2.0</b>	<b>-2.9</b>	<b>-3.0</b>
<b>Current account</b>	<b>-13,985</b>	<b>-16,957</b>	<b>-30,978</b>	<b>-26,249</b>	<b>-32,707</b>	<b>-15,449</b>
<b>Credits</b>	<b>399,306</b>	<b>423,510</b>	<b>434,891</b>	<b>454,080</b>	<b>437,309</b>	<b>207,979</b>
<b>Goods and services</b>	<b>365,586</b>	<b>387,587</b>	<b>400,923</b>	<b>418,735</b>	<b>403,936</b>	<b>191,167</b>
<b>Goods</b>	<b>350,004</b>	<b>371,442</b>	<b>380,729</b>	<b>397,650</b>	<b>381,049</b>	<b>179,001</b>
General merchandise	349,433	370,770	380,015	396,912	380,623	178,831
Goods procured in ports by carriers	571	672	714	738	426	170
<b>Services</b>	<b>15,582</b>	<b>16,146</b>	<b>20,194</b>	<b>21,086</b>	<b>22,886</b>	<b>12,166</b>
Tourism	10,006	10,766	11,854	14,320	15,826	9,071
Short-stay visitors	1,862	1,973	2,095	1,888	1,908	992
Miscellaneous transport	1,037	961	801	866	1,428	696
Other	2,676	2,445	5,444	4,011	3,724	1,407
<b>Income</b>	<b>10,569</b>	<b>13,154</b>	<b>11,320</b>	<b>11,319</b>	<b>8,168</b>	<b>3,448</b>
Interest	3,475	2,671	2,391	2,309	2,470	1,300
Other	7,094	10,483	8,929	9,010	5,698	2,149
<b>Transfers</b>	<b>23,152</b>	<b>22,768</b>	<b>22,649</b>	<b>24,026</b>	<b>25,206</b>	<b>13,364</b>
Family remittances	22,803	22,438	22,303	23,647	24,785	13,156

<sup>26</sup> Bank of Mexico (2016), *Quarterly Report, April-June 2016. Summary*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/trimestral-inflacion/indexpage001.html>.

	2011	2012	2013	2014	2015 <sup>a</sup>	2016 (Q2) <sup>a</sup>
Other	349	330	346	379	421	207
<b>Debits</b>	<b>413,291</b>	<b>440,467</b>	<b>465,870</b>	<b>480,329</b>	<b>470,016</b>	<b>223,428</b>
<b>Goods and services</b>	<b>381,584</b>	<b>401,301</b>	<b>412,815</b>	<b>433,977</b>	<b>427,629</b>	<b>201,061</b>
<b>Goods</b>	<b>351,209</b>	<b>371,151</b>	<b>381,638</b>	<b>400,440</b>	<b>395,573</b>	<b>186,081</b>
General merchandise	350,843	370,752	381,210	399,977	395,232	185,947
Goods procured in ports by carriers	366	399	428	462	341	134
<b>Services</b>	<b>30,375</b>	<b>30,150</b>	<b>31,177</b>	<b>33,537</b>	<b>32,056</b>	<b>14,980</b>
Freight and insurance	10,225	9,726	9,755	11,604	10,048	4,953
Tourism	5,014	5,549	6,025	6,611	7,026	3,138
Short-stay visitors	2,818	2,900	3,097	2,995	3,072	1,543
Miscellaneous transport	2,524	3,053	3,664	3,815	3,565	1,590
Commissions	452	272	228	326	302	83
Other	9,342	8,650	8,407	8,186	8,043	3,673
<b>Income</b>	<b>31,529</b>	<b>38,957</b>	<b>52,059</b>	<b>45,241</b>	<b>41,481</b>	<b>22,003</b>
Repatriated earnings	3,695	8,629	11,908	4,374	5,390	2,459
Reinvested earnings	10,015	9,869	16,725	15,166	10,228	6,263
Interest	17,819	20,458	23,426	25,701	25,864	13,280
Public sector	9,557	11,728	13,264	13,775	13,402	6,884
Private sector	8,262	8,730	10,162	11,926	12,461	6,396
Transfers	178	209	995	1,111	905	365
<b>Financial account</b>	<b>53,420</b>	<b>55,132</b>	<b>68,895</b>	<b>60,144</b>	<b>32,629</b>	<b>15,819</b>
Foreign direct investment	11,916	-1,922	33,764	19,485	19,930	11,082
In Mexico	24,552	20,548	46,903	26,948	32,056	14,385
Abroad	-12,636	-22,470	-13,138	-7,463	-12,126	-3,303
Portfolio investment	47,836	73,348	49,032	46,345	27,972	7,370
Liabilities	42,512	81,842	51,119	47,079	20,377	7,572
Public sector	36,975	56,869	33,156	36,019	16,923	2,647
Securities issued abroad	5,326	10,226	11,184	12,956	15,663	14,015
Money market	31,650	46,643	21,973	23,063	1,260	-11,368
Private sector	5,537	24,973	17,963	11,060	3,454	4,924
Securities issued abroad	12,101	15,099	18,905	6,227	-147	1,165
Equity market and money market	-6,564	9,873	-942	4,833	3,601	3,759
PIDIREGAS	0	0	0	0	0	0
Assets	5,324	-8,494	-2,086	-734	7,596	-201
Other investment	-6,332	-16,295	-13,901	-5,686	-15,273	-2,633
Liabilities	-2,659	-10,021	13,378	15,224	-2,421	10,348
Public sector	302	-1,432	-2,553	3,133	320	2,737
Development banks	-283	398	426	870	-651	-465
Bank of Mexico	0	0	0	0	0	0
Non-bank sector	585	-1,830	-2,980	2,263	971	3,202
Private sector	-2,961	-8,589	15,931	12,091	-2,741	7,611
Commercial banks	-2,931	-5,856	13,811	6,206	-3,208	6,908
Non-bank sector	-29	-2,733	2,120	5,885	467	703
PIDIREGAS	0	0	0	0	0	0
Assets	-3,674	-6,274	-27,279	-20,910	-12,853	-12,981
<b>Errors and omissions</b>	<b>-11,255</b>	<b>-20,651</b>	<b>-20,128</b>	<b>-17,566</b>	<b>-15,589</b>	<b>-1,371</b>
<b>Variation in gross international reserves</b>	<b>28,621</b>	<b>17,841</b>	<b>13,150</b>	<b>15,482</b>	<b>-18,085</b>	<b>1,233</b>
<b>Adjustments for revaluation</b>	<b>-441</b>	<b>-317</b>	<b>4,639</b>	<b>847</b>	<b>2,418</b>	<b>-2,234</b>
<b>Balance of goods and services</b>	<b>-15,998</b>	<b>-13,713</b>	<b>-11,893</b>	<b>-15,241</b>	<b>-23,694</b>	<b>-9,894</b>
<b>Balance of goods</b>	<b>-1,205</b>	<b>291</b>	<b>-909</b>	<b>-2,790</b>	<b>-14,524</b>	<b>-7,080</b>
<b>Balance of services</b>	<b>-14,793</b>	<b>-14,005</b>	<b>-10,983</b>	<b>-12,451</b>	<b>-9,170</b>	<b>-2,814</b>
<b>Balance of income</b>	<b>-20,960</b>	<b>-25,802</b>	<b>-40,739</b>	<b>-33,922</b>	<b>-33,314</b>	<b>-18,554</b>

a Preliminary figures.

Note: The subtotals may not agree with the total owing to rounding errors.

Source: Bank of Mexico.

1.38. The surplus on the financial account of the balance of payments grew considerably during the review period, largely reflecting increases in foreign direct investment (FDI) and portfolio investment. The largest surplus was recorded in 2013, at US\$68,895 million, but in 2011, 2012 and 2014 the surplus also remained above US\$50 billion. This trend was reversed as from 2015, when the financial surplus narrowed sharply to US\$32,629 million, 46% smaller than in the previous year, owing to the reduction in portfolio investment mainly in short-term instruments (Cetes), whereas the longer-term instruments (bonds) have continued to grow. This downward trend continued in the first half of 2016.

1.39. The authorities are forecasting deficits on the trade and current accounts in 2016, similar to those of the previous year (1.5% and 3.1% of GDP, respectively). For 2017, the corresponding deficits are forecast at 1.4% and 3.2%.<sup>27</sup>

## 1.2 Trend of trade and investment flows

### 1.2.1 Merchandise trade

1.40. The growth of merchandise trade slowed during the review period. Between 2012 and 2015, exports grew by just 2.7% in dollar terms (Chart 1.2 and Table A1.1), reflecting the drop in oil exports in particular, while imports expanded by just 6.6% (Table A1.2).<sup>28</sup> Merchandise exports in 2015 totalled US\$380,623 million, and imports came in at US\$395,232 million. Figures for the first half of 2016 show merchandise exports at US\$178,831 million, and imports at US\$185,947 million.

#### 1.2.1.1 Composition of merchandise trade

1.41. Mexico's exports are dominated by manufactures, which represented 85% of the total in 2015, while agricultural products accounted for less than 8%, and oil products and those of the extractive industries, 7.2% (Chart 1.2). The latter percentage stands in contrast to the proportion recorded at the start of the review period, because in 2012, oil and other extractive industry products generated 15.5% of total exports. The change mainly reflects the fall in the value of oil exports in the wake of lower oil prices.

1.42. The leading manufacturing exports continue to be electrical machinery and appliances, and transport equipment, which jointly represented 57.6% of total exports in 2015. Exports of electrical machinery, appliances and equipment account for 20.6% of the total, with products for the automotive industry representing 21.1% (Table A1.1).

1.43. The maquila industry continues to be very important for Mexico's foreign trade, since almost three quarters of the country's exports (74.6%) benefited from this regime in 2015. The composition of maquila exports is biased towards manufactures, particularly electrical machinery and appliances, and transport equipment, which jointly accounted for 77.6% of maquila exports in that year (Table A1.2 and Chart 1.3).

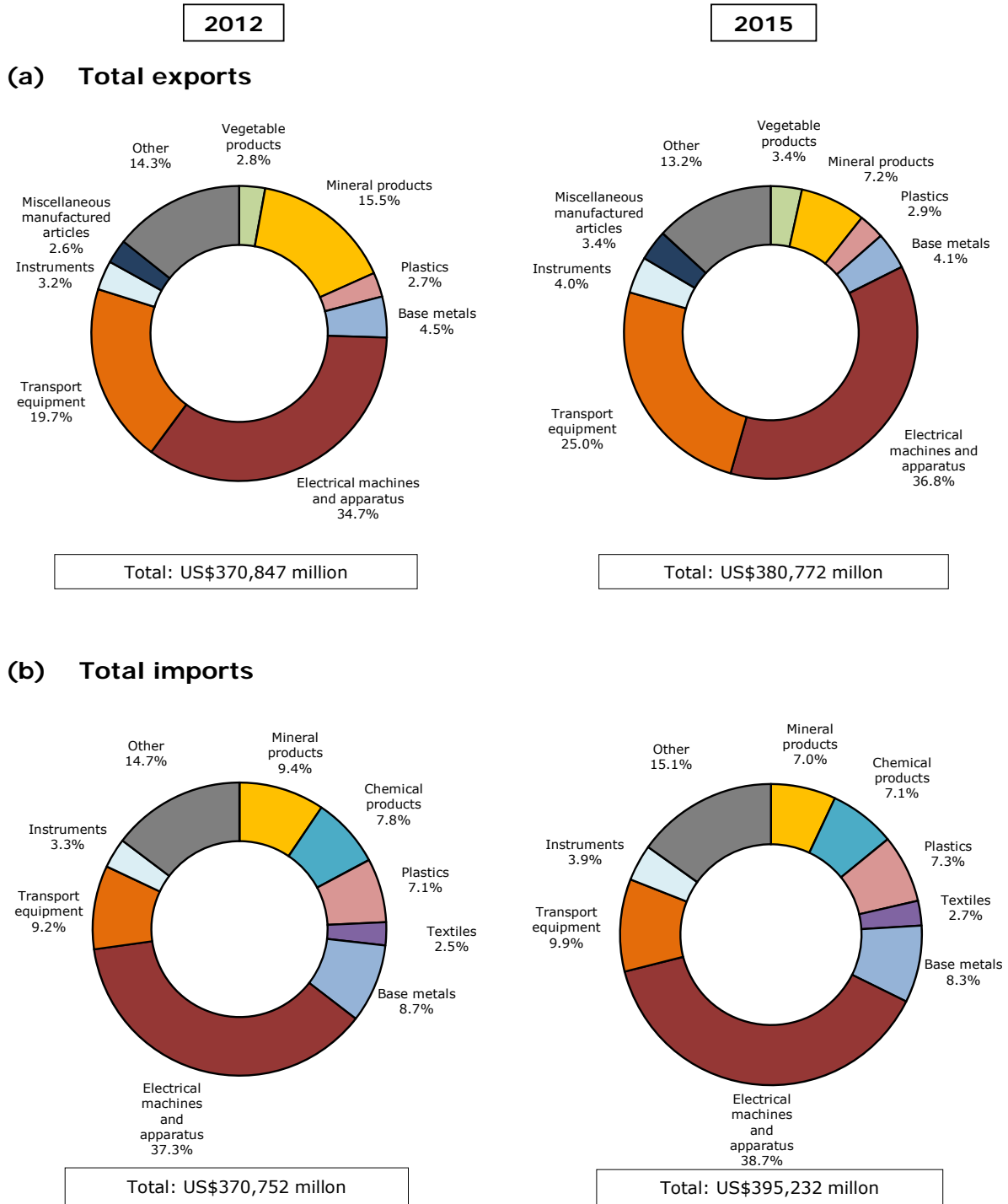
1.44. Imports and exports have similar structures. The main import products are electrical machinery and appliances, along with transport equipment (47.4% of total imports), particularly electrical machinery, appliances and equipment (21.5%), and products for the automotive industry (9%) (Table A1.3 and Chart 1.2).

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<sup>27</sup> Idem.

<sup>28</sup> The authorities do not consider that Mexico is suffering from a loss of competitiveness, because the slowdown partly reflects the weakness of global growth. They point out that Mexico's share in United States imports increased during the review period, while its exports to the rest of the world did not lose market share. Moreover, although oil exports suffered a very powerful shock for reasons unrelated to Mexico, the country's manufactured exports trended positively between 2012 and 2014.

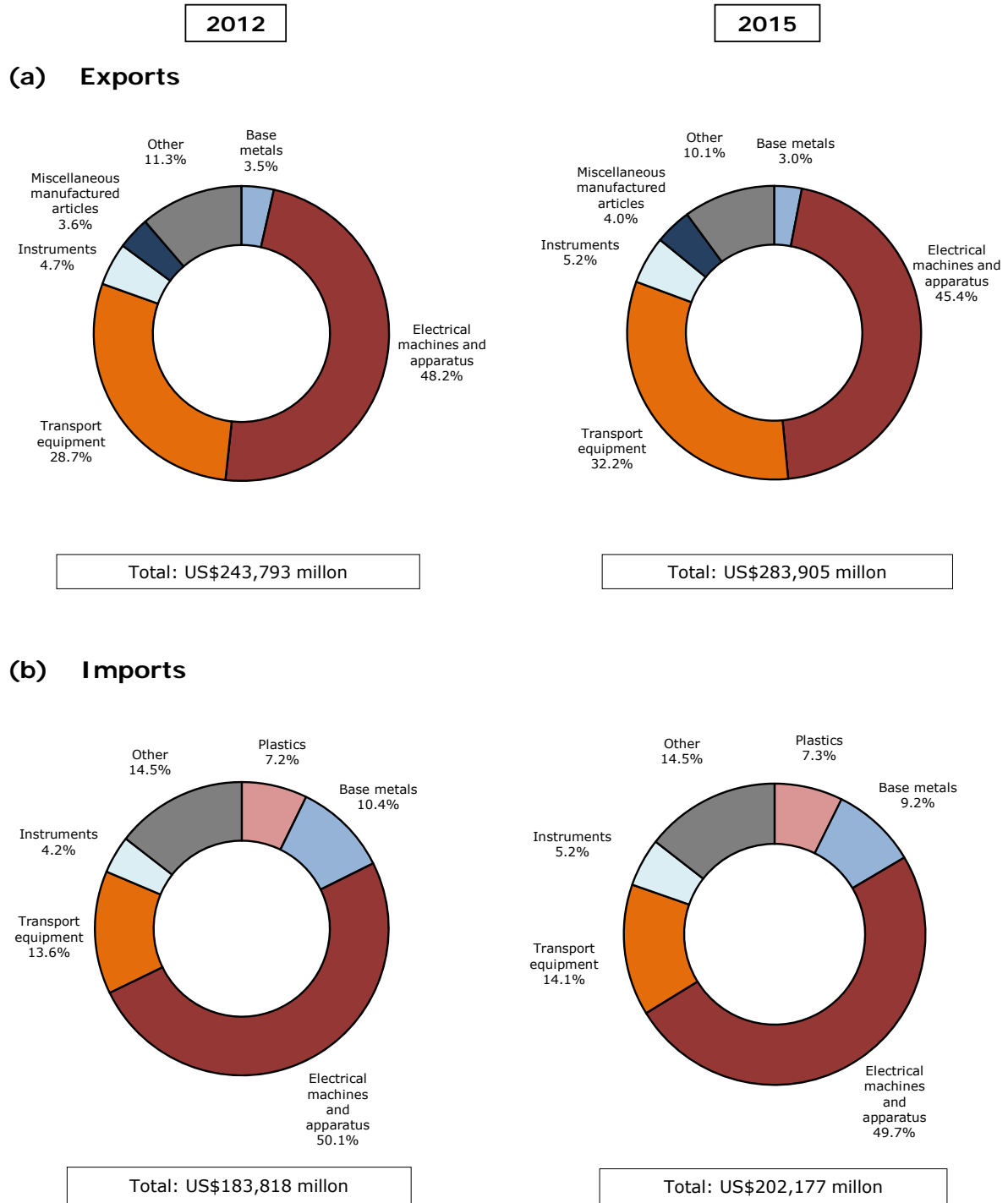
Chart 1.2 Merchandise trade by main HS Section, 2012 and 2015



Source: WTO Secretariat estimates, based on data provided by the authorities.

1.45. Imports absorbed by the maquila industry for processing and subsequent re-export, or else to be incorporated as inputs or parts, represented 51.1% of total Mexican imports in 2015 (Table A1.4 and Chart 1.3).

Chart 1.3 Trade in goods for processing (maquila) by HS Section, 2012 and 2015



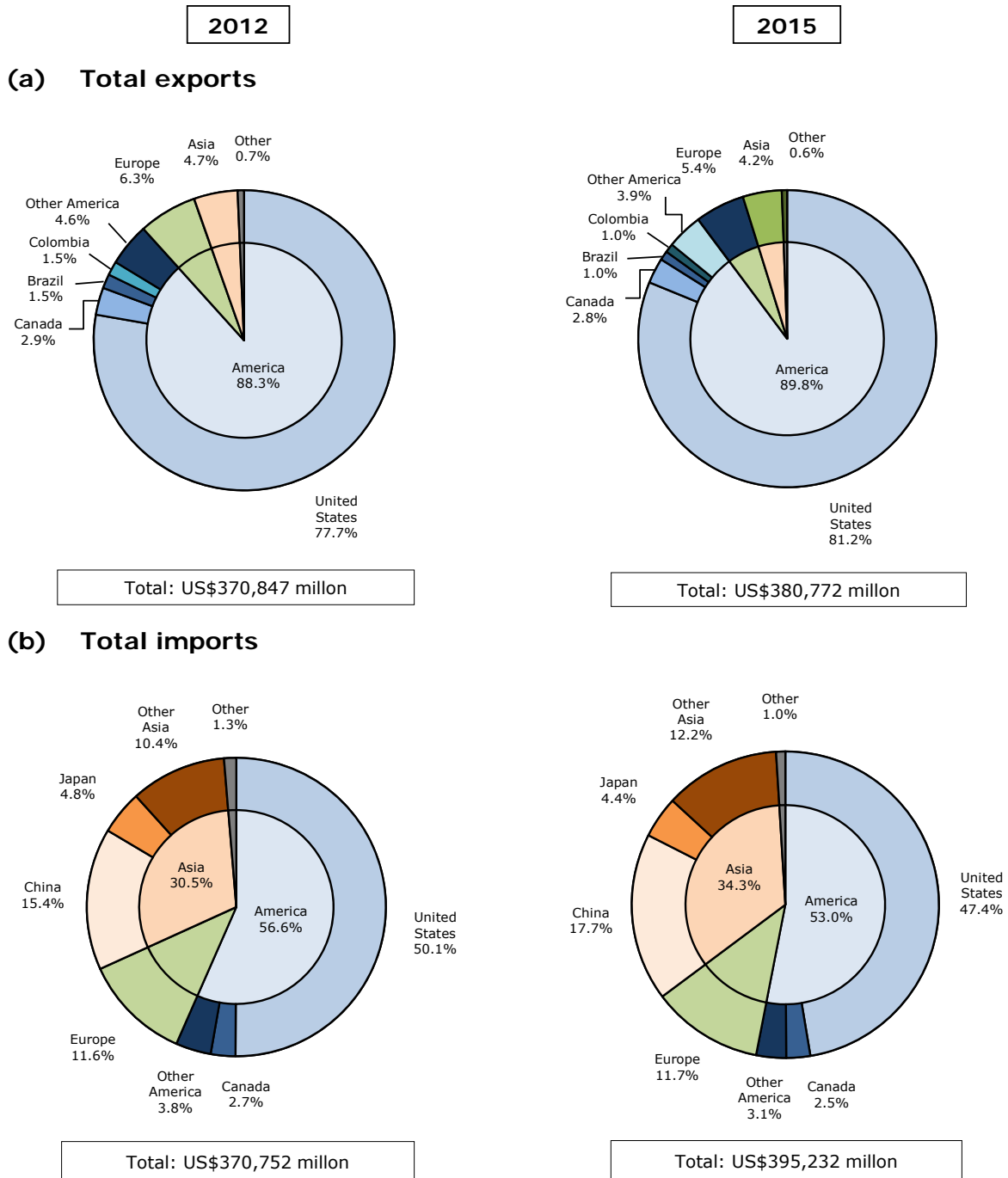
Source: WTO Secretariat estimates, based on data provided by the authorities.

1.2.1.2 Direction of merchandise trade

1.46. Mexico's export markets remain highly concentrated, with its main trading partner, the United States, increasing its share of total exports from 77.7% in 2012 to 81.2% in 2015. Much of

this trade is intra-industry, or else corresponds to linkages within global value chains, reflecting the heavy presence of assembly industries (Chart 1.4).<sup>29</sup>

**Chart 1.4 Merchandise trade by trading partner, 2012 and 2015**



Source: WTO Secretariat estimates, based on data provided by the authorities.

1.47. The second largest export market on the American continent is Canada, which received 2.8% of Mexico's total exports in 2015, followed by Brazil and Colombia, which absorbed 1% each.

<sup>29</sup> A recent OECD study shows that imported components represented 32% of the gross value of Mexican exports in 2011. Cadestin, C., Gourson, J., and Kowalski, P. (2016), *Participation in Global Value Chains in Latin America: Implications for Trade and Trade-Related Policy*, OECD Trade Policy Papers, No. 192, Publishing Paris. Viewed at: <http://www.oecd-ilibrary.org/docserver/download/51lpg80ts8f2-en.pdf?expires=1484736750&id=id&accname=quest&checksum=2456CDE3BCFA67F8C63274BE5BC4656E>.

The remainder of Mexico's exports are sent mainly to China (1.3%), followed by Germany and Spain, with 0.9% each (Tables A1.5 and A1.6).

1.48. The United States are also the main source of Mexico's imports, providing 47.4% of the total in 2015. Imports from Asia represented 34.3% of the total, with China accounting for 17.7%, followed by Japan with 4.4% and the Republic of Korea with 3.6%. The European Union was also an important source of Mexican imports, accounting for 11.1% of the total in 2015, mainly from Germany (3.5%) and Italy (1.3%) (Table A1.6 and Chart 1.4).

### 1.2.2 Trade in services

1.49. Mexico's services trade is in deficit, owing mainly to shortfalls in transport and insurance, although all of the main categories show negative balances, except for travel. The overall services trade deficit was US\$14,005 million in 2012 and narrowed to US\$10,983 million in 2013, before widening again to US\$12,451 million in 2014. Preliminary figures suggest a smaller deficit of US\$9,170 million for 2015 (Table 1.6), thanks mainly to increased earnings from travel services and lower transport expenses.

**Table 1.6 Trade in services, 2011-2016 (Q2)**

(US\$ million)

	2011	2012	2013	2014	2015 <sup>a</sup>	2016 (Q2) <sup>a</sup>
<b>Exports</b>	<b>15,582</b>	<b>16,146</b>	<b>20,194</b>	<b>21,086</b>	<b>22,886</b>	<b>12,166</b>
Transport	1,037	961	801	866	1,428	696
Travel-related services	11,869	12,739	13,949	16,208	17,734	10,063
Communication services	237	255	197	184	159	54
Insurance services	2,262	2,015	2,793	3,554	3,171	1,273
Financial services	0	0	0	0	0	0
Royalties and licence fees	97	96	2,373	194	308	80
Other services	81	80	80	80	86	0
<b>Imports</b>	<b>30,375</b>	<b>30,150</b>	<b>31,177</b>	<b>33,537</b>	<b>32,056</b>	<b>14,980</b>
Transport	12,139	12,084	12,704	14,676	12,814	6,117
Travel-related services	7,832	8,449	9,122	9,606	10,098	4,681
Communication services	112	185	160	147	157	64
Insurance services	4,086	3,848	4,835	4,220	4,339	2,335
Financial services	452	272	228	326	302	83
Royalties and licence fees	774	562	524	562	873	303
Other services	4,978	4,751	3,604	4,000	3,473	1,397
<b>Balance of services</b>	<b>-14,793</b>	<b>-14,005</b>	<b>-10,983</b>	<b>-12,451</b>	<b>-9,170</b>	<b>-2,814</b>

a Preliminary figures.

Source: Data provided by the Mexican authorities.

1.50. The main services exports remain those related to travel, which on average accounted for 76% of services exported in 2012-2015, followed by insurance (14.3%) and transport (5.1%). The leading imports of services were transport, representing an average of 41% of the total, followed by travel-related services (29.4%) and insurance (13.6%).

### 1.2.3 Foreign direct investment

1.51. Foreign direct investment (FDI) flows were above US\$20 billion in 2011 and 2012 before doubling to US\$47,514 million in 2013, driven mainly by major investments in manufacturing industry, sourced mainly from the United States and Belgium. The FDI flow was still above US\$20 billion in the following year (US\$27,410 million), before rising again to US\$32,864 million in 2015. In the first nine months of 2016, the FDI flow amounted to US\$19,773 million (Tables 1.7 and 1.8).

1.52. The main FDI-recipient sectors in 2011-2015 were the manufacturing industries, which absorbed an average of 54.4% of all FDI flows, followed by mining (8.5%) and commerce (7.7%).

**Table 1.7 Foreign direct investment by activity, 2011-2016 (Q3)**

(US\$ million)

Sector	2011	2012	2013	2014	2015	2016 (Q3)
Agriculture, forestry, fishing and hunting	127	145	208	169	163	83
Mining	861	3,072	5,568	2,497	1,069	835
Utilities	-29	1,157	1,003	624	746	897
Construction	1,548	1,678	1,031	1,019	2,326	761
Manufacturing	10,947	9,143	30,692	16,576	16,088	12,102
Trade	3,321	2,670	1,530	1,959	2,372	566
Transport, postal and warehousing services	393	1,330	1,482	1,673	2,884	1,180
Information in mass media	1,198	1,185	2,679	-4,132	2,905	185
Financial and insurance services	2,701	-2,489	-254	4,883	2,628	2,377
Real estate, rental and leasing of movable and intangible property	873	771	569	517	296	179
Professional, scientific and technical services	800	771	920	395	403	82
Business support and waste management and remediation services	739	248	545	194	206	47
Educational services	12	9	15	4	15	0
Health and social services	23	43	50	-14	13	16
Leisure, cultural, sporting and other recreational services	109	5	29	105	118	43
Hotel and restaurant services	1,019	1,282	1,388	935	634	413
Other services except public administration	33	25	60	2	0	6
<b>Total</b>	<b>24,677</b>	<b>21,045</b>	<b>47,514</b>	<b>27,410</b>	<b>32,864</b>	<b>19,773</b>

Source: Ministry of the Economy.

1.53. The originators of FDI flows into Mexico continue to be led by the United States, which accounted for an average of 41.5% of the total in 2011-2015, followed by Belgium (10.2%, owing mainly to a single large-scale investment in 2013), and the Netherlands (8%).

**Table 1.8 Foreign direct investment by country of origin, 2011-2016 (Q3)**

(US\$ million)

	2011	2012	2013	2014	2015	2016 (Q3)
United States	12,693	10,164	14,980	8,878	17,051	7,060
Spain	3,693	-400	329	4,433	3,407	2,605
Japan	929	1,829	1,961	1,404	1,660	1,104
Germany	561	994	1,693	1,689	1,451	1,745
Canada	1,474	1,838	4,479	3,021	1,190	1,267
Brazil	297	436	110	595	1,119	713
France	326	532	318	1,085	718	527
Netherlands	2,596	1,640	5,444	1,712	795	362
Korea, Republic of	100	129	425	513	754	677
Australia	22	24	59	19	693	50
United Kingdom	-1,036	512	1,296	258	586	53
Italy	115	254	-742	180	722	576
Switzerland	1,217	299	320	413	323	295
Belgium	179	21	13,254	1,292	867	201
Luxembourg	142	787	1,868	800	254	11
Others	1,367	1,986	1,720	1,116	1,275	2,528
<b>Total</b>	<b>24,677</b>	<b>21,045</b>	<b>47,514</b>	<b>27,410</b>	<b>32,864</b>	<b>19,773</b>

Source: Ministry of the Economy.



## 2 TRADE AND INVESTMENT REGIME

### 2.1 General legal framework

2.1. Mexico is a Federal Republic governed by three powers of State: the Executive, the Legislature and the Judiciary.<sup>1</sup> It comprises 31 states and Mexico City.<sup>2</sup>

2.2. The President of the United Mexican States (hereinafter, Mexico) serves as both Head of Government and Head of State and is elected by universal suffrage every six years for a single, non-renewable term. The President's powers include directing foreign policy and concluding as well as denouncing, suspending and amending international treaties and issuing interpretative statements thereon, subject to Senate approval. The President is also empowered to authorize the operation of all kinds of ports and to establish maritime and border customs offices.<sup>3</sup>

2.3. The Legislature consists of a two-chamber Congress. The Chamber of Deputies comprises 500 deputies elected every three years, and the Senate 128 senators elected every six years.<sup>4</sup> The powers of the Congress include the following: issuing rules to determine the relative value of foreign currency; setting taxes on foreign trade and on public services operated under concessions or directly by the Federation; and enacting laws to promote Mexican investment, as well as regulating foreign investment and technology transfer.<sup>5</sup> The Senate for its part holds exclusive authority to examine the Federal Executive's foreign policy and approve international treaties signed by it.<sup>6</sup> Under the Law on the Approval of International Economic Treaties of 2004, the Senate is empowered to request information from agencies of the Federal Government on the negotiation and conclusion of international treaties relating to trade and other economic issues. According to this Law, for a treaty to be approved, information must be submitted to the Senate regarding the administrative and legislative measures needed for its implementation, and an explanation must be given as to the extent to which the treaty serves the country's interests.

2.4. The Judiciary consists of the National Supreme Court of Justice, the Electoral Tribunal of the Federal Judiciary, collegiate and unitary circuit courts, and district courts.<sup>7</sup> The Supreme Court consists of 11 judges elected by a two-thirds majority of the Senate from a shortlist submitted by the President of the Republic.<sup>8</sup>

2.5. Pursuant to the Political Constitution of the United Mexican States (hereinafter referred to as "the Constitution"), the power to initiate laws or decrees lies with the President of the Republic, congressional deputies and senators, the legislatures of the states, and citizens representing at least 0.13% of the nominal electoral roll. The legislative law-making process can be divided into three stages, which have not changed substantially since 2012 (Box 2.1).

#### Box 2.1 Legislative procedures

The first stage (initiative) is the submission of the draft to either of the two chambers of Congress, unless the draft concerns loans, contributions and taxes, in which case it must be initiated in the Chamber of Deputies.

In the second stage (discussion and approval), the chamber that receives the draft becomes the chamber of origin, while the other becomes the review chamber by default. If a draft is approved in the chamber of origin, it is referred to the review chamber. Three situations may arise:

- a. the review chamber approves the draft, thereby launching the third stage of legislative procedure;
- b. the review chamber rejects the draft in its entirety, returning it to the originating chamber together with the observations it deems appropriate, so that it can be re-examined. If the chamber of origin approves it by an absolute majority of the members present, it returns the draft to the review chamber, which may approve it, thereby triggering the third stage of the procedure, or reject it, in which case the initiative may not be resubmitted during the same congressional session;

<sup>1</sup> Article 49 of the Constitution.

<sup>2</sup> Decree declaring the amendment and repeal of various provisions of the Political Constitution of the United Mexican States regarding policy reform in Mexico City, published in the Official Journal of 29 January 2016.

<sup>3</sup> Article 89 of the Constitution.

<sup>4</sup> Ibid., Articles 51, 52 and 56.

<sup>5</sup> Ibid., Article 73.

<sup>6</sup> Ibid., Article 76.

<sup>7</sup> Ibid., Article 94.

<sup>8</sup> Ibid., Article 96.

- c. the review chamber partially rejects the draft, amends or supplements it, and the chamber of origin must examine only the part that has been rejected or amended. If it is approved by an absolute majority of the members of the chamber, the legislative procedure moves to the third phase; should the chamber of origin reject the amendments by a majority of votes, the draft returns to the review chamber for examination of the reasons given by the chamber of origin. If the changes or additions introduced in the second revision are rejected by an absolute majority in the review chamber, the third stage of the legislative procedure begins only in respect of the part of the draft approved by both chambers.

In the third phase, the Presidents of both chambers sign the approved draft law or decree and forward it to the President of the Republic, who may approve and enact the law or formulate objections to it. In the latter event, the draft is returned to the chamber of origin for reconsideration.

Source: Legislative procedure. Viewed at: <http://www.diputados.gob.mx/bibliot/publica/prosparl/iproce.htm>.

2.6. The legal system has not changed substantially since the preceding review. Under the Constitution, international treaties signed by the President and ratified by the Senate form part of the country's domestic laws and therefore do not require any additional legislative action for them to be enforced or invoked before the country's courts. The Constitution is the highest ranking instrument in the legal hierarchy, followed by international treaties which, as ruled by the Supreme Court, are ranked above Federal and local laws.<sup>9</sup>

## 2.2 Trade policy objectives and formulation

2.7. The foreign trade objectives set out in the National Development Plan for 2013-2018, which is the Government's roadmap for taking Mexico to its full potential.<sup>10</sup> As pertains to international trade (Mexico with global responsibility), the aim is to reaffirm Mexico's commitment to free trade, mobility of capital and integrated production; two strategies have been formulated to this end: (1) furthering and stepping up the policy of trade liberalization in order to boost Mexico's participation in the global economy, and (2) promoting Mexico's regional integration by establishing strategic economic partnerships and deepening existing ones. Emphasis is also placed on the importance of strengthening Mexico's presence in regional and multilateral forums and bodies, including the WTO.

2.8. These goals and strategies are developed in the sectoral programme of the Ministry of the Economy (SE) for 2013-2018 (the Innovative Development Programme), which is based on the National Development Plan. The SE is therefore responsible for formulating and implementing the measures needed to meet the trade-related aims of the National Development Plan.

2.9. There were no significant changes in respect of trade policy formulation during the review period. Under Article 89 of the Constitution, the President is empowered to direct foreign policy and to conclude international treaties.<sup>11</sup> In addition, the Federal Executive has the authority to: impose, change or abolish tariffs by means of decrees published in the Official Journal of the Federation (DOF); regulate, restrict or prohibit the export, import, movement or transit of goods, in circumstances deemed to constitute an emergency; conduct international trade negotiations through the SE; and coordinate, also through the Ministry, the participation of the departments and entities of the Federal Government and of state governments in foreign trade promotion activities, as well as the participation of the private sector.<sup>12</sup>

<sup>9</sup> Judicial Seminar of the Federation, National Supreme Court of Justice, P.IX/2007, April 2007.

<sup>10</sup> National Development Plan 2013-2018 of 20 May 2013. Viewed at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5299465&fecha=20/05/2013](http://www.dof.gob.mx/nota_detalle.php?codigo=5299465&fecha=20/05/2013). This instrument sets out the country's principal public policy objectives, the action needed to attain them and the indicators that will have to be used to measure the outcomes. Five specific national goals are set out (A Mexico at peace; An inclusive Mexico; A Mexico with quality education; A prosperous Mexico; and A Mexico with global responsibility). The Plan also includes three cross-cutting strategies for achieving the nation's targets (Democratizing productivity; Modern governance close to the people; Gender perspective).

<sup>11</sup> Article 89.X of the Constitution.

<sup>12</sup> Article 131 of the Constitution and Article 4 of the Foreign Trade Law of 27 July 1993 (amendment of 21 December 2006).

2.10. The SE remains the key government agency responsible for applying and interpreting the provisions of the Foreign Trade Law, as well as for framing and implementing trade policy.<sup>13</sup> The SE collaborates with other ministries in discharging its functions (Table 2.1).

**Table 2.1 Institutions involved in trade policy**

Ministries	Main functions
The Economy (SE)	<ul style="list-style-type: none"> <li>• Study and propose tariff changes to the Federal Executive;</li> <li>• conduct safeguard investigations and impose the measures resulting from those investigations;</li> <li>• adopt non-tariff measures to regulate or restrict the export, import, movement or transit of goods or modify existing ones;</li> <li>• establish rules of origin;</li> <li>• grant licences and allocate export or import quotas;</li> <li>• formulate country-of-origin marking requirements;</li> <li>• conduct investigations into unfair international trade practices and determine the anti-dumping or countervailing duties resulting from those investigations;</li> <li>• coordinate international trade negotiations;</li> <li>• promote and encourage exports in coordination with the production sectors and public and private sector operators.</li> </ul>
Finance and Public Credit (SHCP)	<ul style="list-style-type: none"> <li>• Organize and direct customs and inspection services;</li> <li>• plan, coordinate, evaluate and monitor the banking system;</li> <li>• set the criteria and overall amounts of fiscal incentives.</li> </ul>
Foreign Affairs	<ul style="list-style-type: none"> <li>• Conduct foreign policy, and hence be involved in any kind of treaty, agreement and convention to which Mexico may be party;</li> <li>• help promote Mexico's trade and tourism.</li> </ul>
Agriculture, Livestock, Rural Development, Fisheries and Food	<ul style="list-style-type: none"> <li>• Establish programmes and actions designed to enhance the productivity and profitability of rural economic activities;</li> <li>• monitor compliance with and apply the regulations governing animal and plant health; promote programmes and develop official animal and plant health regulations; grant certifications;</li> <li>• promote the development of industrial and commercial infrastructure for agricultural production, in collaboration with the SE;</li> <li>• in coordination with the SE, promote human consumption of fishery products, ensure the supply and distribution of these products and of raw materials to the domestic industry.</li> </ul>
Environment and Natural Resources	<ul style="list-style-type: none"> <li>• Formulate and conduct national policy on natural resources;</li> <li>• establish official regulations on the sustainable use of natural resources;</li> <li>• propose the formulation of policies on international affairs and foreign trade;</li> <li>• together with the SHCP, help set the general criteria for establishing fiscal and financial incentives;</li> <li>• propose to the SE the adoption of regulations or restrictions on imports or exports of natural resources.</li> </ul>
Tourism	<ul style="list-style-type: none"> <li>• Issue an opinion when foreign investment is involved in tourism development projects or in the establishment of tourism services.</li> </ul>
Health	<ul style="list-style-type: none"> <li>• Ensure the sanitary control of products and services and of their importation and exportation.</li> </ul>

Source: Organic Law of the Federal Government of 29 December 1976 (amendment of 11 November 2014).

2.11. The Foreign Trade Commission (COCEX) must still be consulted by the departments and entities of the Federal Government on all export and import-related matters.<sup>14</sup> The Commission periodically examines the foreign trade measures in force, *ex officio* or at the request of interested business organizations, and recommends amendments where necessary. COCEX comprises representatives of the Ministries of Foreign Affairs, Finance, the Environment, the Economy, and Agriculture and Health, as well as of the Bank of Mexico and the Federal Economic Competition Commission.

<sup>13</sup> Article 5 of the Foreign Trade Law of 27 July 1993 (amendment of 21 December 2006).

<sup>14</sup> *Ibid.*, Article 6. This Commission is responsible for issuing opinions on tariffs and tariff preferences, prohibitions of goods exports or imports, non-tariff measures, measures to regulate or restrict traffic in transit; export or import quota allocation procedures; rules of origin; compliance with Mexican Official Standards by the customs authorities at the point of entry of goods; safeguard measures; customs measures; and trade facilitation (Article 9 of the Regulations implementing the Foreign Trade Law of 30 December 1993 (amendment of 22 May 2014)).

2.12. The Joint Export Promotion Commission (COMPEX), created in 1989,<sup>15</sup> is still responsible for analysing and proposing export promotion strategies and mechanisms for collaboration between the public and private sectors in order to facilitate and diversify goods and services exports. This Commission is made up of representatives of various departments and entities of the Federal Government (such as the Ministries of Foreign Affairs, Finance, the Environment, Energy, the Economy, Agriculture and Health), as well as private-sector bodies, and acts mainly as an electronic platform that enables Mexican exporters to raise any doubts they may have and to request information.

2.13. ProMexico is a government-controlled entity (attached to the SE) created in 2007 and is responsible for promoting foreign direct investment and goods and services exports, as well as the internationalization of Mexican companies so as to contribute to the country's economic and social advancement. ProMexico maintains representative offices in Mexico and abroad, and through them, endeavours to find markets for Mexican exporters.<sup>16</sup>

## 2.3 International trade relations

### 2.3.1 WTO

2.14. Mexico is a founding Member of the WTO. The Ministry of the Economy (SE), acting through the Permanent Mission of Mexico to the WTO, is responsible for representing the country before the Organization. This is the sixth review of Mexico's trade policy by the Trade Policy Review Body.

2.15. Mexico participates actively in the regular work of the WTO. It grants most-favoured-nation (MFN) treatment to all its trading partners, whether or not WTO Members. Mexico submitted several notifications to the WTO during the period under review (Table A2.1).

2.16. As regards participation in the WTO plurilateral agreements, Mexico is not a party to the Agreement on Trade in Civil Aircraft or the Agreement on Government Procurement, nor does it have observer status in the committees that administer those agreements. Mexico is not a party to the Information Technology Agreement (ITA) either. On 20 August 2015, Mexico notified the Council for Trade in Services of the granting of preferential treatment for services and service suppliers of least developed countries, in accordance with the services waiver adopted by the Eighth WTO Ministerial Conference.<sup>17</sup>

2.17. In the Doha Development Agenda (DDA) negotiations, Mexico recognizes the WTO as the primary global forum for trade and supports the Organization's negotiating role. Mexico has participated actively in the quest for agreements, being especially interested in the elimination of domestic support in agriculture. It acknowledges that the international trading environment continues to evolve, with developments such as the emergence of global value chains and the increased use of digital technologies, and has therefore favoured the discussion of these topics in the WTO framework.<sup>18</sup>

2.18. On 12 May 2014 Mexico notified the Preparatory Committee on Trade Facilitation of the inclusion in Category A of all the provisions of Section I of the WTO Agreement on Trade Facilitation.<sup>19</sup> Mexico deposited the instrument of ratification of the Agreement on 26 July 2016.<sup>20</sup>

2.19. Since the preceding trade policy review, Mexico has not been a defendant in any dispute, but has been a complainant in two disputes and a third party in 11.<sup>21</sup>

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<sup>15</sup> Article 7 of the Foreign Trade Law of 27 July 1993 (amendment of 21 December 2006).

<sup>16</sup> Decree establishing the public trust fund deemed to be a government-controlled entity called ProMexico, published in the Official Journal of 13 June 2007.

<sup>17</sup> WTO documents WT/L/847 of 17 December 2011, WT/L/918 of 7 December 2013 and S/C/N/821 of 21 August 2015.

<sup>18</sup> In this regard, Mexico and the other members of MIKTA (Indonesia, Republic of Korea, Turkey and Australia) jointly organized a workshop on e-commerce in July 2016.

<sup>19</sup> WTO document WT/PCTF/N/MEX/1 of 14 May 2014. See Article 14 (Categories of provisions) of the Trade Facilitation Agreement (WT/L/940).

<sup>20</sup> Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization (WT/L/940) of 28 November 2014).

### 2.3.2 Trade agreements

2.20. Mexico still staunchly defends the multilateral trading system. However, pursuant to the strategies set forth in the National Development Plan, Mexico has signed several regional agreements with a view to creating new commercial opportunities and diversifying trade. It currently has 12 free trade agreements (FTAs) with 46 countries and seven partial scope agreements in the framework of the Latin American Integration Association (LAIA) (Table 2.2).

2.21. Four new free trade agreements have entered into force since the previous review: the Pacific Alliance, and the agreements with Central America, Panama and Peru. In addition, the country completed the implementation of its free trade agreements with Japan and Uruguay during the review period.

**Table 2.2 Trade agreements signed by Mexico (in force), 2012-2016**

Country/region	Date of entry into force	Coverage of the agreement	Notification to the WTO	
			Year	Documents
<b>Free trade agreements</b>				
• Panama	01.07.2015	Goods and services	2016	WT/REG374/N/1 S/C/N/871
• Pacific Alliance	01.05.2016	Goods and services	2016	WT/REG377/N/1 S/C/N/864
• Central America (FTA)	01.09.2013	Goods and services	2014	WT/REG349/N/Rev.1 S/C/N/717/Rev.1
• Guatemala	01.07.2013			
• Costa Rica	01.01.2013			
• Honduras	01.09.2012			
• El Salvador	01.09.2012			
• Nicaragua	01.09.2012			
• Peru (Trade Integration Agreement)	01.02.2012	Goods and services	2012	WT/REG308/N/1 S/C/N/616
• Japan (Economic Partnership Agreement)	01.04.2005	Goods and services	2005	WT/REG198/N/1 S/C/N/328
• Uruguay (FTA)	15.07.2004	Goods and services	2013	WT/REG345/N/1 S/C/N/701
• EFTA (Iceland, Liechtenstein, Norway and Switzerland) (FTA)	01.07.2001	Goods and services	2001	WT/REG126/N/1 S/C/N/166
• European Union (Economic Association Agreement)	01.07.2000 01.10.2000	Goods Services	2000 2002	WT/REG109/N/1 S/C/N/192
• Israel (FTA)	01.07.2000	Goods	2001	WT/REG124/N/1
• Chile (FTA)	01.08.1999	Goods and services	2001	WT/REG125/N/1 S/C/N/142
• Colombia (FTA)	01.01.1995	Goods and services	2010	WT/REG289/N/1 S/C/N/563
• Canada and United States (North American Free Trade Agreement, NAFTA)	01.01.1994	Goods Services	1993 1995	L/7176 S/C/N/563
<b>Limited coverage agreements/Partial scope agreements</b>				
• Plurinational State of Bolivia (AAP.CE No. 66)	07.06.2010	Goods		
• MERCOSUR (AAP.CE No. 55)		Goods: Automotive sector		
• Paraguay	01.01.2003			
• Argentina, Brazil, Uruguay				
• Brazil (AAP.CE No. 53)	02.05.2003	Goods		
• Cuba (AAP.CE No. 51)	28.02.2001	Goods		
• Paraguay (AAP.R No. 38)	01.07.1984	Goods		
• Ecuador (AAP.R No. 29)	14.12.1987	Goods		
• Argentina (AAP.CE No. 6)	01.01.1987	Goods		
<b>Other agreements</b>				
• MERCOSUR (AAP.CE No. 54)	05.01.2006	Framework agreement		
• LAIA (Latin American Integration Association)	18.03.1981	Goods, preferences and preferential framework	1982	L/5342 and WT/COMTD/72

Source: WTO Secretariat.

<sup>21</sup> The two disputes in which Mexico has participated as a complainant are: *China – Measures Relating to the Production and Exportation of Apparel and Textile Products* (DS451) and *Argentina – Measures Affecting the Importation of Goods* (DS446). No panel has yet been established in either case.

2.22. In September 2016 Mexico was negotiating free trade agreements with Jordan, Paraguay and Turkey. There are also ongoing negotiations with Brazil, the European Union and the European Free Trade Association (EFTA) with a view to deepening its existing agreements with these trading partners. During the review period the rules of origin in the FTAs with Colombia, Chile and EFTA were also updated so as to align them with amendments made to the Harmonized System in the WCO framework.<sup>22</sup>

2.23. The review period witnessed the entry into force (on 1 February 2012) of the Trade Integration Agreement between the Republic of Peru and the United Mexican States in replacement of LAIA Economic Complementarity Agreement No. 8, which had been force for both Parties since March 1987 though covering only 20% of bilateral trade between them and excluding services and investment. As pertains to merchandise trade, the Parties agreed to create a free trade area within a period of 11 years (i.e., in 2023). At the end of the transition period, 97.8% of Mexico's tariff lines will be duty free. The vast majority of the products that will remain dutiable at the end of the transition period (274 tariff lines in the case of Mexico) are agricultural, in the case of both Mexico<sup>23</sup> and Peru.<sup>24</sup> For services, the agreement uses a hybrid approach; market access commitments are based on a positive list of sectors, whereas a negative list is used in other cases. The agreement also includes provisions on intellectual property rights, safeguards, unfair international trade practices, investment and dispute settlement. Under this agreement, the Parties commit to begin negotiations on government procurement, trade facilitation and customs cooperation one year after its entry into force.

2.24. The Free Trade Agreement between the United Mexican States and the Republic of Panama replaces the partial scope agreement that existed between the two countries. In respect of goods, a tariff reduction timetable is foreseen, consisting of several stages the longest of which being 15 years. The agreement also includes provisions on trade facilitation and customs cooperation, trade defence, sanitary and phytosanitary measures and technical barriers to trade. On services, there are provisions governing cross-border trade in services, financial services, telecommunications, and the temporary entry and stay of business persons. There are also chapters on investment, e-commerce, intellectual property and dispute settlement. The agreement also foresees the possibility of launching negotiations, at the latest two years after its entry into force, on regulatory improvement, maritime services, government procurement, and cooperation and trade capacity building.

2.25. The Free Trade Agreement between Mexico and Central America also took effect during the review period, thereby revoking the Free Trade Agreement between Mexico and Costa Rica, the Free Trade Agreement between Mexico and El Salvador, Guatemala and Honduras (Northern Triangle) and the Free Trade Agreement between Mexico and Nicaragua, as well as the annexes, appendices, protocols and decisions signed under those agreements.

2.26. The Agreement between Mexico and Central America covers goods and services and includes chapters on investment, government procurement and intellectual property. This agreement expands the coverage of goods by comparison with the earlier agreements. As regards tariffs, it encompasses products that were excluded from previous agreements between Mexico and the various Central American countries, such as automobiles, some dairy products, poultry sausages, marmalades and fruit pastes, cigars and cigarettes, tuna loins, mayonnaise and sugar, which receives special treatment. Furthermore, the purpose of the Agreement is to establish a common regulatory framework for trade in goods between the six countries: common rules of origin are laid down and a single certificate of origin is introduced, provision is made for the establishment of a foreign trade single window and an economic operators scheme to facilitate trade and ensure customs control.<sup>25</sup> As pertains to intellectual property, in addition to strengthening existing commitments, the agreement recognizes the appellations of origin and geographical indications protected in each country (in the case of Mexico for example, Tequila, Mezcal, Olinalá and Talavera). For services, the agreement includes a chapter on

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<sup>22</sup> Online information viewed at:

[http://cdn.presidencia.gob.mx/tercerinforme/3\\_IG\\_2015\\_PDF\\_270815.pdf](http://cdn.presidencia.gob.mx/tercerinforme/3_IG_2015_PDF_270815.pdf).

<sup>23</sup> Products excluded by Mexico from tariff reduction include poultry meat, pig fat, dairy products, sugar, potatoes, coffee and used vehicles.

<sup>24</sup> WTO document WT/REG308/1/Rev.1 of 26 June 2014.

<sup>25</sup> WTO document WT/REG349/M/1 of 2 December 2015.

telecommunications that lays down rules for telecommunications service operators in each country.

2.27. On 5 October 2015, the countries participating in the Trans-Pacific Partnership (TPP) announced the end of the negotiations and the parties signed the agreement on 4 February 2016.<sup>26</sup> This agreement contains 30 chapters that cover trade in goods (including customs cooperation and trade facilitation; sanitary and phytosanitary measures; technical barriers to trade; and trade remedies), trade in services, government procurement, intellectual property rights, the environment and SMEs. It also encompasses e-commerce and other issues pertaining to the Internet and the digital economy. The TPP will take effect once it has been ratified by all the countries in accordance with their internal procedures, within two years of its signature. Failing this, the TPP will enter into force in 2018, when it has been ratified by at least six original signatories that together account for at least 85% of the 2013 GDP of the original signatories.

2.28. The Pacific Alliance is a regional integration process involving Chile, Colombia, Mexico and Peru, launched on 28 April 2011 with the Lima Declaration. The aims of the process are to move progressively toward the free movement of goods, services, capital and people; foster higher levels of growth, development and competitiveness for the economies of the Parties, and promote economic and trade integration, especially with the Asia Pacific region.<sup>27</sup> On 6 June 2012, during the Fourth Presidential Summit, the Framework Agreement was signed, legally establishing the Pacific Alliance, laying its institutional foundations and defining its objectives.<sup>28</sup> The Additional Protocol to the Pacific Alliance Framework Agreement was signed on 10 February 2014, creating a free trade area that complements and enhances the free trade agreements in force between the States Parties to the Alliance, even though they all exist side by side. This Additional Protocol contains provisions on market access, rules of origin, technical barriers to trade, sanitary and phytosanitary measures, trade facilitation and customs cooperation, government procurement, cross-border trade in services and investment, telecommunications, e-commerce, financial services, maritime services and dispute settlement. On 14 December 2015 Mexico ratified the Additional Protocol to the Pacific Alliance Framework Agreement, which became effective on 1 May 2016.<sup>29</sup> Under the agreement, 92% of tariff lines were freed upon entry into force and the remaining 8% will be freed over a period of three to 17 years. The goal is that by 2030, almost all products traded between the parties to the agreement will be duty free (except sugar).<sup>30</sup>

2.29. Mexico is also a member of the Asia-Pacific Economic Cooperation (APEC) forum. Pursuant to the 1994 Bogor Declaration, APEC economies made a voluntary commitment to achieving free and open trade and investment by 2020 (2010 in the case of the developed countries) by removing barriers to trade and investment and providing for the free movement of goods, services and capital between the economies of the region. In 2016, APEC conducted the second, two-part review of the Bogor Goals: (i) a comprehensive review of the region's progress, based on trade and investment outcomes, the evolution of indicators of trade liberalization and trade facilitation, and growth and development statistics; and (ii) updating the action plans of each economy. Previously, in November 2014, APEC Ministers had adopted the "Beijing road map" and agreed to undertake a joint study in order to establish the Free Trade Area of the Asia-Pacific (FTAAP).

### 2.3.3 Preferential trade arrangements

2.30. Under the Generalized System of Preferences (GSP), Mexico benefited during the review period from the preferential market access schemes of Australia, Belarus, Canada<sup>31</sup>, Japan, Kazakhstan, New Zealand, the Russian Federation and Turkey.<sup>32</sup>

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<sup>26</sup> The countries participating in the TPP are: Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Viet Nam.

<sup>27</sup> Presidential statement on the Pacific Alliance, Lima (Peru), dated 28 April 2011, and Pacific Alliance Framework Agreement.

<sup>28</sup> See Article 3 of the Pacific Alliance Framework Agreement.

<sup>29</sup> Online information viewed at: <https://alianzapacifico.net>.

<sup>30</sup> On 3 July 2015 an Amending Protocol was signed in order to include a chapter on regulatory improvement, an annex on cosmetics to the TBT Chapter and new provisions on e-commerce and telecommunications. This Amending Protocol will take effect upon its approval by all participating countries.

<sup>31</sup> Canada excluded Mexico from its scheme of preferences effective 1 January 2015 (Canada Gazette, Part II, Vol. 147, No. 21 (2013)).

2.31. Mexico is also a member of the Global System of Trade Preferences among Developing Countries (GSTP), comprising 77 countries. This notwithstanding, Mexico gave no undertakings during the second and third GSTP negotiating rounds (1992 and 2004, respectively).<sup>33</sup>

#### 2.4 Foreign investment regime

2.32. Foreign direct investment (FDI) is one of the cornerstones of the National Development Plan in that it is instrumental in attaining the goals laid out in the Plan. To that end and to increase investment flows and boost the country's competitiveness, during the review period Mexico effected a series of reforms to the foreign investment regime, mainly affecting telecommunications and broadcasting, as well as the financial and energy sectors.

2.33. The foreign investment regulatory framework consists primarily of Articles 25, 27, 28 and 73 of the Constitution, and the Foreign Investment Law (LIE) and its implementing Regulations.<sup>34</sup> Foreign investment is also governed by the Investment Promotion and Protection Agreements (IPPAs) and the chapters on investment in the international trade agreements signed by Mexico.

2.34. Administratively, the principal bodies tasked with regulating and managing foreign investment continue to be the National Foreign Investment Commission (CNIE), the Directorate-General of Foreign Investment (DGIE) and the National Foreign Investment Register (RNIE). They are all attached to the Ministry of the Economy (SE). Composed of several Ministries, the CNIE<sup>35</sup> is chaired by the Minister of the Economy and is responsible for issuing foreign investment policy guidelines, designing mechanisms to promote investment in Mexico and approving certain types of FDI, as well as the terms and conditions governing the participation of foreign investment in activities and acquisitions subject to specific regulation.<sup>36</sup> The Commission must decide on the applications it receives within 45 working days at the most, failing which the application is deemed to be approved.<sup>37</sup> In considering applications, the CNIE must be mindful of several criteria, such as the impact on employment and worker training, the technological contribution, compliance with environmental provisions and the contribution to enhancing the competitiveness of the country's production sector<sup>38</sup>, while specifically ensuring that these requirements do not distort international trade, except when national security must be protected.<sup>39</sup> The DGIE is responsible for handing down administrative decisions on foreign investment pursuant to the LIE, as well as for managing the RNIE.

2.35. During the review period, Mexico undertook a major reform of its telecommunications and broadcasting sector in order to boost its competitiveness so as to reduce prices and improve service quality. To that end, access to the sector for foreigners was improved as of 2014. The upshot is that FDI can now be as much as 100% in fixed telephony and satellite communications, which had previously been subject to a 49% ceiling. In the broadcasting sector, the reservation to Mexican nationals and to Mexican firms with a foreigners exclusion clause was eliminated. FDI of up to 49% is currently permitted (subject to the principle of reciprocity).<sup>40</sup>

2.36. In virtue of the financial sector reform, FDI may now be as much as 100% in insurance institutions, bonding institutions, currency exchange houses, general bonded warehouses, pension fund management firms, credit information companies, securities rating institutions and insurance

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<sup>32</sup> UNCTAD (2015), *Generalized System of Preferences List of Beneficiaries*. Viewed at: [http://unctad.org/en/PublicationsLibrary/itcdtsbmisc62rev6\\_en.pdf](http://unctad.org/en/PublicationsLibrary/itcdtsbmisc62rev6_en.pdf).

<sup>33</sup> Decree promulgating the Agreement on the Global System of Trade Preferences among Developing Countries, adopted on 13 April 1988 (published in the Official Journal of 21 July 1989).

<sup>34</sup> Foreign Investment Law (published in the Official Journal of 27 December 1993 and amended several times during the review period, the most recent being in 2015); and Regulations implementing the Foreign Investment Law and the National Foreign Investment Register (published in the Official Journal of 8 September 1998).

<sup>35</sup> The CNIE comprises the Ministries of: the Interior; Foreign Affairs; Finance and Public Credit; Social Development; the Environment and Natural Resources; Energy; the Economy; Communications and Transport; Labour and Social Welfare; and Tourism.

<sup>36</sup> Article 26 of the LIE.

<sup>37</sup> *Ibid.*, Article 28.

<sup>38</sup> *Ibid.*, Article 29.

<sup>39</sup> *Ibid.*, Article 30.

<sup>40</sup> Decree issuing the Federal Telecommunications and Broadcasting Law and the Mexican Public Broadcasting System Law, and amending, supplementing and repealing certain provisions on telecommunications and broadcasting, published in the Official Journal of 14 July 2014.



agents. Before the reform there had been a 49% ceiling on the share of FDI in these activities, which could be surpassed only in the case of credit information companies, securities rating institutions and insurance agents, with CNIE authorization.<sup>41</sup>

2.37. The energy sector reform is aimed, among other things, at encouraging investment in the sector so as to further the country's overall development. Basic petrochemicals and electricity generation and sale are thus no longer regarded as strategic areas, in other words, they are no longer reserved exclusively to the State. Likewise, FDI may now be as much as 100% in the following activities: marketing of gasoline (petrol) and distribution of liquefied petroleum gas, previously reserved to Mexican nationals and Mexican firms, with a foreigners exclusion clause; construction of pipelines to transport oil and its derivatives, as well as the drilling of oil and gas wells, which previously required a favourable decision by the CNIE for FDI to be able to exceed 49%.

2.38. During the period under review, the CNIE issued a series of general resolutions designed to simplify both FDI registration formalities and statistical reporting requirements.<sup>42</sup> Although permission is not generally required in order to invest, any foreign company investing in Mexico, and Mexican companies with foreign participation must register with the RNIE.<sup>43</sup> Companies that do not comply with this obligation will be fined.<sup>44</sup>

2.39. In Mexico, foreign investment in areas where there are no restrictions receives national treatment, subject to the permanent residency requirement. Foreigners may therefore hold any proportion of the share capital of Mexican companies; acquire fixed assets; enter new fields of economic activity or manufacture new product lines; and open and operate establishments or relocate existing ones.<sup>45</sup>

2.40. There are three types of FDI restriction in Mexico. Some activities are reserved exclusively for the State, others are reserved exclusively for Mexicans (Mexican natural persons and Mexican legal entities with a foreigners exclusion clause), and others still are subject to specific regulation, in other words, to a maximum FDI percentage, which in some cases may be exceeded with prior authorization from the CNIE.

2.41. After the reforms undertaken during the review period, the activities reserved exclusively to the State are currently the following: exploration for and extraction of oil and other hydrocarbons (although the State may sign contracts with State-owned production enterprises and with private individuals); planning and control of the national electrical system as well as the public service of electricity transmission and distribution (in this case too, the State may enter into contracts with private individuals); nuclear power generation; radioactive minerals; telegraph, radio telegraph and postal services; issuing of banknotes; minting of coins; control, supervision and surveillance of ports, airports and heliports; and any other areas that may be expressly reserved by the applicable legislation.<sup>46</sup>

2.42. Furthermore, certain activities are reserved exclusively to Mexicans or Mexican companies, with a foreigners exclusion clause. This clause, which is an integral part of a company's articles of association, stipulates that the company may not admit as partners or shareholders, either directly or indirectly, foreign investors or firms that have a foreigners admission clause.<sup>47</sup> These activities are: domestic land transportation of passengers, tourism and freight, excluding messenger and parcel services; development banking institutions; and professional and technical services expressly reserved by the applicable legislation. Since the previous review, this list has ceased to

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<sup>41</sup> Decree amending, supplementing, and repealing various financial provisions and issuing the Law Regulating Financial Groups, published in the Official Journal of 10 January 2014.

<sup>42</sup> General Resolutions of the National Foreign Investment Commission (CNIE) currently in force. Viewed at: <http://www.gob.mx/se/acciones-y-programas/competitividad-y-normatividad-inversion-extranjera-directa?state=published>.

<sup>43</sup> Online information viewed at: <https://rneie.economia.gob.mx/RNIE/faces/inicio.xhtml>.

<sup>44</sup> Article 38 of the LIE.

<sup>45</sup> Ibid., Article 4.

<sup>46</sup> Ibid., Article 5.

<sup>47</sup> Ibid., Articles 2 and 6.

include retail sale of gasoline (petrol) and distribution of liquefied petroleum gas, and broadcasting and other radio and television services other than cable television.<sup>48</sup>

2.43. Some activities and companies are subject to specific regulation, which means that FDI is limited to certain percentages that may not be exceeded directly or through trust funds, agreements or other mechanisms that grant control or provide for participation beyond the specified level.<sup>49</sup> This notwithstanding, in some activities with an FDI ceiling of 49%, this limit may be surpassed subject to a favourable decision from the CNIE (Table 2.3). For example, during the period under review the CNIE issued favourable decisions allowing FDI to exceed the 49% limit in the case of certain shipping companies and airport concessionaire companies (Section 4).

**Table 2.3 Economic activities and companies subject to specific regulation, 2016**

Activity/company	Maximum % of FDI
Production cooperatives	10%
Domestic air transport	25%
Air taxi services	
Specialized air transport	
Manufacture and marketing of explosives, firearms, cartridges, munitions and fireworks (excluding the acquisition, preparation or use of explosives for industrial and mining activities)	49%
Printing and publication of newspapers for circulation in Mexico only	
Series-T shares in companies that own agricultural, ranching or forestry lands <sup>a</sup>	
Fresh water, coastal, and exclusive economic zone fishing (excluding aquaculture)	
Integrated port administration	
Port pilot services for vessels carrying out inland navigation, under the terms of the respective law	
Shipping companies involved in the commercial exploitation of vessels engaged in inland navigation and cabotage (excluding tourist cruises, marine dredging activities, and floating structures for the building, maintenance and operation of ports)	
Supply of fuel and lubricants for vessels, aircraft, and railroad equipment	
Broadcasting (this maximum percentage of foreign investment is subject to reciprocity in the investor's country or the country of the economic operator that ultimately exercises direct or indirect control over the investor)	
Port services for vessels engaged in inland navigation operations, such as towing, mooring and lighterage	
Shipping companies engaged in the operation of ships solely for high-seas traffic	
Concessionaires or permit-holders for aerodromes for public service	
Private education services, from pre-school to higher education levels	
Legal services	
Construction, operation and exploitation of railroads considered as a means of general communication, and the supply of public railway services	

a Series-T shares in companies owning agricultural, ranching, and forestry land are equal to the capital contribution in respect of agricultural, ranching or forestry land or to the capital intended for the purchase of such land. Upon liquidation of the company, only the holders of such shares will be entitled to receive land as payment (Articles 126 and 127 of the Land Law).

Source: WTO Secretariat, on the basis of Article 7 of the Foreign Investment Law (Official Journal of 27 December 1993, latest amendment of 18 December 2015).

2.44. Despite these restrictions, the LIE provides for the concept of "neutral investment", whereby foreigners may invest in sectors reserved for Mexicans or subject to specific regulation, without that participation being taken into account when determining the percentage of foreign investment in the share capital of the Mexican enterprise. This capitalization mechanism allows Mexican companies to issue shares that bring only economic benefits to shareholders, but not the right to vote. This type of investment requires the authorization of the SE and, as appropriate, the National Banking and Securities Commission.<sup>50</sup>

<sup>48</sup> Decree issuing the Hydrocarbons Law and amending various provisions of the Foreign Investment Law, Mining Law, and Law on Public-Private Partnerships, published in the Official Journal of 11 August 2014, and Decree issuing the Federal Telecommunications and Broadcasting Law and the Mexican Public Broadcasting System Law, and amending, supplementing and repealing certain provisions on telecommunications and broadcasting, published in the Official Journal of 14 July 2014.

<sup>49</sup> Article 26 of the LIE.

<sup>50</sup> Ibid., Articles 18, 19 and 20.

2.45. The CNIE carries considerable weight when it comes to approving investments or setting foreign investment ceilings. Even in the case of activities not subject to any FDI limitation, the CNIE may impose restrictions when the total value of the assets of the company for which the investment is intended exceeds a certain amount. The CNIE determines this amount annually. In 2016, the figure was Mex\$4,005 million.<sup>51</sup> Investment in excess of this amount requires CNIE approval.<sup>52</sup> According to the authorities, however, the CNIE has so far not rejected any investment.

2.46. Only Mexicans by birth or naturalization and Mexican companies (with a foreigners exclusion clause) have the right to acquire ownership of land, water and accessions thereto or to obtain concessions for the exploitation of mines or waters.<sup>53</sup> The Ministry of Foreign Affairs may grant that right to foreigners, provided that they agree to consider themselves nationals and not to invoke the protection of their governments with regard thereto. Generally speaking, foreigners may not acquire direct ownership of land or waters within a restricted area of 100 km from the country's borders and 50 km inland from any coastline.<sup>54</sup> Article 27 of the Constitution was amended during the review period, however, and foreigners are now permitted to purchase land in the restricted zone, provided that it is intended for non-commercial, residential use.<sup>55</sup> The LIE nonetheless authorizes foreign participation in Mexican companies that acquire real estate in the restricted area, to be used for non-residential activities. Foreigners may also invest in a Mexican company that owns real estate in the restricted zone, for non-residential purposes, provided that the articles of association of the company contain a clause whereby foreigners agree to be considered as nationals and not seek protection from their governments with respect to such assets, and the Ministry of Foreign Affairs is notified accordingly.

2.47. Mexico does not restrict remittances abroad of profits, royalties, dividends, and interest paid on loans, or repatriation of FDI-related funds. However, the free trade agreements and IPPAs signed by Mexico provide for the possibility of temporarily restricting transfers in the event of balance of payments problems.

2.48. Mexico has adopted disciplines on investment in the framework of regional trade agreements and IPPAs. The investment chapters of RTAs generally establish disciplines on sectoral liberalization, national treatment, MFN treatment, minimum standard of treatment, performance requirements, expropriation and dispute settlement mechanisms (especially investor-State disputes). With the exception of the Mexico-Israel agreement, all of Mexico's RTAs contain a chapter on investment, or a commitment to promote investment between the parties, as is the case with the agreements concluded with the European Union and EFTA.

2.49. During the period under review, Mexico signed IPPAs with Bahrain, Haiti, Kuwait, Turkey and the United Arab Emirates, bringing the total to 33.<sup>56</sup> IPPAs generally cover the following disciplines: definition of investment; scope; promotion and admission; treatment of investment; expropriation; transfers; investor-State and State-State dispute settlement.

2.50. Mexico has signed agreements for the avoidance of double taxation with 60 countries, including its main trading partners; 55 of them are in force.<sup>57</sup>

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<sup>51</sup> CNIE General Resolution No. 17, published in the Official Journal of 12 May 2016.

<sup>52</sup> Article 9 of the LIE.

<sup>53</sup> Article 27 of the Constitution.

<sup>54</sup> Ibid., Article 27.I.

<sup>55</sup> Online information viewed at:

[http://www3.diputados.gob.mx/camara/005\\_comunicacion/b\\_agencia\\_de\\_noticias/009\\_2013/04\\_abril/18\\_18/2708\\_comision\\_aprueba\\_dictamen\\_para\\_que\\_extranjeros\\_puedan\\_tener\\_viviendas\\_en\\_playas\\_y\\_fronteras](http://www3.diputados.gob.mx/camara/005_comunicacion/b_agencia_de_noticias/009_2013/04_abril/18_18/2708_comision_aprueba_dictamen_para_que_extranjeros_puedan_tener_viviendas_en_playas_y_fronteras).

<sup>56</sup> Online information viewed at: <http://www.gob.mx/se/acciones-y-programas/comercio-exterior-paises-con-tratados-y-acuerdos-firmados-con-mexico>.

<sup>57</sup> Online information viewed at: [http://www.sat.gob.mx/informacion\\_fiscal/normatividad/Paginas/tratados\\_fiscales.aspx](http://www.sat.gob.mx/informacion_fiscal/normatividad/Paginas/tratados_fiscales.aspx).

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

#### 3.1 Measures directly affecting imports

##### 3.1.1 Registration, customs documents and procedures

3.1. Mexico's customs procedures are governed by the Customs Law and its implementing Regulations, the General Foreign Trade Rules published each year by the Ministry of Finance and Public Credit (SHCP), and a Decision of the Ministry of the Economy (SE).<sup>1</sup> The legal framework also includes the legislation governing domestic and import taxes.<sup>2</sup>

3.2. The General Customs Administration (AGA), a unit of the Tax Administration Service (SAT), is responsible *inter alia* for facilitating and controlling the entry and exit of goods to or from Mexican territory, as well as for collecting tariffs and other trade-related duties.

3.3. Mexico has six types of customs procedure: outright importation; temporary importation; in-bond storage; goods in domestic or international transit; manufacturing, processing or repair in an in-bond facility; and strategic in-bond facility.<sup>3</sup> Of these, only the strategic in-bond facility procedure has been modified since 2012. The change consists in that whereas previously such facilities could only be authorized in customs or port areas, now (2016) they may be established throughout the national territory. In addition, taxes are now payable when the goods enter the facility, and not when they are removed as was previously the case.

3.4. During the period under review, Mexico continued the reform efforts of previous years to simplify customs procedures and promote international trade.<sup>4</sup> As a result: (a) customs clearance may be carried out in a different place from that authorized by the SAT, when the nature of the product so requires; (b) importers may directly carry out customs clearance formalities without having to use the services of a customs broker, which is now optional; (c) the Mexican Digital Window for Foreign Trade (Digital Window) was established; (d) the use of new technologies for inspecting goods has been boosted; (e) the second customs inspection has been abolished; and (f) it is now possible to rectify the import request (import declaration) before and after the computerized selection mechanism has been activated, and to change the customs procedure applicable to the goods without prior authorization.<sup>5</sup>

3.5. Mexican import requirements have not changed significantly since the previous review in 2012. Importers must be enrolled in the Register of Importers kept by the SAT and in the Federal Register of Taxpayers. Importers of specific sensitive goods or goods that present a potential risk to public health or national security must also be enrolled in the Register of Importers in Specific Sectors.<sup>6</sup>

3.6. Importers must present electronically, either directly or through a customs broker or legal representative, an import request together with the following documents: commercial invoice; bill of lading, air waybill or transport document; documentation proving compliance with any applicable non-tariff regulations; documents proving the source and origin of goods in cases where

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<sup>1</sup> Customs Law (published in the Official Journal of the Federation (DOF) of 15 December 1995, latest amendment on 9 December 2013); Regulations implementing the Customs Law (latest version published in the Official Journal of 20 April 2015); General Foreign Trade Rules for 2016 (published in the Official Journal of 27 January 2016); and Decision of the Ministry of the Economy issuing general rules and criteria for foreign trade (published in the Official Journal of 6 July 2007, latest amendment on 15 October 2015).

<sup>2</sup> Federal Tax Code (published in the Official Journal of 31 December 1981, latest amendment dated 17 June 2016); Regulations implementing the Federal Tax Code (latest version published in the Official Journal of 2 April 2014); Foreign Trade Law (published in the Official Journal of 27 July 1993, amended on 21 December 2006); Regulations implementing the Foreign Trade Law (published in the Official Journal of 30 December 1993, amended on 22 May 2014); General Import and Export Tax Law (published in the Official Journal on 18 June 2007, amended on 10 May 2016); Federal Law on Duty (published in the Official Journal of 31 December 1982, amended on 18 November 2015).

<sup>3</sup> Customs Law, Title IV (Articles 90-135D).

<sup>4</sup> Decree amending, supplementing and repealing various provisions of the Customs Law, published in the Official Journal of 9 December 2013.

<sup>5</sup> Articles 10, 36 and 36-A, 40, 89, 93 and 101 of the Customs Law.

<sup>6</sup> Annex 10 A of the General Foreign Trade Rules (2016) lists the goods classed as sensitive. Viewed at: [http://www.sat.gob.mx/aduanas/tramites\\_autorizaciones/guia\\_padrones/Documents/Anexo\\_10.pdf](http://www.sat.gob.mx/aduanas/tramites_autorizaciones/guia_padrones/Documents/Anexo_10.pdf).

tariff preferences, anti-dumping or countervailing duties ("derechos compensatorios"), quotas and country-of-origin marking requirements are applicable; where the declared value is lower than the price estimated by the authorities, the document showing that the security has been deposited; and a certificate showing the weight or volume issued by SAT-authorized certifying companies for goods in bulk imported by sea. For goods that present a potential risk to public health or national security, information to permit the identification, examination and control of the imported goods must also be attached.

3.7. In accordance with the Federal Law on Duty, imports are subject to a customs processing fee (DTA), which varies according to the customs procedure applicable to the goods and in some cases is calculated on the value of the imports (Table 3.1). Some imports, such as natural gas, are exempt from payment of this fee.<sup>7</sup>

**Table 3.1 Customs processing fee (DTA) rates, 2016<sup>a</sup>**

Type of import or procedure	Rate of duty
Goods subject to the outright importation procedure, or goods exempted under the General Import and Export Tax Law or international treaties	0.008% of the value of the goods
Temporary import of fixed assets by in-bond assembly plants (maquiladoras) or firms with export programmes authorized by the SE	0.176% of the value of the goods
Import of machinery and equipment under the manufacturing, processing or repair in an in-bond facility procedure	
Temporary import of goods for manufacturing, processing, or repair in enterprises with Manufacturing, Maquila and Export Services Industry (IMMEX) programmes	Mex\$287
Import of goods exempt from trade taxes	
Operations involving the return of imported goods	
Temporary import of goods to be returned without being transformed	
Import of goods having no customs value	Mex\$287
Operations carried out by foreign States	
Domestic transit	Mex\$287
International transit	Mex\$2,673
Extraction from the procedure for in-bond storage for return	Mex\$287
Transport of goods requiring several vehicles (fee payable for each shipment)	Mex\$287
Rectification of import request	Mex\$276
Gold imports	0.008% of the value of the gold for the purposes of general import tax (not exceeding Mex\$3,043)

a These rates are only indicative.

Source: Federal Law on Duty and Omnibus Tax Resolution for 2016 and Annex 19 thereto published in the Official Journal of 23 December 2015.

3.8. After the relevant taxes and charges have been paid, and provided that the non-tariff regulations are fulfilled, the customs broker or legal representative verify electronically the information in the import request, following which the goods are presented to the customs authority together with the import request and other required documentation and the computerized selection mechanism is activated.<sup>8</sup> If the mechanism indicates that customs inspection is required the customs authority examines the documents and inspects the goods. If no irregularities that might give rise to a preventive embargo on the goods are detected, the goods are released immediately. Irrespective of the outcome of the computerized selection mechanism, the customs authority reserves the right to order verification of the goods or to exercise any of its verification powers.

3.9. According to data provided by the authorities, during the period from 2012 to 2016 (August), 11.8% of import transactions were subject to customs inspection. Of this percentage, 36.8% led to a preventive embargo of the goods. The time required for customs clearance is usually two hours in the case of goods subject to customs inspection and eight minutes for goods not subject to this requirement.

<sup>7</sup> Federal Revenue Law for fiscal year 2015.

<sup>8</sup> This mechanism makes a random selection of the customs declarations to be inspected. The selection is based on an intelligent risk analysis system that takes into account information on the type of importer, exporter, product, value, country of origin and the sanitary and phytosanitary, national security, smuggling and fraud risks.

3.10. During the period under review, the Comprehensive Enterprise Certification Scheme (the Scheme) provided for in the Customs Law was modified to include the categories of Marketing and Importing Company and "Authorized Economic Operator".<sup>9</sup> To obtain certification as an Authorized Economic Operator (OEA) in the Marketing and Importing Company and "Authorized Economic Operator" categories, the applicant must submit a request for registration in the Scheme through the Digital Window, and must have engaged in foreign trade operations in the two years preceding the application. It also has to pay a fee of Mex\$24,507, comply with the minimum security requirements and designate the transport enterprises authorized to carry the foreign trade goods. In addition to these general requirements, there are specific requirements depending on the category which the enterprise wishes to join (Table 3.2).

**Table 3.2 Specific requirements for the Marketing and Importing Company and "Authorized Economic Operator" categories**

Category	Requirements
Marketing and Importing Company	Cannot be an IMMEX programme beneficiary Must have carried out imports totalling at least Mex\$300 million during the six months immediately prior to the application for registration
<b>"Authorized Economic Operator"</b>	
Authorized Economic Operator, holding company sector	Must have been designated the holding company for the manufacturing or maquila operations of two or more controlled companies, and participate directly or indirectly in their administration, control or capital
Authorized Economic Operator, aircraft sector	Must have an ongoing IMMEX programme Where appropriate, have a permit from the Directorate-General of Civil Aviation for the establishment of aircraft workshops
Authorized Economic Operator, Electronic Inventory Control System for Temporary Imports (SECIIT) sector	Have an ongoing IMMEX programme Have been entered in the register of certified enterprises for the two years prior to submitting the application Have at least 1,000 workers registered with the Mexican Social Security Institute (IMSS) or under service supply contracts, or have fixed assets of machinery and equipment for a peso value equivalent to US\$30 million, or be quoted on recognized markets Have means of transport for the imported goods whose final destination lies outside the border strip or region, as well as a booking system Have an electronic system of corporate control of operations Present a flow chart describing the working of the electronic inventory control system for temporary imports
Authorized Economic Operator, textiles sector	Be registered in the Enterprise Certification Scheme in the VAT and special tax on production and services (IEPS) categories
Authorized Economic Operator, strategic in-bond facility procedure sector	Be registered in the Enterprise Certification Scheme in the VAT and IEPS categories and not be in the process of suspension or cancellation of certification Have a valid authorization under the strategic in-bond facility procedure for which cancellation has not been initiated

Source: First Resolution amending the General Foreign Trade Rules for 2016 and annexes thereto, Glossary of Definitions and Acronyms, 1, 4, 10, 21, 22, 24, 27, 28, 29, 30 and 31, published in the Official Journal of 9 May 2016.

3.11. Enterprises registered in the Marketing and Importing Company and "Authorized Economic Operator" categories enjoy some advantages aimed at speeding up customs procedures. For example, they are exempt from specific obligations in filling out the customs import request, they may change specific temporary imports from the temporary importation procedure to the outright importation procedure, and they are granted certain advantages relating to payment of fines and compliance with deadlines.<sup>10</sup> Enterprises certified as authorized economic operators have exclusive access to the "Express" channel for customs clearance of imports. The benefits under the Scheme vary according to the category to which the enterprise belongs and the sector in which it operates.

### 3.1.2 Customs valuation

3.12. The customs value of goods is determined in accordance with the WTO Agreement on Customs Valuation and the Customs Law. In general, the transaction value is used to calculate the

<sup>9</sup> First Resolution amending the General Foreign Trade Rules for 2016 and annexes thereto, Glossary of Definitions and Acronyms, 1, 4, 10, 21, 22, 24, 27, 28, 29, 30 and 31, published in the Official Journal of 9 May 2016.

<sup>10</sup> Idem.

value of goods, and when this cannot be done the alternative methods of valuation set out in the WTO Agreement are used (Articles 71 and 78 of the Customs Law).

3.13. Where the documentation establishing the value is false or has been tampered with, or in the case of used goods, the customs authority may reject the declared value and determine the customs value using the methods stipulated in the WTO Agreement, or on the basis of its own valuation. According to the authorities, in the majority of cases (70% in 2016) the transaction value is used. Importers have the right to request a justification, prior to release of the goods, as to the valuation method or elements used to determine their customs value.

3.14. Mexico still uses estimated prices for the valuation of certain goods in order to avoid undervaluation as well as tax evasion. According to the authorities, these prices only serve as a reference and cannot be used to determine the tax base for import taxes, and therefore the value declared by the importer is not rejected and the goods may be removed from customs. Estimated prices are used for imports of used vehicles, textiles and clothing, and footwear, regardless of the origin of the imports.<sup>11</sup> Importers must deposit a security in order to import any goods subject to an estimated price.

### 3.1.3 Rules of origin

3.15. Mexico still uses preferential and non-preferential rules of origin. Non-preferential rules of origin are used to determine the origin of imports subject to anti-dumping or countervailing duties, in order to prevent circumvention by means of reshipment of goods through third countries.<sup>12</sup> However, a certificate of origin is not required and the declaration in the import request suffices.<sup>13</sup>

3.16. In general, the preferential rules of origin in treaties that have entered into force since 2012 follow the same lines as those in the treaties previously signed by Mexico. Since 2012, Mexico has signed trade agreements with Panama, Peru, Central America and the Pacific Alliance, and therefore applies the preferential rules of origin of those treaties.<sup>14</sup> The criteria conferring origin may be general or specific. The use of non-originating materials that do not comply with the change of classification is permitted provided that they do not exceed a percentage of the total cost or weight of the good, as in the case of textiles. These treaties authorize cumulation, including extended cumulation, which allows the use of inputs originating in non-party States with which the Parties in turn have a trade agreement (Table 3.3).

**Table 3.3 Rules of origin under the regional trade agreements that have entered into force since 2012**

	Panama	Peru	Central America	Pacific Alliance
Criteria of origin	(a) Goods wholly obtained or wholly produced in the territory of the Parties; (b) Goods wholly produced in the territory of the Parties exclusively from originating materials; (c) Goods wholly produced in the territory of the Parties with non-originating materials that meet the criteria established in the specific rules of origin, i.e. change of tariff classification or minimum percentage of value of local content.			
Tolerance rule	10% of transaction value			
Textiles	7% of total weight	10% of total weight	10% of total weight, except for elastomers (7%)	10% of total weight
Cumulation of origin	Yes, among Parties; extended cumulation of origin permitted			Yes, among Parties

Source: WTO Secretariat.

<sup>11</sup> Resolution establishing the mechanism to guarantee the payment of taxes on goods subject to prices estimated by the SHCP. Viewed at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5436417&fecha=10/05/2016](http://dof.gob.mx/nota_detalle.php?codigo=5436417&fecha=10/05/2016).

<sup>12</sup> Decision amending the miscellaneous provision establishing the rules for the determination of the country of origin of imported goods and provisions for their certification, with respect to anti-dumping and countervailing duties, published in the Official Journal of 16 October 2008. Viewed at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5064504&fecha=16/10/2008](http://dof.gob.mx/nota_detalle.php?codigo=5064504&fecha=16/10/2008).

<sup>13</sup> Decree granting administrative facilities for customs and foreign trade purposes (published in the Official Journal of 31 March 2008).

<sup>14</sup> WTO document G/RO/N/114 of 2 April 2014.

### 3.1.4 Tariffs

#### 3.1.4.1 Tariff structure and levels

3.17. In 2016, Mexico's Tariff Schedule contained 12,275 eight-digit lines of the HS 2012. In general, Mexico applies *ad valorem* tariffs, with the exception of 59 tariff lines (0.7% of the total). Of these, 15 are subject to specific tariffs and 44, concerning sugar, sugar products or products containing sugar, are subject to compound tariffs.<sup>15</sup>

3.18. The average applied MFN tariff fell during the review period from 6.2% in 2012 to 5.5% in 2016 (Table 3.4).<sup>16</sup> This reduction is due to the lower protection afforded to agricultural products (WTO definition), which decreased from 20.9% in 2012 to 14.3% in 2016. Non-agricultural products were subject to a lower average tariff than agricultural products, for which the average rate did not vary during the review period (4.6%).

**Table 3.4. Structure of MFN tariffs, 2012 and 2016**

(%)

		2012 (HS07)	2016 (HS12)
1.	Total number of tariff lines	12,107	12,275
2.	Non- <i>ad valorem</i> tariffs (% of tariff lines)	0.7	0.7
3.	Non- <i>ad valorem</i> tariffs without <i>ad valorem</i> equivalents (% of tariff lines)	0.2	0.6
4.	Tariff quotas (% of tariff lines)	1.2	1.0
5.	Lines with zero tariffs (% of tariff lines)	58.3	58.1
6.	Average of lines above zero (%)	14.9	13.3
7.	Arithmetic mean	6.2	5.5
8.	Agricultural products (WTO definition)	20.9	14.3
9.	Non-agricultural products (including petroleum, WTO definition)	4.6	4.6
10.	Domestic tariff peaks (% of tariff lines) <sup>a</sup>	9.4	9.8
11.	International tariff peaks (% of tariff lines) <sup>b</sup>	9.4	9.8
12.	Overall standard deviation of applied rates	14.8	8.8
13.	Bound tariff lines (% of tariff lines)	100.0	100.0

a Domestic tariff peaks are defined as rates that are more than three times the overall simple average applied rate.

b International tariff peaks are defined as rates above 15%.

Source: WTO Secretariat estimates, based on data provided by the Mexican authorities.

3.19. Mexico substantially reduced tariffs during the review period. One of the biggest changes was the reduction in the highest tariff rate, which was cut from 254% to 100%. The products to which the 254% rate was applied in 2012, such as animal products, bacon and animal or vegetable fats and oils, are now subject to a rate of 20% and 45%. Poultry meat and edible offal have a tariff of 100% (234% in 2012), and other products such as fresh cheese and white and black beans, which were subject to tariffs of 125% in 2012, now have a tariff of 45%.

3.20. On average, the highest duties by WTO category continue to be applied to agricultural products, specifically sugar and confectionery, and to animals and animal products, with tariffs of 40.9% (63.3% in 2012) and 24.8% (48.2% in 2012), respectively (Table A3.1). The tariffs applied to non-agricultural products have not varied significantly since 2012; the products with the highest average tariff remain clothing (21.6% in 2012 and 21% in 2016) and fish and fish products (16.8% in 2012 and 15.5% in 2016).

3.21. The Decree amending the Tariff of the General Import and Export Tax Law (published in the Official Journal of 24 December 2008) provides for a unilateral tariff-cutting programme that

<sup>15</sup> Compound tariffs are applied to products such as: milk and milk components, cream and whey, containing added sugar (HS 0402 and 0404); dairy spreads (HS 0405); frozen fruit and nuts and other fruit and nuts containing added sugar (HS 0811); molasses (HS 1703); sugar confectionery (HS 1704); chocolate and other food preparations containing cocoa (HS 1806); food preparations of flour, groats and cereal products, baker's products (HS 1901; 1904 and 1905); other food preparations (HS 2106); jams and jellies (HS 2006 and 2007); ice cream (HS 2105); mineral water (HS 2202); ethyl alcohol (HS 2207) and citric acid esters (HS 2918).

<sup>16</sup> The compound tariffs were not used in the calculation of the average tariff, because the specific component of the compound tariff varies according to the sugar content of the product, which complicates and renders inaccurate the calculation of the *ad valorem* equivalent.



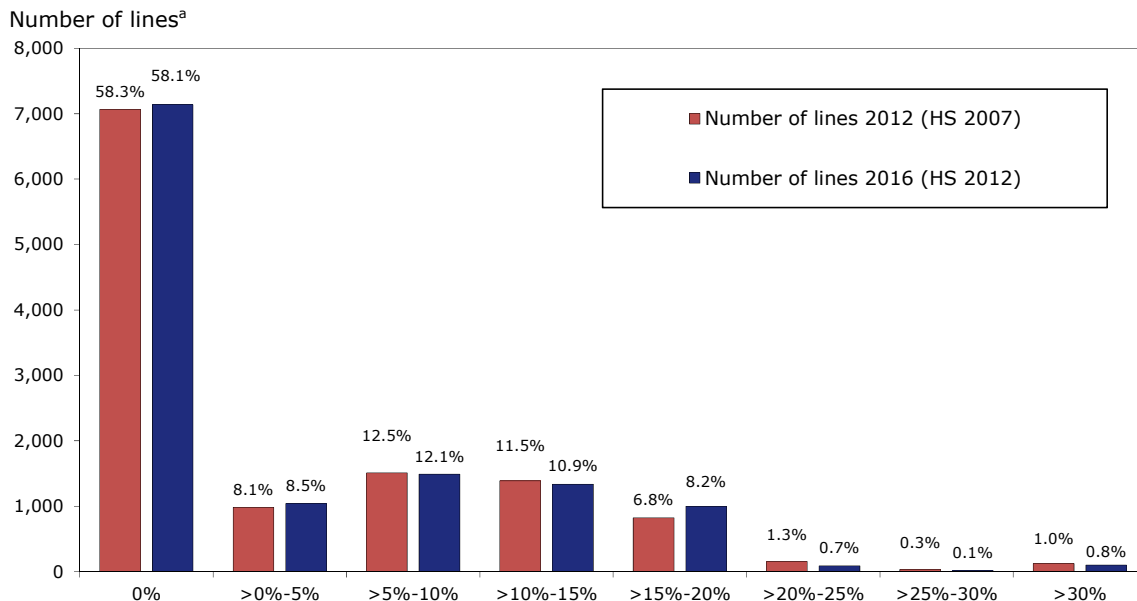
began on 2 January 2009 and should have ended in 2013 with the liberalization of 165 lines relating to clothing and footwear. However, the reduction for these lines was postponed until 2019.

3.22. As a consequence of this tariff cutting, the applied tariffs now range from 0% to 100%, disregarding the compound tariffs. The most frequent tariff rate, which is applied to 58.1% of tariff lines (58.3% in 2012), is the zero rate (Chart 3.1). In January 2016, tariff lines with an *ad valorem* tariff higher than zero were subject to 18 different rates (28 in 2012), ranging from 3% to 100%.<sup>17</sup> Apart from 0%, the most common rates remain 5% (1,013 lines), 10% (1,274 lines) and 15% (1,337 lines). In 2016, 98% of tariff lines were subject to a tariff of 20% or less.

3.23. Mexico bound all its tariff lines in the Uruguay Round, at levels ranging from 0 to 254%. About 77% of the total were bound at 35%, 9% at levels below 35%, and the remainder at levels above 35%. Mexico's bound tariff, like the applied tariff, contains specific and compound tariffs. The bound compound tariffs apply to products such as meat and offal; milk and dairy products; potatoes and dried leguminous vegetables; cereals; animal or vegetable fats and oils; sugars and confectionery; cocoa and cocoa preparations; and food preparations. The compound tariffs have a specific component and an *ad valorem* component that acts as a minimum tariff; the *ad valorem* component ranges from 47% to 254%.

3.24. Mexico applies seasonal tariffs to sorghum (HS 1007.90.01-1007.90.02), soya beans (HS 1201.90.01 - 1201.90.02) and safflower seeds (HS 1207.60.02-1207.60.03). As a result of the application of this type of tariff, imports of these three products enter Mexico duty-free during a specific period of the year, but outside this period sorghum and soya beans are subject to a 15% tariff and safflower seeds to a 10% tariff.

**Chart 3.1 Frequency distribution of tariff rates, 2012 and 2016**



a The 2012 Tariff contained 12,108 lines, and the 2016 Tariff, 12,275 lines.

Note: The total of the lines does not add up to 100%, as 0.2% concern products of which imports are prohibited and which carried no tariff in 2012. For the analysis relating to 2016, compound duties were excluded from the calculation (44 lines).

Source: WTO Secretariat calculations, based on data provided by the authorities.

#### 3.1.4.2 Tariff quotas

3.25. Mexico still uses three types of tariff quota: those negotiated in the WTO, unilateral quotas and preferential quotas.

<sup>17</sup> The rates were: 3%, 4%, 5%, 6%, 7%, 9%, 10%, 15%, 17%, 20%, 25%, 30%, 36%, 45%, 50%, 67%, 75% and 100%.

3.26. Within the WTO framework, Mexico applies tariff quotas to 72 HS eight-digit lines. These products are: powdered milk, cheese, coffee, meat and edible offal, animal fats, potatoes, beans, wheat, barley, maize, sugar and products with a high sugar content. In 2015, most of these quotas were not used either because the applied MFN tariff was lower than the tariff for in-quota imports, or because market access conditions offered under a unilateral quota were more favourable than those offered under the WTO multilateral quota, or else because Mexico's imports on preferential terms exceeded the WTO quota amount (Table A3.2).

3.27. Mexico also has unilateral import quotas aimed at boosting the competitiveness of production chains, coping with higher international prices, enabling operators in certain sectors to access inputs on similar conditions to those existing abroad, or satisfying demand when there is a shortfall in the national supply of some products. To determine the volume or value of these quotas, the SE takes into account the domestic availability and supply of the product in question as well as the opinion of industry stakeholders and the Foreign Trade Commission (COCEX). In general, quotas are allocated by public auction. However, the SE may choose to use other procedures that ensure adequate access for all bidders; for example, direct allocation and "first come, first served". Once the quotas have been allocated, importers must obtain a non-automatic import licence ("quota certificate"). The SE publishes in the Official Journal the total quantity, volume or value of the quota, requirements for submitting applications, term of validity of the corresponding licence and procedure for allocation of the quota among applicants.

3.28. Mexico currently has unilateral quotas for 74 HS eight-digit tariff lines comprising both agricultural products and manufactures (Table A3.3). Of these lines, 18 are also subject to WTO-type quotas; this is the case for beans, coffee, barley and poultry meat. For these products, the in-quota tariff is lower than in the case of the WTO quota. In 2015, volumes imported within the WTO quota were generally much smaller than within the unilateral quota (Table A3.3).

3.29. Mexico has negotiated preferential quotas under its trade agreements with: Argentina (ECA 6) (79 eight-digit lines of the 2012 HS) and ECA 55, appendix 1 (26 lines); Brazil: ECA 53 (12 lines) and ECA 55, appendix 2 (26 lines); Colombia (28 lines); Costa Rica (18 lines); Cuba: ECA 51 (97 lines); El Salvador (13 lines); Guatemala (15 lines); Honduras (12 lines); Israel (21 lines); Japan (42 lines); Nicaragua (11 lines); Peru (50 lines); Uruguay (33 lines) and the European Union (4 lines).

#### 3.1.4.3 Preferential tariffs

3.30. Mexico grants preferential treatment for imports from countries with which it has preferential agreements. In 2016, it granted preferences to 46 countries with which it had signed FTAs (12 treaties in all) and to six other countries with which it had partial agreements in the LAIA framework.

3.31. The average preferential tariff in these FTAs is in all cases lower than the MFN average.<sup>18</sup> Average preferential tariffs range between 0% and 3.3% and are lower for non-agricultural products, where the range is 0% to 2.8%. The preferences granted for agricultural products are smaller than those granted to non-agricultural products, and in some cases very close to the MFN tariff. The preferential levels for agricultural products range between 0% and 14.1%. Duty-free status granted under all the agreements, except that with Panama, covers over 90% of the total Tariff Schedule, and in some cases (Chile, Nicaragua and the United States) even reaches 99% or 100% (Table A3.4).

3.32. The preferences granted under partial agreements cover about 60% of the total tariff, with the exception of the agreement with the Plurinational State of Bolivia. The preference margin granted in these agreements compared with the average MFN tariff is not large, owing to the fact that Mexico has cut its MFN tariffs and the agreements were negotiated before this reduction and have not been renegotiated.

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<sup>18</sup> In the calculation of this average, the lower of the MFN tariff and the preferential tariff was used for each product, in order to reflect market access conditions more accurately.

### 3.1.4.4 Tariff concessions

3.33. In general, all imported goods must pay import duties, except for those explicitly exempted by law. These exemptions apply to imports of goods for the use, *inter alia*, of public agencies for national defence or public security, Foreign Service officials, international organizations, and educational institutions. Imports for aircraft maintenance are also exempt, as are grants/donations and goods imported by persons living in the border zone for their own consumption (Article 61 of the Customs Law).

3.34. Mexico also continues to grant tariff concessions under various programmes, such as the sectoral promotion programmes (PROSEC) and the Manufacturing, Maquila and Export Services Industry (IMMEX) programme.

### 3.1.5 Other charges affecting imports

3.35. Both imported and domestic products are subject to various internal taxes. These are: value added tax (VAT); the special tax on production and services (IEPS); and the tax on new motor vehicles (ISAN).

3.36. Definitive imports are subject to VAT, except for personal luggage and household effects, donated goods and works of art.<sup>19</sup> The VAT rate has not varied since the previous review (2012) and remains 16%. However, unlike what occurred in the period covered by the previous report, this 16% rate is now applied throughout the national territory, including the border regions where in 2012 the rate was 11%. The tax base for the calculation of VAT on imports is the customs value of the goods plus the amount of import tariffs and other duties (Article 27 of the Law on VAT).

3.37. Mexico has not increased the IEPS rates since the previous review in 2012, but it has added items to the list of products subject to the tax (Table 3.5). In December 2016, the IEPS applied to products such as alcoholic beverages, tobacco products, fuels, flavoured energy drinks with added sugar, pesticides and basic foodstuffs, some of which were not covered in 2012 (Table 3.5). Depending on the product, the IEPS may be *ad valorem* (alcoholic beverages), specific (fossil fuels) or compound (cigarettes).

3.38. New vehicles whose price is higher than Mex\$222,032.19 continue to be subject to the ISAN, which is a compound tax with an *ad valorem* component and a specific component. For vehicles bought in the country, the tax is calculated on the sales price of the vehicle to the final consumer.<sup>20</sup> In the case of imports, the tax is calculated on the basis of the customs value plus import duty and other import-related duties, excluding VAT.<sup>21</sup> The tax incentive provided in 2012 to promote the purchase of automobiles under a certain value continues to be granted (Table 3.5). Electric motor vehicles are exempt from the ISAN.

**Table 3.5 Other import charges, 2016**

	Taxable goods	Rate in 2016	Changes since 2012
<b>VAT</b>	All goods, except those specified in Article 25 of the Law on VAT (for example, personal luggage or household effects)	16%	The preferential 11% rate for border zones was abolished in 2014.
<b>IEPS<sup>a</sup></b>	Alcoholic beverages and beer	26.5%, 30% or 53%, according to the alcohol content	No change
	Alcohol, denatured alcohol and non-crystallized honey	50%	No change
	Cigarettes	160% + Mex\$0.35/cigarette	No change

<sup>19</sup> Article 25 of the Law on VAT (published in the Official Journal of 29 December 1978; latest amendment published in the Official Journal of 11 December 2013).

<sup>20</sup> Article 3 of the Federal Law on the ISAN, published in the Official Journal of 30 December 1996. The latest amendment was published in the Official Journal of 27 December 2006. The latest update of the amounts was published in the Official Journal of 5 January 2012. Five brackets of automobile prices are established for the purpose of calculating the tax. The tax consists of a specific amount ranging from Mex\$0 and Mex\$8,260.86 (US\$ 1,700) depending on the price bracket for the automobile, and an *ad valorem* rate which ranges from 2% to 17%, applied to the difference between the value of the vehicle and the lower limit in the corresponding price bracket.

<sup>21</sup> Article 2 of the Federal Law on the ISAN.

	Taxable goods	Rate in 2016	Changes since 2012
	Cigars and other worked tobacco	160%; 30.4% if hand made	No change
	Motor vehicle fuels	The specific rate is updated each month by an SHCP Decision published in the Official Journal.	Not applicable
	Gasoline (petrol), below 92 octane		
	Gasoline (petrol), 92 octane or higher		
	Diesel		
	Non-fossil motor vehicle fuels		
	Fossil fuels (carbon emissions)		Fossil fuels were included in 2014. The specific rate is updated each year by a SHCP Decision published in the Official Journal. Decision No. 26/2015, published in the Official Journal of 24 December 2015, includes the specific rates for 2016.
	Propane	Mex\$0.629/litre	
	Butane	Mex\$0.815/litre	
	Gasoline (petrol) and aviation fuel	Mex\$0.1105/litre	
	Jet fuel and other kerosenes	Mex\$0.1320/litre	
	Diesel	Mex\$0.1340/litre	
	Fuel oil	Mex\$0.1431/litre	
	Petroleum coke	Mex\$16.60/tonne	
	Mineral coke	Mex\$29.31/tonne	
	Coking coal	Mex\$38.93/tonne	
	Other fossil fuels	Mex\$42.37/tonne of carbon in the fuel	
	Energy drinks and syrups and concentrates for the preparation thereof	25%; 25% + Mex\$1/litre when containing added sugar	No change
	Flavoured drinks and syrups and concentrates for the preparation thereof, containing added sugar	1 peso/litre	In 2014 flavoured beverages were included with the exception of: those with a health registration (cough syrups, oral serums); those with a high nutritional value (milk); or those prepared in bars or restaurants (considered a service).
	Pesticides	0%, 6%, 7% or 9%, according to the toxicity category	In 2014 pesticides were included with rates between 0% and 4.5%; these rates were changed in 2015. As of 2015, the Law set rates of 6%, 7% or 9% according to the toxicity category.
	High-calorie non-staple foods ( $\geq 275$ kcal/100 grams)	8%	High-calorie non-staple foods were included in 2014.
<b>ISAN<sup>b</sup></b>	New automobiles, except for those imported duty free or under a trade agreement and automobiles costing not more than Mex\$222,032.19	Rate between 2% and 17% + specific rate of between Mex\$4,782.06 and Mex\$26,301.72	Since 2015 electric motor vehicles have been exempt. A 50% discount is granted on the rate for motor vehicles with a sales price of between Mex\$222,032.20 and Mex\$281,240.78. <sup>c</sup>

- a The Law on the IEPS, updated on 29 July 2016, can be viewed at: [http://www.diputados.gob.mx/LeyesBiblio/ref/lieps/LIEPS\\_cant04\\_27dic16.pdf](http://www.diputados.gob.mx/LeyesBiblio/ref/lieps/LIEPS_cant04_27dic16.pdf).
- b The Federal Law on New Automobiles, updated on 13 January 2016, can be viewed at: [http://www.diputados.gob.mx/LeyesBiblio/pdf/123\\_120117.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/123_120117.pdf).
- c This amount is updated every year by a SHCP Resolution published in the Official Journal (latest update contained in Annex 15 of the Omnibus Tax Resolution for 2015 (published in the Official Journal of 13 January 2015).

Source: Online information viewed at: [http://www.sat.gob.mx/fichas\\_tematicas/reforma\\_fiscal/Paginas/default.aspx](http://www.sat.gob.mx/fichas_tematicas/reforma_fiscal/Paginas/default.aspx).

### 3.1.6 Import prohibitions, restrictions and licensing

3.39. The Foreign Trade Law (LCE) and its implementing Regulations continue to regulate the imposition of non-tariff measures. The Executive is empowered to impose such measures to regulate trade in goods, by means of decisions issued by the Ministry of the Economy (SE) or jointly with the competent authority and published in the Official Journal. Before being issued, these measures are evaluated by the Foreign Trade Commission, except in cases of emergency.<sup>22</sup> If the Commission does not accept the proposed measure, the relevant bodies must revise it.

3.40. Under the LCE (Article 16), non-tariff measures may be adopted: to remedy temporarily balance-of-payments imbalances; to regulate the entry of used goods, waste or goods with no substantial market in their country of origin or provenance; to administer the provisions of international treaties or conventions to which Mexico is a party; in retaliation against other countries that have restricted Mexican imports; to prevent unfair international trade practices;

<sup>22</sup> Articles 14 to 25 of the Regulations implementing the LCE of 1993 (latest amendment published in the Official Journal of 29 December 2000).

and to protect national security, public health and the environment, or for animal or plant health reasons.

3.41. Mexico still prohibits the import of certain products (22 products of the HS 2012 at eight-digit level), in particular chemicals and drugs.<sup>23</sup> The list has not changed since the previous review.

3.42. Mexico has an import licensing system (prior import permit and/or automatic import notification) which is based, as notified to the WTO, on the premise that imports into the country are exempt from this requirement with the exception of the products specified by a decision issued by the SE as being subject to licensing (prior import permit and/or automatic import notification). The legal basis of the import licensing system is the LCE.<sup>24</sup> In 2013, Mexico resumed using automatic licences (automatic permits), which had been abolished in 2005. Thus, Mexico currently uses both automatic licensing (automatic permits) and non-automatic licensing (prior permits).

3.43. Automatic licensing (automatic notification) is used to keep a record of imports.<sup>25</sup> In 2016, these concerned iron products (146 HS eight-digit lines), slot machines (HS one-digit line), textiles (734 HS eight-digit lines) and footwear (122 HS eight-digit lines).<sup>26</sup> The licence must specify the import procedure and tariff line, as well as the value and quantity authorized to be imported or exported and period of validity. Licences may be valid for a period ranging from 60 days to four months depending on the product concerned, and are non-transferable. The customs authorities may authorize one or more automatic extensions of the validity of the original import licence. The extension is for 30 days where the goods arrive by sea or seven days in other cases.<sup>27</sup>

3.44. Mexico continues to apply non-automatic licensing (prior permits) in order to regulate trade in specific products. The purpose of these licences is not to restrict the quantity or value of the imports.<sup>28</sup> Non-automatic licensing (prior permits) applies to products originating in all countries, except where it is used to administer undertakings negotiated in the framework of a trade agreement.<sup>29</sup> Non-automatic licences (prior permits) are also required to import certain products under the Decree to promote the Manufacturing, Maquila and Export Services Industry (IMMEX) and under sectoral promotion programmes (PROSEC).

3.45. The SE is responsible for issuing most non-automatic licences (prior permits), although some of these are regulated and issued by other Ministries (Table 3.6). The lists of goods subject to non-automatic licensing (prior permits) is reviewed on the basis of technical criteria at least once a year with a view to proposing to the Foreign Trade Commission that those considered unnecessary be abolished or others considered desirable be added. There is also an Interministerial Commission for the control of certain products such as pesticides, fertilizers and toxic substances.<sup>30</sup>

<sup>23</sup> WTO document G/MA/QR/N/MEX/1 of 27 July 2016.

<sup>24</sup> WTO document G/LIC/N/3/MEX/5 of 10 October 2013.

<sup>25</sup> Automatic permits (Article 21 of the Regulations implementing the Foreign Trade Law).

<sup>26</sup> WTO documents G/LIC/N/1/MEX/4 of 15 April 2014; G/LIC/N/2/MEX/3 of 15 April 2014; G/LIC/N/2/MEX/6 of 11 March 2015; and G/LIC/N/2/MEX/5 of 10 March 2015.

<sup>27</sup> Regulations implementing the Foreign Trade Law (latest amendment published in the Official Journal of 22 May 2014).

<sup>28</sup> Decision determining the classification and coding of goods whose import and export are subject to a prior permit issued by the SE, published in the Official Journal of 6 July 2007 (latest amendment published in the Official Journal of 3 September 2012). Viewed at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5283884&fecha=31/12/2012](http://www.dof.gob.mx/nota_detalle.php?codigo=5283884&fecha=31/12/2012).

<sup>29</sup> Decision of the Ministry of the Economy issuing general rules and criteria for foreign trade, published in the Official Journal of 31 December 2012 (latest updated published in the Official Journal of 1 April 2016).

<sup>30</sup> Decision establishing the classification and coding of goods whose import and export are subject to regulation by the bodies comprising the Interministerial Commission for the Control of the Processing and Use of Pesticides, Fertilizers and Toxic Substances (published in the Official Journal of 12 April 2013; latest amendment published in the Official Journal of 5 February 2016).

**Table 3.6 Ministries issuing import permits, 2016**

Ministry	Product	Decision establishing the classification and coding of the products/goods:
Health	Essential chemicals  Products for human consumption, finished products and raw materials for medicaments, pharma-chemicals, narcotics and psychotropic substances; products for the diagnosis, treatment or rehabilitation of illnesses in humans; chemical substances; and tobacco and cigarettes	Essential chemicals whose import and export are subject to submission of a prior opinion from the Ministry of Health (Official Journal of 30 June 2007, latest amendment published in the Official Journal of 1 June 2010).  Goods whose import, export, inward clearance or exit is subject to sanitary regulation by the Ministry of Health (Official Journal of 16 October 2012, latest amendment published in the Official Journal of 5 February 2016).
SEMARNAT	Species listed in the CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) appendices; forestry products and by-products; toxic or hazardous substances or materials  Hydrocarbons and petroleum products  Nuclear materials and fuels, radioactive materials, and equipment that generates ionizing radiation	Goods whose import and export are subject to regulation by SEMARNAT (Official Journal of 19 December 2012, latest amendment published in the Official Journal of 24 March 2016).  Hydrocarbons and petroleum products whose import and export are subject to prior licensing by the SENER (Official Journal of 29 December 2014, latest amendment published in the Official Journal of 30 December 2015). Goods whose import and export are subject to regulation by the SENER (Official Journal of 2 March 2012, latest amendment published in the Official Journal of 2 March 2016).
National Defence	Arms, ammunition, gunpowder, explosives, fireworks, and chemical substances related to explosives	Goods whose import and export are subject to regulation by the Ministry of Defence (Official Journal of 30 June 2007, latest amendment published in the Official Journal of 13 January 2016).
SAGARPA	Agricultural products and aquatic species	Goods whose import is subject to regulation by SAGARPA (Official Journal of 3 September 2012, latest amendment published in the Official Journal of 18 July 2016).

Note: SEMARNAT: Ministry of the Environment and Natural Resources; SENER: Ministry of Energy; SAGARPA: Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food.

Source: Information provided by the authorities.

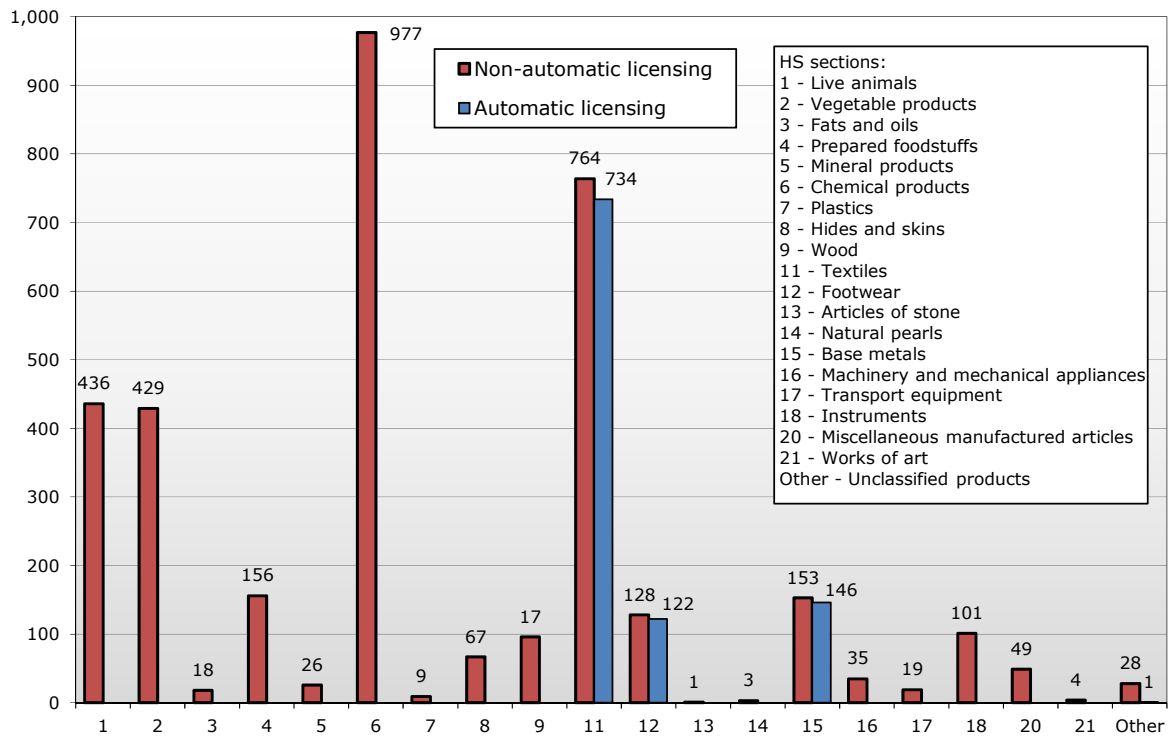
3.46. Non-automatic licences are processed through the Digital Window, regardless of the body issuing them. The deadline for issuing non-automatic licences (prior permits) may not exceed 15 working days from the date of application. These licences are generally valid for one year and may be extended for a further year up to three times, except in the case of hydrocarbons and petroleum products, for which the licences may be valid for up to 20 years and may be extended once only for half of the period of the original licence.<sup>31</sup>

3.47. In 2016, 3,499 tariff lines were subject to non-automatic licensing and 1,003 tariff lines were subject to automatic import licensing. In principle, the application of one type of licence does not exclude the other; in the case of textiles, footwear and metals, both types of licensing apply (Chart 3.2).

<sup>31</sup> Decision establishing the classification and coding of hydrocarbons and petroleum products whose import and export are subject to a prior permit from the Ministry of Energy (published in the Official Journal on 29 December 2014; latest amendment published in the Official Journal on 30 December 2015).

**Chart 3.2 Automatic and non-automatic import licensing, by HS 2016 section**

(Number of tariff lines)



Source: WTO Secretariat calculations, based on data provided by the authorities.

### 3.1.7 Contingency measures

3.48. During the period under review, Mexico increased its use of contingency measures, in particular anti-dumping (AD) measures, compared with the previous review period (Table 3.7). Between 1 January 2012 and 30 November 2016, Mexico initiated 34 new AD investigations and one subsidies investigation. A total of 34 new definitive AD duties and three countervailing duties were imposed. Mexico had 64 definitive AD measures and three countervailing measures in force at 30 November 2016.

**Table 3.7 Number of investigations initiated and contingency measures imposed by type of measure, 2012-2016 (30 November)**

Year	Anti-dumping investigations initiated	Countervailing investigations initiated	Safeguard investigations initiated	New anti-dumping duties imposed	New countervailing duties imposed	New safeguard measures imposed
2007-2011	14	3	1	4	0	0
2012	4	0	0	4	2	0
2013	6	1	0	2	0	0
2014	14	0	0	8	1	0
2015	9	0	0	9	0	0
2016	1	0	0	11	0	0
2012-2016	34	1	0	34	3	0

Source: WTO Secretariat, on the basis of information provided by the authorities.

#### 3.1.7.1 Legal and institutional framework

3.49. The use and application of contingency measures (anti-dumping and countervailing duties and safeguard measures) are governed by the LCE<sup>32</sup> and its implementing Regulations.<sup>33</sup> At the

<sup>32</sup> Titles V-VII, comprising Articles 28-89F.

<sup>33</sup> Titles IV-VIII, comprising Articles 37-176.

bilateral level, the use and application of such measures are also governed by the trade agreements signed by Mexico (Section 2).

3.50. A decree amending, supplementing and repealing various provisions of the Regulations implementing the LCE entered into force on 23 May 2014 and was notified to the WTO.<sup>34</sup> However, some of these changes only entered into force six months after their publication in the Official Journal, in other words on 23 November 2014. These provisions apply to all imports, regardless of their origin and provenance, including those from the United States and Canada. These changes were introduced in order to spell out various aspects of some reforms to the LCE, and to update and adapt various provisions of its implementing Regulations in order to make them clearer. These changes led to the abolition of some articles of the Regulations, the introduction of some guidelines, the modification of some deadlines, and greater detail concerning the stages of the special procedures established in the LCE (product coverage, circumvention of anti-dumping and countervailing duties, extension of benefits, clarifications and new exporter procedure), among other details and clarifications.

3.51. The SE's International Trade Practices Unit (UPCI) is the authority responsible for anti-dumping, subsidies and safeguard investigations. It is in charge of conducting and completing such investigations and proposing the application (or not) of the relevant countervailing, AD and safeguard measures. Another of the UPCI's responsibilities is to assist Mexican exporters affected by such measures adopted by other countries. It also acts as an advisory unit for the SE and other governmental bodies in international trade negotiations and other matters within its purview.<sup>35</sup>

### 3.1.7.2 Anti-dumping measures

3.52. Mexico had 64 definitive anti-dumping measures in force at 30 November 2016 (Table 3.8). This represents an increase of 68.4% over December 2011 and the previous review period, when there were 38 measures.<sup>36</sup> Despite this clear increase, the number is well below the 93 anti-dumping measures in force in December 1995.<sup>37</sup>

**Table 3.8 Definitive anti-dumping measures in force as at 30 November 2016**

Country or customs territory	Product	Date of original imposition
Germany	Hot-rolled steel coils	23.12.2015
Argentina	Epoxidized soya oil	13.02.2016
Brazil	Bond paper, cut	12.03.2013
	Corrugated rods	12.08.1995
	Multilayer paper sacks for lime and cement	26.01.2006
Chile	Mushrooms of the <i>genus Agaricus</i>	18.05.2006
China	Ceramic floor and wall tiles	25.10.2016
	Aluminium kitchenware	14.10.2016
	Steel wire rod	29.07.2016
	Steel and zamak handles	24.12.2015
	Hot-rolled steel coils	23.12.2015
	Children's bicycles	22.12.2015
	Ammonium sulphate	10.10.2015
	Cold-rolled sheet	20.06.2015
	Stainless steel sinks	09.05.2015
	Steel ropes and cables	17.12.2014
	Blenders for domestic and commercial use	10.12.2014
	Steel plate in sheets	15.10.2014
	Galvanized carbon steel wire mesh	10.10.2014
	Pencils	27.05.2014
	Blankets of synthetic fibres	27.05.2014
	Ceramic and porcelain dishware and loose articles	14.01.2014
	Seamless steel tubing	08.01.2014
	Radio guide (RG)-type coaxial cable with or without messenger	11.08.2012
	Graphite electrodes for electric arc furnaces	02.03.2012

<sup>34</sup> WTO documents G/ADP/N/1/MEX/1/Suppl.5, G/SCM/N/1/MEX/1/Suppl.4, and G/SG/N/1/MEX/1/Suppl.4 of 13 June 2014.

<sup>35</sup> Online information from the SE. Viewed at: <http://www.gob.mx/se>.

<sup>36</sup> WTO document OMC G/ADP/N/223/MEX of 12 March 2012 and WTO documents in the series G/ADP/N/\*MEX.

<sup>37</sup> WTO document G/ADP/N/9/MEX/Suppl.1 of 14 August 1996.



Country or customs territory	Product	Date of original imposition
	Galvanized hexagonal mesh	25.07.2002
	Steel chain with welded links	18.07.2003
	High-carbon ferro manganese	26.09.2003
	Sodium hexametaphosphate	04.08.2004
	Carbon steel connections for welding	05.08.2004
	Concrete steel nails	30.11.2004
	Mushrooms of the <i>genus Agaricus</i>	18.05.2006
	Plastic atomizers	22.04.2009
	Seamless steel tubing	25.02.2011
	Prestressed products	27.02.2016
<b>Korea, Rep. of</b>	Cold-rolled sheet	27.12.2013
		(Price undertaking)
	Short fibre polyester	20.08.1993
<b>Spain</b>	Carbon steel tubing with straight longitudinal or helical seams	21.04.2016
	Prestressed products	27.02.2016
<b>United States</b>	Ammonium sulphate	10.10.2015
	Carbon steel tubing with straight longitudinal seams	28.05.2005
	Chicken legs and thighs	07.08.2012
	Epoxidized soya oil	30.07.2005
	Liquid caustic soda	13.07.1995
	Monobutyl ether of ethylene glycol	12.09.2012
	Partially hydrogenated fatty acid	08.04.2005
	Stearic acid	09.04.2005
	Carbon steel tubing with straight longitudinal or helical seams	21.04.2016
<b>France</b>	Hot-rolled steel coils	23.12.2015
<b>India</b>	Ferro-silico-manganese	19.10.2016
	Carbon steel tubing with straight longitudinal or helical seams	21.04.2016
<b>Japan</b>	Seamless steel tubing	11.11.2000
<b>Kazakhstan</b>	Cold-rolled sheet	30.06.1999
<b>Portugal</b>	Prestressed products	27.02.2016
<b>United Kingdom</b>	Carbon steel tubing with straight longitudinal seams	06.01.2010
<b>Romania</b>	Carbon steel plate in sheets	22.09.2005
<b>Russian Federation</b>	Carbon steel plate in sheets	22.09.2005
	Cold-rolled sheet	30.06.1999
	Hot-rolled sheet	29.03.2000
	Steel plate in coils	08.06.1996
<b>Ukraine</b>	Bars and rods of iron or non-alloy steel	19.09.2000
	Carbon steel plate in sheets	22.09.2005
	Ferro-silico-manganese	25.09.2003
	Hot-rolled sheet	29.03.2000

Source: WTO document G/ADP/N/286/MEX of 7 September 2016, Official Journal, viewed at: <http://www.dof.gob.mx>; and information provided by the authorities.

3.53. At 30 November 2016, Mexico applied definitive AD measures on imports of various products coming from 17 countries or territories; 83% of these measures (53) were applied to imports from seven origins, in decreasing order: China (29), United States (8)<sup>38</sup>, Russian Federation (4), Ukraine (4), Brazil (3), India (2) and Spain (2). Mexico also imposed definitive AD duties on imports from Argentina, Chile, France, Germany, Japan, Kazakhstan, the Republic of Korea, Romania, Portugal, and the United Kingdom, each of which was affected by one definitive measure (Table 3.8).

3.54. Approximately 60% (i.e. 39) of the definitive AD duties in force at November 2016 were imposed on steel products or steel manufacturing materials, machinery and equipment. This is primarily due to the large number of definitive measures imposed on steel and steel products imported from China (16), as well as the Russian Federation (4), Ukraine (4), United States (2), India (2) and Spain (2). Other imports subject to AD measures in November 2016 included in particular food, chemicals, plastics, paper, household products and textiles from Brazil, China, and the United States. As may be seen in Chart 3.3, in recent years the number of areas subject to investigations has diminished, while the percentage accounted for by the iron and steel industry has increased substantially, from an average of 43% over the last 20 years to 68% in the period under review (Chart 3.3).

<sup>38</sup> The authorities indicated that they do not include among the definitive measures imposed the measure concerning chicken legs and thighs imported from the United States. The final AD measure was imposed by the final resolution published in the Official Journal of 6 August 2012 as a result of a health alert, but this led to price-distorting effects and therefore it was decided not to apply the definitive AD duties until the situation had returned to normal, so as not to exaggerate their effect on the market.

3.55. The number of new AD investigations initiated has fallen substantially since the peak recorded in 1993, when 83 investigations were initiated, but remains high. During the review period (up to November 2016), 34 new AD investigations were initiated, a level similar to that of 1997-2001 and 2002-2006 (41 and 42 fresh investigations respectively), but higher than the number of investigations initiated in 2007-2011 (14).<sup>39</sup>

3.56. The origin of the imports covered by the new AD investigations during the period 2012-November 2016 breaks down as follows: China (20), United States (3), Spain (2), India (2) and Republic of Korea (2). Investigations were also initiated into imports from Argentina, France, Germany, Portugal, and Chinese Taipei (one each).<sup>40</sup> Chart 3.4 shows the number of AD investigations initiated by exporter during the periods of this and the previous review, from 1 January 2007 to 30 November 2016; broadly speaking, they coincide with those of the period 2007-2012 as far as the origin of the imports under investigation is concerned, since China, the United States, India and the Republic of Korea are to be found in both periods.

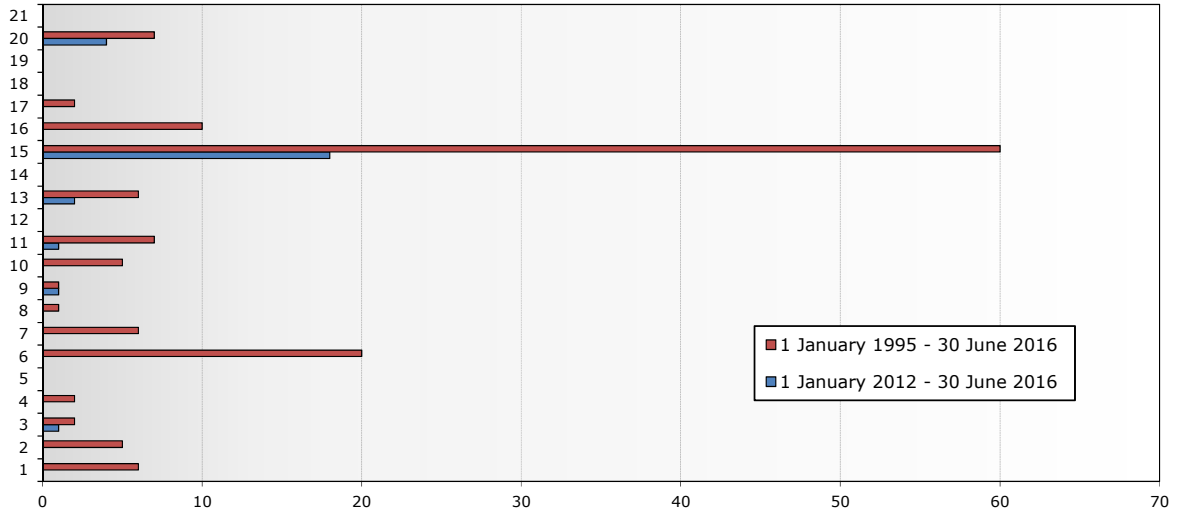
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<sup>39</sup> WTO document series G/ADP/N/\*/MEX.

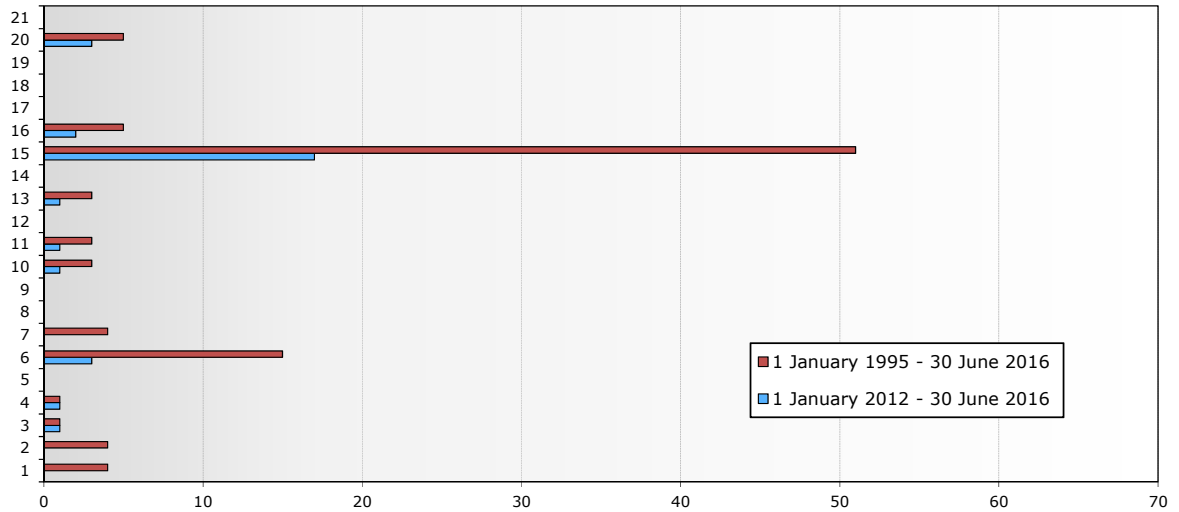
<sup>40</sup> WTO documents G/ADP/N/280/MEX of 22 February 2016; G/ADP/N/282 of 23 February 2016; G/ADP/N/283 of 24 March 2016; G/ADP/N/284 of 19 April 2016; G/ADP/N/285 of 31 May 2016; G/ADP/N/287 of 23 June 2016; and Official Journal. Viewed at: <http://www.dof.gob.mx>.

Chart 3.3 Number of anti-dumping investigations and measures, by HS section

Investigations



Measures

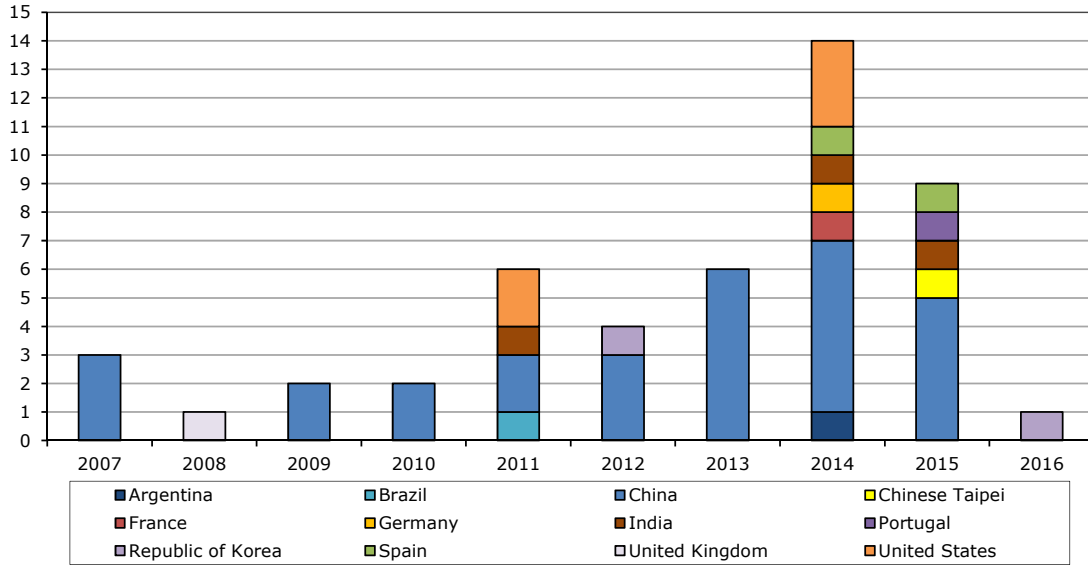


- |                                       |  |
|---------------------------------------|--|
| HS sections:                          | 11 - Textiles                            |
| 1 - Live animals                      | 12 - Footwear                            |
| 2 - Vegetable products                | 13 - Articles of stone                   |
| 3 - Fats and oils                     | 14 - Natural pearls                      |
| 4 - Prepared foodstuffs               | 15 - Base metals                         |
| 5 - Mineral products                  | 16 - Machinery and mechanical appliances |
| 6 - Chemical products                 | 17 - Transport equipment                 |
| 7 - Plastics                          | 18 - Instruments                         |
| 8 - Hides and skins                   | 19 - Arms and ammunition                 |
| 9 - Wood                              | 20 - Miscellaneous manufactured articles |
| 10 - Wood pulp, paper and paper board | 21 - Works of art                        |

Source: WTO Secretariat.

**Chart 3.4 Anti-dumping investigations initiated by exporter, 2007-2016 (30 November)**

(Number of investigations)



Source: WTO Secretariat.

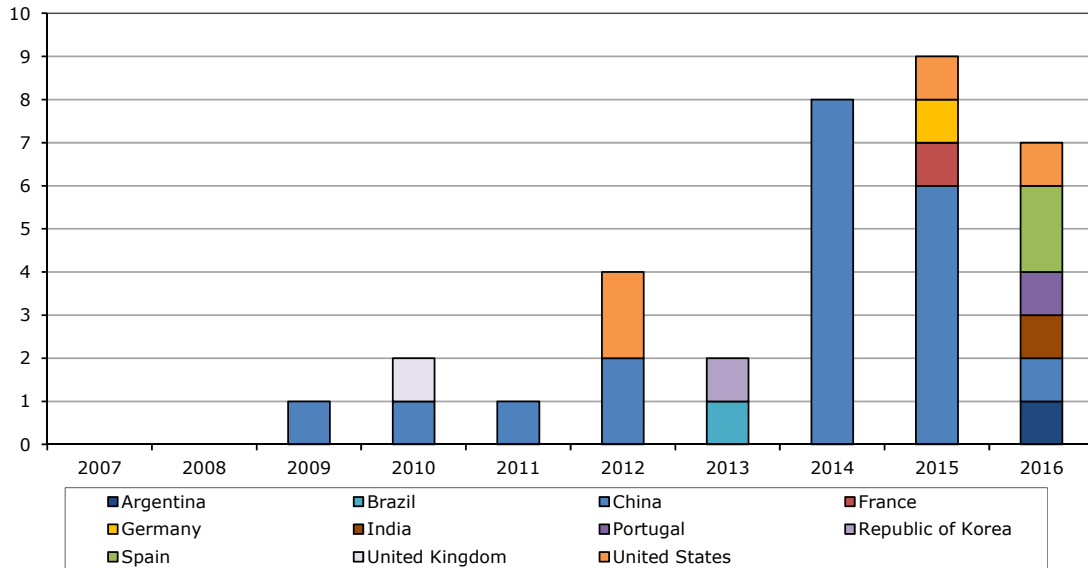
3.57. Roughly two thirds of the AD investigations initiated during the current period concerned iron and steel industry products, above all steel and products and materials related with the steel industry. Half of these imports came from China and the other half from France, Germany, India, the Republic of Korea, Portugal, Spain, Chinese Taipei, and the United States. AD investigations were also initiated into imports of products such as epoxidized soya oil (Argentina), blenders for household and commercial use (China), ceramic dishware and loose articles (China), aluminium kitchenware (China), pencils (China), synthetic fibre blankets (China), children's bicycles (China) and ammonium sulphate (China and the United States).

3.58. In comparison with the previous review, the duties applied also increased substantially. During the period January 2012-November 2016, 33 provisional duties and 33 definitive duties<sup>41</sup> were imposed, compared with 12 provisional and four definitive duties between 2007 and 2011. Five preliminary resolutions were issued without measures being imposed. Of the 34 definitive AD duties determined (one was not imposed) between 2012 and June 2016, 29 were the result of investigations initiated during that period and five were the result of investigations initiated previously. In two of the cases, definitive AD duties were not imposed despite provisional duties having been applied, and the latter were repealed at the conclusion of the investigation. These concerned imports of apples from the United States and of children's bicycles from China. In the latter case, however, a fresh AD investigation was initiated in 2014, which gave rise to the imposition of definitive duties in 2015. Three AD investigations initiated during the review period were ongoing in December 2016; they all led to the imposition of provisional duties. Chart 3.5 shows the number of AD duties imposed by exporting country over the period January 2007-November 2016.

<sup>41</sup> See footnote 38.

**Chart 3.5 Definitive anti-dumping duties imposed by exporting country, 2007-2016 (30 November)**

(Number of duties)



Source: WTO Secretariat.

3.59. During the period between 2012 and November 2016, Mexico initiated 35 sunset reviews of AD measures, 20 of which were completed during this period. In the great majority of cases (16), the investigations led to renewal of the duties. In the course of the review period, Mexico abolished the AD duties applied to imports of plastic pencil sharpeners from China (in 2012); cut bond paper and ammonium sulphate from the United States (in 2013); USP-grade liquid sorbitol from France (in 2014); carbon steel nuts, black or coated, from China (in 2015); collapsible tubular aluminium containers from the Bolivarian Republic of Venezuela (in 2015); and synthetic polybutadiene-styrene rubber in emulsion from Brazil (in 2016).

### 3.1.7.3 Countervailing measures

3.60. The countervailing measures imposed during the review period concern products of the chemical or allied industries (HS Section VI). This differs from the trend in earlier years, when Mexico imposed definitive countervailing measures primarily on base metals and articles of base metal (HS Section XV).

3.61. Mexico had three definitive countervailing measures in force at 30 November 2016, which concerned imports of medicaments from India. Two of these measures applied to antibiotics, and the third to imports of a medicament used for the treatment of high blood pressure (Table 3.9).

**Table 3.9 Definitive countervailing measures in force at 30 November 2016**

Country or customs territory	Product	Original date of imposition
India	Metoprolol tartrate	26.07.2014
	Amoxicillin trihydrate	28.11.2012
	Dicloxacillin sodium	18.08.2012

Source: WTO document G/SCM/N/305/MEX of 2 September 2016.

3.62. The definitive countervailing duties on dicloxacillin sodium were imposed in August 2012 and those on amoxicillin trihydrate in November 2012. Both investigations were initiated in 2011 and led to the imposition of provisional duties. The subsidies investigations concerning metoprolol tartrate were initiated in August 2013. In February 2014 provisional countervailing

measures were imposed on imports from India and definitive duties were applied in July of that year.<sup>42</sup>

#### 3.1.7.4 Safeguard measures

3.63. Mexico did not have recourse to global safeguard measures during the review period. A safeguards investigation concerning imports of spiral-welded steel pipes and tubes, initiated in 2010, was terminated in 2012 without imposition of any measure. This was the second global safeguards investigation initiated by Mexico since the creation of the WTO.<sup>43</sup>

3.64. Mexico has reserved the possibility of using the special safeguard measure provided for in the Agreement on Agriculture, but did not do so during the review period.

3.65. The Decision regulating the application of transitional safeguard measures for specific products originating in China expired on 11 December 2013.<sup>44</sup> However, the authorities indicated that during the review period no transitional safeguard measure was applied to China.

3.66. Several of Mexico's trade agreements include provisions on global, bilateral and special safeguards, such as the North American Free Trade Agreement (NAFTA) and the agreements with Japan, Central America, Peru and Panama. Mexico did not use bilateral safeguards in the period 2012 to 30 November 2016.

#### 3.1.8 Technical regulations and standards

3.67. The Federal Law on Metrology and Standardization (LFMN)<sup>45</sup> and its implementing Regulations<sup>46</sup> govern the Mexican System of Metrology, Standardization and Conformity Assessment (SISMENEC). The WTO Agreement on Technical Barriers to Trade (TBT Agreement) is also an integral part of Mexican legislation. Mexican Official Standards (NOMs), which are mandatory at the point of entry, are listed in Decisions of the Ministry of Economy (SE).<sup>47</sup> Under the Foreign Trade Law and the Customs Law, importers must demonstrate that goods comply with the NOMs before goods can enter the country.

3.68. The National Standardization Commission (CNN) and the Directorate-General of Standards (DGN) are responsible for applying the law. The DGN remains the contact point for the TBT Agreement.<sup>48</sup> The CNN is tasked with formulating standardization policy and adopting the National Standardization Programme and its Supplement published each year in the Official Journal.<sup>49</sup> Through the National Advisory Committee on Standardization (CCNN), the DGN, in collaboration with other bodies, prepares, reviews, modifies, repeals and issues both technical regulations and standards.

3.69. Mexico issues Mexican Official Standards (NOMs) (technical regulations) and Mexican Standards (NMXs) (standards). The Reference Standards (NRFs) (industrial or sectoral standards) prepared by Petróleos Mexicanos (PEMEX) and the Federal Electricity Commission (CFE) ceased to

<sup>42</sup> See WTO documents in the series G/SCM/N/\* /MEX.

<sup>43</sup> See WTO documents in the series G/SG/N/\* /MEX.

<sup>44</sup> Decision on the Transitional Safeguard Mechanism contained in the Protocol of Accession of the People's Republic of China to the WTO (published in the Official Journal of 21 April 2005).

<sup>45</sup> Federal Law on Metrology and Standardization (published in the Official Journal of 1 July 1992; latest amendment published in the Official Journal of 18 December 2015).

<sup>46</sup> Regulations implementing the Federal Law on Metrology and Standardization (published in the Official Journal of 14 January 1999; latest amendment published in the Official Journal of 28 November 2012).

<sup>47</sup> Decision identifying tariff headings in the Tariff Schedule in the General Import and Export Tax Law classifying goods subject to compliance with NOMs upon entry into and exit from Mexico (published in the Official Journal of 31 December 2012; latest amendment published in the Official Journal of 13 April 2016) or Annex 2.4.1, tariff headings in the Tariff Schedule in the General Import and Export Tax Law classifying goods subject to compliance with NOMs upon entry into and exit from Mexico (NOM Annex) (latest amendment published in the Official Journal of 1 April 2016). Viewed at:

[http://www.dof.gob.mx/nota\\_detalle.php?codigo=5266224&fecha=03/09/2012](http://www.dof.gob.mx/nota_detalle.php?codigo=5266224&fecha=03/09/2012).

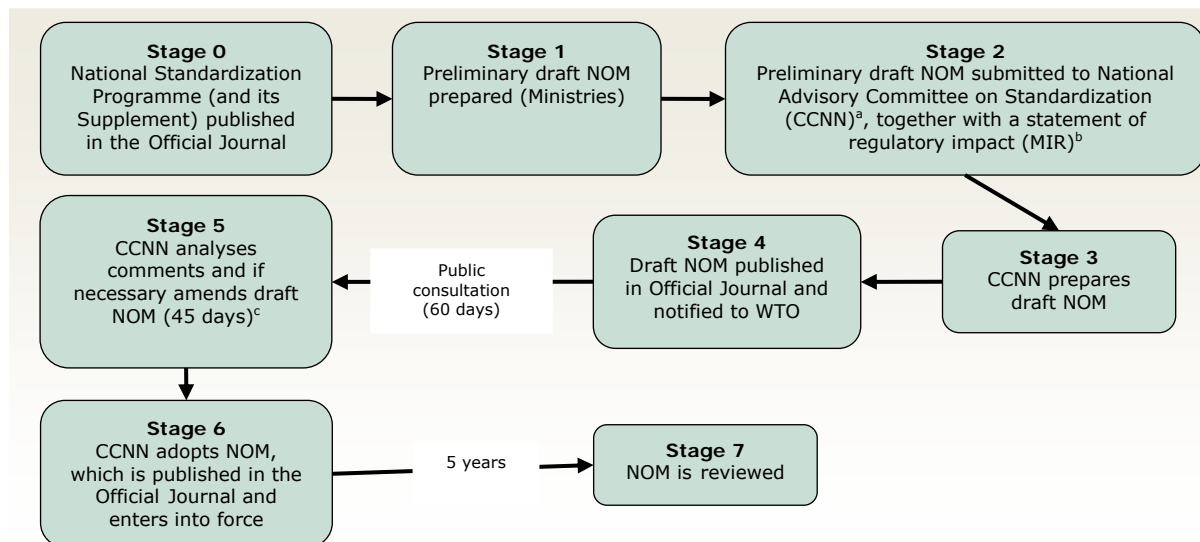
<sup>48</sup> Online information viewed at: <http://tbtims.wto.org>.

<sup>49</sup> The latest National Standardization Programme was published in the Official Journal of 18 April 2016. Viewed at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5433410&fecha=18/04/2016](http://www.dof.gob.mx/nota_detalle.php?codigo=5433410&fecha=18/04/2016).

be issued as of 2012.<sup>50</sup> The NRFs are currently being reviewed with a view to converting them into NOMs or NMXs or repealing them. Since 2013, the Federal Telecommunications Institute set up as a result of the constitutional reform issues "technical provisions" for the telecommunications and broadcasting sector. These "technical provisions" are mandatory on the domestic market, but for them to apply in the case of imports the SE has to issue a NOM based on the relevant "technical provision".

3.70. There has been no change to the procedure for preparing, issuing or revising NOMs since the previous review (Chart 3.6).

**Chart 3.6 Procedure for the preparation of a NOM**



- a The CCNN consists of public and private sector individuals and bodies.  
 b The MIR includes, *inter alia*, a description of the standard, its characteristics, its advantages and disadvantages and its costs and benefits in monetary terms.  
 c The comments and amendments (if any) are published in the Official Journal.

Source: WTO Secretariat, on the basis of the LFMN.

3.71. Technical regulations (NOMs) are compiled in the Decisions; in addition, the DGN keeps a catalogue of NOMs.<sup>51</sup> In cases of emergency, the competent agency may draw up a NOM directly, without the need for a preliminary draft or a draft.<sup>52</sup> Emergency NOMs remain valid for a maximum of six months and may be renewed for a further six months (Article 48 of the LFMN).

3.72. NOMs have to be reviewed every five years as of their entry into force. Following this review, the NOM may be renewed for a further five years, modified or cancelled. This decision must be notified to the CNN within 60 days of the end of the five-year period. If no such notification is made, the NOM ceases to have effect and the agency that issued it must publish its annulment in the Official Journal (Article 51 of the LFMN).

3.73. Over the period 2012-2016 (November), 218 draft NOMs were published in the Official Journal, of which 135 became NOMs, 81 remained at the draft stage and two were annulled. During the same period, 217 NOMs were published in the Official Journal, of which 151 do not coincide with international standards, 38 coincide partially and 28 coincide fully.

<sup>50</sup> Online information from the Ministry of Economy. Viewed at: <http://www.2006-2012.economia.gob.mx/comunidad-negocios/normalizacion/catalogo-mexicano-de-normas>.

<sup>51</sup> The NOMs Catalogue can be viewed at: <http://www.economia-noms.gob.mx/noms/inicio.do>. These catalogues were viewed in August 2016.

<sup>52</sup> Unexpected events that affect or threaten the objectives laid down by the LFMN (the safety of persons, human, animal or plant health, the environment and working conditions, or the conservation of natural resources, *inter alia*) are deemed to be emergencies (Articles 40 and 48 of the LFMN).

3.74. Between the start of 2012 and 31 July 2016, Mexico notified to the WTO 108 technical regulations or draft technical regulations, of which 12 concerned conformity assessment procedures and eight were emergency NOMs.<sup>53</sup> The emergency measures concerned: design, construction, safety, operation and maintenance of systems for storing liquefied petroleum gas; biotechnology medicines and their biopharmaceuticals; equipment for connection or interconnection with a public telecommunications network; quality specifications for petrochemicals; pollution emission levels for motor vehicles; and test methods and parameters for the operation, maintenance and efficiency of gasoline (petrol) vapour recovery systems at service stations selling petrol to the public.<sup>54</sup>

3.75. Both domestic and imported products must comply with the relevant NOMs. To import a product subject to a NOM, a NOM certificate or authorization issued by the competent agency or an accredited certification body has to be obtained (Article 53 of the LFMN). These procedures are currently carried out through the Digital Window (Article 36 of the Customs Law as amended in 2013).

3.76. Where products or services that are required to comply with a specific NOM do not meet the corresponding specifications, the competent authority must immediately prohibit their marketing and immobilize the products until they are brought into conformity, reprocessed, repaired or replaced. If this cannot be done, the necessary measures will be taken to ensure that they are not used. Imported products that do not comply with the requirements of a NOM or which are not accompanied by the required certificates must be placed in an in-bond facility until the importer has rectified the situation. Otherwise, the Customs will prohibit importation. If the product or service is already on the market, the traders or suppliers cannot market it.

3.77. Mexican Standards (NMXs) serve as a reference and are voluntary. They are prepared by a national private standardization body or by the DGN. In 2016, Mexico had ten national standardization bodies (ONNs) registered with the SE.<sup>55</sup> The standards may not contain specifications lower than those set out in NOMs (Articles 51A and 54 of the LFMN). The DGN also keeps a catalogue of NMXs.<sup>56</sup>

3.78. As in the case of NOMs, NMXs must be included in the National Standardization Programme, be based on international standards (except where these are unsuitable) and have the consensus of the sectors taking part in the corresponding advisory committee. NMXs must be published by a notice in the Official Journal for public consultation for a period of at least 60 days before being published in their final version as NMXs. The procedure for the revision, updating or cancellation of NMXs is the same as for their preparation. As in the case of NOMs, NMXs must be reviewed or updated within five years from their entry into force (Article 51-A of the LFMN). If the results of the review or updating are not notified to the CNN, the latter will order the NMX to be annulled. The SE, *ex officio* at the request of another agency, may also issue an NMX in the case of areas

<sup>53</sup> This figure excludes Addenda/Corrigenda and Supplements to the notifications. Viewed at: <http://tbtims.wto.org>.

<sup>54</sup> WTO documents G/TBT/N/MEX/227 of 29 March 2012; G/TBT/N/MEX/242 of 1 October 2012; G/TBT/N/MEX/287 of 16 March 2015; G/TBT/N/MEX/299 of 25 January 2016; G/TBT/N/MEX/300 of 28 January 2016; G/TBT/N/MEX/312 of 14 June 2016; G/TBT/N/MEX/315 of 5 July 2016; and G/TBT/N/MEX/332 of 16 November 2016.

<sup>55</sup> These are: the Sociedad Mexicana de Normalización (NORMEX) (Mexican Standardization Society); Instituto Mexicano de Normalización y Certificación (IMNC) (Mexican Institute for Standardization and Certification); Asociación de Normalización y Certificación (ANCE) (Standardization and Certification Association); Instituto Nacional de Normalización Textil (INNTEX) (National Institute of Textiles Standardization); Organismo Nacional de Normalización y Certificación de la Construcción y Edificación (ONNCCCE) (National Standardization and Certification Body for Construction and Building); Normalización y Certificación Electrónica (NYCE) (Electronic Standardization and Certification); Consejo para el Fomento de la Calidad de la Leche y sus derivados (COFOCALEC) (Quality Promotion Council for Milk and Dairy Products); Centro de Normalización y Certificación de Productos (CNCP) (Product Standardization and Certification Centre); Cámara Nacional de la Industria del Hierro y del Acero (CANACERO) (Mexican Iron And Steel Industry Chamber); and Organismo Nacional de Normalización de Productos Lácteos, A.C. (ONNPROLAC) (National Standardization Body for Dairy Products, A.C.). Online information from the SE. Viewed at: <http://www.2006-2012.economia.gob.mx/comunidad-negocios/normalizacion/nacional/procesos-de-normalizacion/organismo-nacionales>.

<sup>56</sup> The NMXs Catalogue can be viewed at: <http://www.economia-nmx.gob.mx/normasmx/index.nmx>. These catalogues were viewed in August 2016.



not covered by the national standardization bodies or where the standards issued by the latter do not reflect the interests of the sectors involved (Article 51-A of the LFMN).

3.79. Conformity assessment procedures are drawn up by the competent Ministries, following consultation with interested parties and in accordance with the LFMN, its implementing Regulations and international guidelines, as was also the case in 2012. Once finalized, the procedures are published in the Official Journal, initially for public comment and then in final form (Articles 73 of the LFMN and 80 of its implementing Regulations).

3.80. Conformity assessment of NOMs is carried out by the competent authorities or accredited private entities. The assessors (for example, certification bodies, test laboratories, calibration laboratories and verification units) assess conformity by means of visual inspection, sampling, measurement, laboratory tests or document checks.<sup>57</sup> Since 2014 one of the competent bodies has been the Federal Telecommunications Institute. The SE keeps a list of authorized accreditation bodies and accredited persons, by standard, subject, sector or branch, as well as a list of the national standardization bodies and international bodies recognized by the Mexican Government.

3.81. For the conformity assessment of NOMs and of technical provisions relating to telecommunications and broadcasting, conformity assessors must be accredited by the Mexican Accreditation Entity (EMA).<sup>58</sup> The EMA accredits testing laboratories, calibration laboratories, clinical laboratories, verification units (inspection agencies) and certification bodies, proficiency test providers and greenhouse gas validation/verification bodies (GHG VVBs). These entities may be certification bodies, verification units and test or calibration laboratories (Articles 53 y 68 of the LFMN). Besides being accredited by the EMA, such entities must be approved by the competent authority in order to operate (Articles 68 and 69 of the LFMN).

3.82. The competent authorities may establish official marks denoting conformity assessment of NOMs and, where required, of NMXs. Products or services subject to NOMs and NMXs may voluntarily display these official marks. However, the relevant authorities may also require that specific products should obligatorily carry these marks, in which case the competent authority, or persons accredited and approved by it, will be responsible for the conformity assessment.

3.83. Mexico has mutual recognition agreements (MRAs) with bodies in Canada; China; Colombia; Hong Kong, China; the Netherlands; Norway; Singapore; Thailand; and the United States. In addition, the EMA has MRAs with various international forums. (Table 3.10).<sup>59</sup>

**Table 3.10 EMA mutual recognition agreements**

Body	Accreditation
International Laboratory Accreditation Cooperation (ILAC)	Calibration and testing laboratories
Asia-Pacific Laboratory Accreditation Cooperation (APLAC)	Verification units and testing, calibration and clinical laboratories (2007), proficiency test providers (2014) and reference material producers (2016)
International Accreditation Forum (IAF)	Certification bodies for quality management (2001), environmental management (2004), product certification (2004), and food safety (2015) systems
Pacific Accreditation Cooperation (PAC)	Certification bodies for quality management (2001), environmental management (2004), product (2004), food safety (2014) and greenhouse gas validation/verification (2014) systems
Inter-American Accreditation Cooperation (IAAC)	Certification of quality management systems (2002), accreditation of product certification bodies (2008), environmental management systems (since 2008), accreditation of testing, calibration and clinical laboratories (since 2009), accreditation of verification units (since 2010) and accreditation of food safety certification bodies (2016)

Source: Online information from the EMA, viewed at: <http://www.ema.org.mx/portal/index.php/Reconocimiento-Internacional/reconocimientos-internacionales.html>.

<sup>57</sup> Article 70 of the LFMN specifies the terms and conditions of approval of certification bodies.

<sup>58</sup> Online information from the EMA. Viewed at: <http://www.ema.org.mx/portal/index.php/Ema/ema.html>.

<sup>59</sup> Online information viewed at: <http://www.ema.org.mx/portal/index.php/Reconocimiento-Internacional/reconocimientos-internacionales.html>.

### 3.1.9 Labelling and marking

3.84. The NOM establishing the requirements for general labelling of products was not amended during the period under review.<sup>60</sup> Pursuant to this NOM, any Mexican or imported product to be sold in Mexico must bear a label in Spanish providing commercial information on the product, together with instructions and guarantees (Section 5.3 of NOM-050-SCFI-2004). The requirements set out in this NOM are mandatory for all products, with the exception of: (a) products subject to commercial information requirements contained in other NOMs; (b) products in bulk; (c) live animals; (d) books and other publications, magnetic and compact discs, tapes and similar articles, and other audio-visual products; (e) spare parts bought from catalogues and identified by the number of the part or a code; and (f) other products as determined by the competent authority (Section 2.2 of NOM-050-SCFI-2004). In addition to this general NOM, there are NOMs concerning labelling and commercial information requirements for specific products (Table 3.11).

**Table 3.11 Products subject to specific labelling or packaging requirements, 2016**

Product	Number of tariff lines (8 digits)	Official standard	Publication in the Official Journal/ amendment
Textiles, clothing and their accessories, and household linen	1,191	NOM-004-SCFI-2006	21/06/2006
Products in general	825	NOM-050-SCFI-2004	01/06/2004
Electronic, electrical and household electrical appliances	397	NOM-024-SCFI-2013	12/08/2013
Pre-packaged foods and non-alcoholic beverages	375	NOM-051-SCFI/SSA1-2010	05/04/2010/ 14/08/2014
Toys	293	NOM-015-SCFI-2007	17/04/2008
Leather articles, natural tanned hides and synthetic or artificial materials of the same appearance	189	NOM-020-SCFI-1997	27/04/1998
Alcoholic beverages	28	NOM-142-SSA1/SCFI-2014	23/03/2015
Paints, colours, varnishes, lacquers and enamels	26	NOM-003-SSA1-2006	04/08/2008
Pre-packaged perfumery and cosmetic products	19	NOM-141-SSA1/SCFI-2012	19/09/2012/ 14/02/2014
Natural vanilla extract, derivatives and substitutes	8	NOM-139-SCFI-2012	10/07/2012
Pre-packaged tuna and bonito products	8	NOM-084-SCFI-1994	22/09/1995
Flame retardants and/or inhibitors and/or fireproof products	5	NOM-055-SCFI-1994 NOM-072-SCFI-2012 NOM-131-SCFI-2012	08/12/1994
Medication and herbal remedies		NOM-137-SCFI-2008	
Food and non-alcoholic beverages for infants and young children		NOM-182-SCFI-2010	
Medical devices			
Plant nutrients			
Lubricating oils for petrol or diesel engines	3	NOM-116-SCFI-1997	04/05/1998
Household cleaning products	46	NOM-189-SSA1/SCFI-2002	02/12/2002
Masa dough, tortillas, tostadas and ready-mixed flours	2	NOM-187-SSA1/SCFI-2002	18/08/2003
Pesticides	n/a	NOM-232-SSA1-2009	13/04/2010/ 04/04/2012
Iodized salt and fluoridated iodized salt	n/a	NOM-040-SSA1-1993	31/12/2010/ 26/12/2012

n/a: Not applicable.

Source: WTO Secretariat, on the basis of information available at: <http://www.economia-noms.gob.mx/noms/inicio.do>.

3.85. The importer is responsible for ensuring that the goods include the commercial information required by the NOMs. In general, importers do not need a certificate establishing that the commercial information has been verified, except where there is a high sanitary, plant or animal health, safety or consumer protection risk. In such cases the competent authority may require a laboratory analysis to check the truthfulness of the information provided for the product (Article 50 of the Regulations implementing the LFMN).

<sup>60</sup> Mexican Official Standard on commercial information –general labelling of products (NOM-050-SCFI-2004), published in the Official Journal of 1 June 2004. Viewed at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=708514&fecha=01/06/2004](http://www.dof.gob.mx/nota_detalle.php?codigo=708514&fecha=01/06/2004).

### 3.1.10 Sanitary and phytosanitary measures

3.86. The principal legislation governing the drafting and implementation of sanitary and phytosanitary measures has not changed substantially since 2012, although some modifications have been introduced concerning, for example, the competence of the various institutions. In addition, the Regulations implementing the Federal Plant Health Law were issued during the period covered by this review. The products subject to animal health requirements as well as the various requirements themselves are published in a number of Decisions (modules), some of which have been amended to take account of changes in the Harmonized System (HS) nomenclature (Table 3.12).

**Table 3.12 Principal legal instruments governing the sanitary and phytosanitary system, 2016**

Legislation	Publication in the Official Journal	Latest amendment published in the Official Journal
Federal Law on Metrology and Standardization (LFMN)	1 July 1992	18 December 2015
Regulations implementing the Federal Law on Metrology and Standardization	14 January 1999	28 November de 2012
Federal Plant Health Law	5 January 1994	16 November 2011
Regulations implementing the Federal Plant Health Law	15 July 2016	
Federal Animal Health Law	25 July 2007	7 June 2012
Regulations implementing the Federal Animal Health Law	21 May 2012	
General Law on Health	7 February 1984	10 May 2016
General Law on Sustainable Forestry Development (LGDFS)	25 February 2003	10 May 2016
Law on Biosafety of Genetically Modified Organisms	18 March 2005	
Regulations implementing the Law on Biosafety of Genetically Modified Organisms	19 March 2008	6 March 2009
Regulations for the sanitary control of products and services	9 August 1999	12 February 2016
Regulations for health inputs	4 February 1998	14 March 2014
Regulations implementing the General Law on Sustainable Forestry Development (LGDFS)	21 February 2005	31 October 2014
General Law on Sustainable Fishery and Aquaculture	24 July 2007	4 June 2015
Law on Organic Products	7 February 2006	
Regulations implementing the Law on Organic Products	1 April 2010	8 April 2010

Source: WTO Secretariat on the basis of information provided by the Mexican authorities.

3.87. The bodies responsible for drafting and implementing sanitary and phytosanitary measures remain the same as in 2012 (Table 3.13).

**Table 3.13 Bodies responsible for the sanitary system, 2016**

Body	Function
National Agrifood Health, Safety and Quality Service (SENASICA)	Implements and monitors compliance with the provisions on agrifood health, safety and quality in connection with plant, animal, fishery and aquaculture products and by-products. Issues NOMs, decisions and other legal provisions in order to prevent, control and combat pests and diseases that affect plant, animal, aquaculture and fishery species. Determines the requirements, quarantine regulations and sanitary safety measures. Protects agricultural, aquaculture and livestock resources from pests and diseases of quarantine and economic importance. Regulates and promotes the implementation and certification of risk reduction systems for food contamination and agrifood quality.
Federal Commission for Protection against Health Risks (COFEPRIS) (attached to the Ministry of Health)	Applies, oversees and certifies implementation of the provisions relating to the healthiness of products for human use and consumption (for example: food, beverages, medicaments, cosmetics, cleaning products, tobacco, pesticides, additives and plant nutrients). Applies and oversees implementation of the health provisions relating to the export and import of products for human use and consumption. Drafts and issues NOMs.
Ministry of the Environment and Natural Resources (SEMARNAT)	Responsible for national forest health policy. Issues NOMs on forestry and the soil. Issues phytosanitary documents needed for the movement, import or export of regulated forest products and by-products.

Body	Function
Interministerial Commission on Biosafety and Genetically Modified Organisms (CIBIOGEM)	Responsible for coordinating policy on the production, consumption, import, export and movement of genetically modified organisms (GMOs).

Source: General Law on Health (published in the Official Journal of 7 February 1984; latest amendment published in the Official Journal of 10 May 2016). Regulations of the Federal Commission for Protection against Health Risks (published in the Official Journal of 13 April 2004). Viewed at: <http://senasica.gob.mx>.

3.88. In 2012, the National Advisory Committee on Agrifood Standardization (CCNNA) was established under the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food (SAGARPA), and the previously existing Committees for plant and animal health protection were merged to create a single Committee.<sup>61</sup> The CCNNA is assisted by various specialized sub-committees for issuing NOMs, namely: the Animal Health Protection Sub-Committee, the Plant Health Protection Sub-Committee, the Responsible Fisheries Sub-Committee, and the Biosafety, Organic and Bioenergy Products Sub-Committee, as well as ad hoc specialized sub-committees that assist the CCNNA as necessary. These sub-committees closely monitor needs in terms of standardization relating to health, quality and safety in the domestic and export agrifood markets. The National Advisory Committee on Environmental and Natural Resource Standardization (COMARNAT) prepares NOMs on forestry issues.<sup>62</sup>

3.89. Mexico is a member of the Codex Alimentarius Commission (FAO/WHO), the World Organisation for Animal Health (OIE) and the International Plant Protection Convention (IPPC). It also participates in regional sanitary protection bodies such as the North American Plant Protection Organization (NAPPO) and the International Regional Organization for Plant and Animal Health (OIRSA). The SE's Directorate-General of Standards is the national enquiry point designated by Mexico in connection with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).<sup>63</sup>

3.90. The policy on plant and animal health and GMOs seeks to reduce risks for agricultural and forestry production and public health, boost productivity in the sectors and facilitate domestic and international marketing of these products. To this end, measures and programmes are implemented to prevent pests and diseases from entering Mexico and to control and eradicate those that exist in the country, and to accredit, both nationally and internationally, the sanitary quality of domestic and imported products and products containing GMOs.

3.91. According to the authorities, phytosanitary and zoosanitary requirements are based on scientific principles and/or international recommendations and, as appropriate, on risk analysis according to the plant and/or animal health situation of the geographical areas concerned as well as of adjoining areas and areas with which there are trade flows.

3.92. Sanitary or phytosanitary measures in Mexico are established by means of a Mexican Official Standard (NOM) or Decisions containing the modules for consultation of the phytosanitary and zoosanitary import requirements, including those for forestry products.<sup>64</sup> The Decisions establish the classification and coding of goods subject to requirements, specify the goods and indicate those that must undergo inspection at the point of entry. Wildlife species and their products and forest products must undergo physical inspection when entering Mexican territory. The physical inspection of forest products is conducted in accordance with the procedure laid down in the corresponding NOM. Shipments of other products are checked in accordance with the risk that each product or shipment represents or on the basis of the physical inspection requirements established as a result of a pest risk analysis. Goods subject to plant or animal health requirements must also come from authorized countries that have sanitary services recognized by SAGARPA.

<sup>61</sup> Decision issuing the Rules for the creation, membership, organization and operation of the National Advisory Committee on Agrifood Standardization of the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food (published in the Official Journal of 26 November 2012).

<sup>62</sup> Online information viewed at: <http://www.gob.mx/semarnat/acciones-y-programas/comites-del-sector-medio-ambiente-y-programa-nacional-de-normalizacion>.

<sup>63</sup> Online information from the WTO. Viewed at: <http://spsims.wto.org>.

<sup>64</sup> Online information from the SE. Viewed at: <http://www.economia-noms.gob.mx/noms/inicio.do>.

3.93. The procedure for the preparation of NOMs for plant and animal health, fisheries, biosafety and food safety matters is the same as for other NOMs. Each sub-committee prepares the preliminary drafts, drafts and replies to comments on the NOMs in its area of competence and submits them for consideration by the CCNNA. Interested parties may also present proposals for preliminary drafts of NOMs in these fields. The CCNNA carries out the corresponding evaluation and as appropriate submits the draft project for consideration by the appropriate sub-committee. The CCNNA reviews NOMs every five years or earlier, in order to update them in line with scientific and technological progress and animal health campaigns. In emergency cases, the Ministry concerned may directly prepare, with the participation of the other competent bodies, an emergency NOM without the need for a preliminary draft or a draft. Emergency NOMs are valid for six months and may be renewed for a further six months.

3.94. At November 2016, Mexico had 75 NOMs relating to animal and plant health in force, 35 of which concerned animal health, 28 plant health, eight food safety and four forestry health.<sup>65</sup> In addition, at that date there were other NOMs issued by COFEPRIS concerning food and/or beverages related with Good Manufacturing Practice (GMP), including the Hazard Analysis and Critical Control Points system (HACCP).<sup>66</sup>

3.95. Between 1 January 2012 and 30 November 2016, Mexico notified 76 sanitary and phytosanitary measures to the WTO, of which only one was an emergency measure.<sup>67</sup> Mexico imposed this emergency measure - for the temporary suspension of imports of shrimp (of the species *Peneaus monodon* and *Litopenaeus vannamei*) in any form of presentation coming from China, Malaysia, Thailand and Vietnam - on animal health grounds.<sup>68</sup> Most of the regular notifications (58) concerned measures adopted on plant health grounds, followed by measures to safeguard human health, in particular with regard to food safety (28), with a limited number of measures on animal health (7).<sup>69</sup> The plant health measures affected in particular products from Turkey (7) and the United States (5).

3.96. At the point of entry into the country, importers of agricultural products must demonstrate to SAGARPA's Directorate-General of Plant and Animal Health Inspection (DGIF), or in the case of forest products SERMANAT's Federal Environmental Protection Agency (PROFEPA), that the imported goods comply with the requirements. If so, the competent authority grants the corresponding certificate or verification record, in the case of forest products. Previously, a documentary and/or physical inspection of imports was carried out to verify compliance with the requirements, but since 2013, with the introduction of the Digital Window, only physical inspection is conducted.<sup>70</sup> Moreover, since 2012, in order to facilitate and streamline the procedure for issuing import (export) certificates of goods of agricultural, livestock, aquaculture or fisheries origin, the person concerned may request such certificates electronically, using the advanced electronic signature, via the Digital Window or the SENASICA web page. These requests can also be made in person.<sup>71</sup>

3.97. Importers of products that may involve a risk to human health must present, together with the import declaration, the sanitary authorization prior to importation<sup>72</sup>, a certificate of free sale issued by the country of origin and, where appropriate, entry authorizations, the sanitary import notification or copy of the sanitary registration; where relevant, they must also prove compliance

<sup>65</sup> The NOMs on animal health, plant health and food safety can be viewed at: <http://senasica.gob.mx/?id=1050> and the NOMs on forestry products at: <http://www.ccmss.org.mx/documentacion/legislacion-forestal-mexicana-leyes-y-normas-federales>.

<sup>66</sup> Online information from COFEPRIS. Viewed at: <http://www.cofepris.gob.mx/MJ/Paginas/NormasPorTema/Alimentos.aspx>.

<sup>67</sup> WTO database. Viewed at: <http://www.spsims.wto.org>.

<sup>68</sup> WTO document G/SPS/N/MEX/236 of 26 April 2013.

<sup>69</sup> Some of the notified measures concern both animal and plant health, which explains why the sum of these figures is greater than the number of notifications.

<sup>70</sup> Article 11 of the Decision determining the classification and coding of goods whose import or export is subject to regulation by the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food through the National Agrifood Health, Safety and Quality Service (published in the Official Journal of 3 September 2012; latest amendment published in the Official Journal of 18 July 2016). Online information viewed at: <https://www.gob.mx/cms/uploads/attachment/file/23058/A766.pdf>.

<sup>71</sup> Decision setting out the procedure for electronically obtaining the import and export certificates for agricultural, livestock, aquaculture and fishery products (published in the Official Journal of 9 August 2012).

<sup>72</sup> In order to obtain this permit importers must prove that the goods comply with the requirements sheet (in other words the sanitary measure).

with labelling requirements. Importers of these products must, moreover, be domiciled in Mexico.<sup>73</sup> For products that do not require a prior import permit (non-automatic import licence), a sanitary certificate issued by the competent authority in the country of origin has to be submitted and the Ministry of Health has to be notified of the entry and destination of the goods.

3.98. Compliance with the plant and animal health requirements does not exempt the importer from the obligation to obtain the permits required by other Ministries. Most goods subject to sanitary regulation also require non-automatic import licences (prior permits).<sup>74</sup>

3.99. Import certificates for goods such as plants, animals or aquaculture and fishery species are valid for eight days from the date of issue and cover movement through the national territory to the final destination of the goods. In the event of a pest or disease that threatens the health of domestic plants, animals or aquaculture and fishery species, import health certificates may be cancelled and the necessary safety measures will be taken (Table 3.14).

**Table 3.14 Import certificates, 2016**

Product	Body	Document	Legislation
Products of plant origin	SENASICA	Phytosanitary import (export) certificate	Decision establishing the module of phytosanitary requirements for the import of goods regulated by SAGARPA with respect to plant health Decision establishing the classification and coding of goods whose import is subject to regulation by SAGARPA, through SENASICA Decision setting out the procedure for electronically obtaining the import or export certificates for agricultural, livestock, aquaculture and fishery products
Products of animal origin	SENASICA	Animal health import (export) certificate	Decision establishing the means for consultation of the requirements for import into the national territory of goods regulated by SAGARPA with respect to animal health Decision setting out the procedure for electronically obtaining the import or export certificates for agricultural, livestock, aquaculture and fishery products
Products that involve risks for aquaculture or fishery health	SENASICA	Aquaculture health import (export) certificate	Decision establishing the module of sanitary requirements for the import of aquatic species, their products and by-products, and biological, chemical, pharmaceutical or food products for use or consumption by such species
Wildlife species and their products, and forest products	SEMARNAT - PROFEPA	Verification record	Decision amending the decision establishing the classification and coding of goods whose import and export is subject to regulation by the Ministry of the Environment and Natural Resources
Products involving a risk to human health <sup>a</sup>	Ministry of Health or COFEPRIS	Sanitary authorization prior to importation	Decision establishing the classification and coding of goods and products whose import, export, inward clearance or exit are subject to sanitary regulation by the Ministry of Health
Genetically modified organisms	SAGARPA or SEMARNAT	Authorization certificate	Law on Biosafety of Genetically Modified Organisms

a For example, medicines, foodstuffs, beverages, perfumery, cosmetic and cleaning products, tobacco, pesticides, plant nutrients, biotechnology products, raw materials and additives used to prepare the aforementioned products, substances that are toxic or hazardous to health, and food supplements.

Source: WTO Secretariat.

3.100. Where import requirements for products of plant, aquaculture or fisheries origin are not specified in a NOM or Decision, the importer has to contact SENASICA or, in the case of forest products, SEMARNAT. These bodies will indicate whether: (a) requirements exist; (b) the entry of the product is prohibited for health reasons; or (c) whether a risk analysis is required.<sup>75</sup> In the case of products of animal origin, where the requirements are not specified in a NOM or a consultation module, the importer must contact SENASICA, which will, as the case may be:

<sup>73</sup> Article 285 of the General Law on Health (published in the Official Journal of 7 February 1984; latest amendment published in the Official Journal of 1 June 2016).

<sup>74</sup> WTO document G/LIC/N/3/MEX/2 of 18 October 2006.

<sup>75</sup> *Consulta de Medidas de Sanidad Acuicola a la Dependencia* (Consultation of Aquaculture Health Measures at the competent authority). Online information from SENASICA. Viewed at: <http://www.senasica.gob.mx/?proceso=formulario&Idformulario=4>.

(a) indicate that there are no animal health requirements or determine whether a technical or risk analysis is required; or (b) indicate that the goods are subject to specific requirements.<sup>76</sup>

3.101. The Interministerial Commission on Biosafety and Genetically Modified Organisms (CIBIOGEM) is responsible for establishing policies on biotechnology safety and the safe use of genetically modified organisms (GMOs).<sup>77</sup> These activities are governed by the Law on Biosafety of Genetically Modified Organisms of 2005 and its implementing Regulations.<sup>78</sup> After evaluating the studies submitted by the interested parties concerning an activity involving the use of GMOs, CIBIOGEM determines whether the activity may take place. The import of GMOs for experimental release into the environment requires a permit issued by SAGARPA or SEMARNAT, after a risk analysis has been conducted. Subsequent imports do not require new permits, provided they concern the same GMO and the same area of release into the environment. The marketing or import of GMOs intended for human use or consumption or for processing of foods for human consumption also requires authorization by the Ministry of Health. After evaluating the technical studies presented by the interested parties, the Ministry of Health decides whether the activity may be carried out. In 2014, Mexico established general labelling requirements for GMOs, specifically seeds or plant material, for use in agricultural production.<sup>79</sup>

3.102. In order to ensure safety in food production processes, Mexico uses NOMs and NMJs that refer to various rules such as the Hazard Analysis and Critical Control Points system (HACCP), which specify the minimum requirements for good hygiene practices that must be observed in the production process for foods, beverages or food supplements and their raw materials in order to avoid contamination throughout the process.

3.103. The authorities continue to use public and private certification bodies, verification units, test laboratories and specialists approved by SENASICA or authorized by COFEPRIS for conformity assessment. However, in the case of forestry matters SEMARNAT-PROFEPA carries out conformity assessment directly through the Forestry Health Analysis and Reference Laboratory and does not have recourse to third-party agencies.

3.104. Mexico has signed bilateral agreements on animal and plant health with other countries in order to facilitate trade in specific products and ensure that procedures in this field are harmonized. In addition, Mexico has programmes under which other countries recognize certain areas of the country as disease and pest free.

## 3.2 Measures directly affecting exports

### 3.2.1 Registration and documentation

3.105. There have been no major changes to export requirements since the previous review. The most important development has been the computerization of customs procedures using the Mexican Digital Window for Foreign Trade (Digital Window), and applications to export and all related documents, as well as certain export licences (permits), can be processed through its website.

3.106. In Mexico, exporters must be listed in the Federal Register of Taxpayers (RFC) in order to be able to issue electronic invoices, apply for certificates and/or permits or complete export formalities, obtain refunds, tax rebates or certain benefits under government programmes. Registration is required in order to obtain the advanced electronic signature (FIEL) needed to use Digital Window applications and can be effected through the Internet. In addition, exporters of the following products must also be enrolled in the SAT's Register of Exporters in Specific Sectors: denatured alcohol and non-crystallized honey, beer; tequila, spirits, wine, cigars and processed

<sup>76</sup> Online information viewed at: <http://www.gob.mx/cntse-rfts/tramite/ficha/5654c7b38217e6599400055f>.

<sup>77</sup> Online information from the National Science and Technology Council (CONACYT). Viewed at: <http://conacyt.gob.mx/cibiogem/index.php/cibiogem/acerca-de-la-cibiogem>.

<sup>78</sup> Regulations implementing the Law on Biosafety of Genetically Modified Organisms (published in the Official Journal of 19 March 2008; latest amendment published in the Official Journal of 6 March 2009).

<sup>79</sup> NOM-001-SAG/BIO-2014 (published in the Official Journal of 30 December 2014). Online information from SENASICA. Viewed at: <http://senasica.gob.mx/?id=1051>.

tobacco; energy drinks together with concentrates, powders and syrups used to prepare energy drinks; iron ores and their concentrates, and products of gold, silver or copper.

3.107. SAT-authorized exporters may complete customs clearance procedures themselves, but for other exporters, customs brokers are authorized by the customs authority to undertake the clearance of goods on behalf of natural or legal persons and to submit the export information required using the customs computer system. Exporters certified as "authorized economic operators" may use the "FAST" tracks available in certain customs offices.

3.108. Export applications, together with the various substantiating documents in electronic form, must be forwarded to the customs electronically, either by the exporters themselves or through a customs broker, using the Digital Window. The following are the principal documents required for exports: the transport document, the commercial invoice or electronic proof of value (COVE), the packing list, the customs document and certificates showing the quality and quantity of the goods. An export application is a tax declaration inasmuch as it serves for the payment of export-related taxes such as: the general import tax (IGE), only rarely applicable, and the customs processing fee (DTA), to be paid by all exporters except for those exporting to certain countries with which Mexico has signed an FTA.<sup>80</sup> The export application allows the taxpayer to record his exports with the SAT for the purpose of the refund or credit of taxes and VAT, and to invoice VAT at a rate of 0% in the case of definitive exports.

3.109. Compliance with non-tariff export regulations or restrictions is required for some goods, for example: phytosanitary or sanitary certificates; export permits issued by the SE (non-automatic export licences); CITES certificates for NOM-compliant exports; certificates issued by the regulatory councils for exports of tequila, mescal and coffee; and certificates of origin for exports eligible for preferential treatment under the various trade agreements signed by Mexico. These certificates must accompany the pertinent export application and be forwarded through the Digital Window.

### 3.2.2 Export taxes and duties

3.110. Mexico imposes export duties in order to guarantee supplies to the domestic market or to protect human health, the environment, fauna, flora and the cultural heritage. During the review period, the number of tariff lines subject to an *ad valorem* export tax fell sharply, from 25 HS eight-digit lines in 2012 to only two HS eight-digit lines in 2016 (bitumen and asphalt and bituminous mixtures). Moreover, in these cases, the rate applied was lowered from 50% to 25%.

3.111. Products for export are exempt from payment of the IEPS, even if they are subject to this tax on the domestic market.<sup>81</sup> Goods and services exported by Mexico-resident firms benefit from a 0% VAT rate on the value of their sales.<sup>82</sup>

### 3.2.3 Export prohibitions, regulations and permits

3.112. Mexico regulates exports in order to protect morals, security and public order, as well as public health, and to conserve natural resources, flora and fauna. Exports are also regulated in order to guarantee supplies of essential consumer goods and raw materials, and to protect assets of historical, artistic or archaeological importance. In some instances, the procedures laid down provide that the COCEX will evaluate studies prepared by departments proposing measures to regulate exports.

3.113. As was the case in 2012, Mexico still bans the export of certain chemical products and drugs and other products (27 products in the HS 2012 at the eight-digit level), usually for security or public health reasons or in order to comply with international agreements.

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<sup>80</sup> In 2016, the DTA applicable to exports was generally Mex\$288 (Mex\$250 in 2012); this fee may vary depending on the situation (Federal Law on Duty of 31 December 1981, latest amendment published in the Official Journal of 11 August 2014). Online information viewed at: <http://www.aaag.org.mx/contenido.php?content=51>.

<sup>81</sup> Articles 8 (section II) and 19 (section XI) of the Law on the IEPS.

<sup>82</sup> Law on VAT (published in the Official Journal of 29 December 1978; latest amendment published in the Official Journal of 11 December 2013).

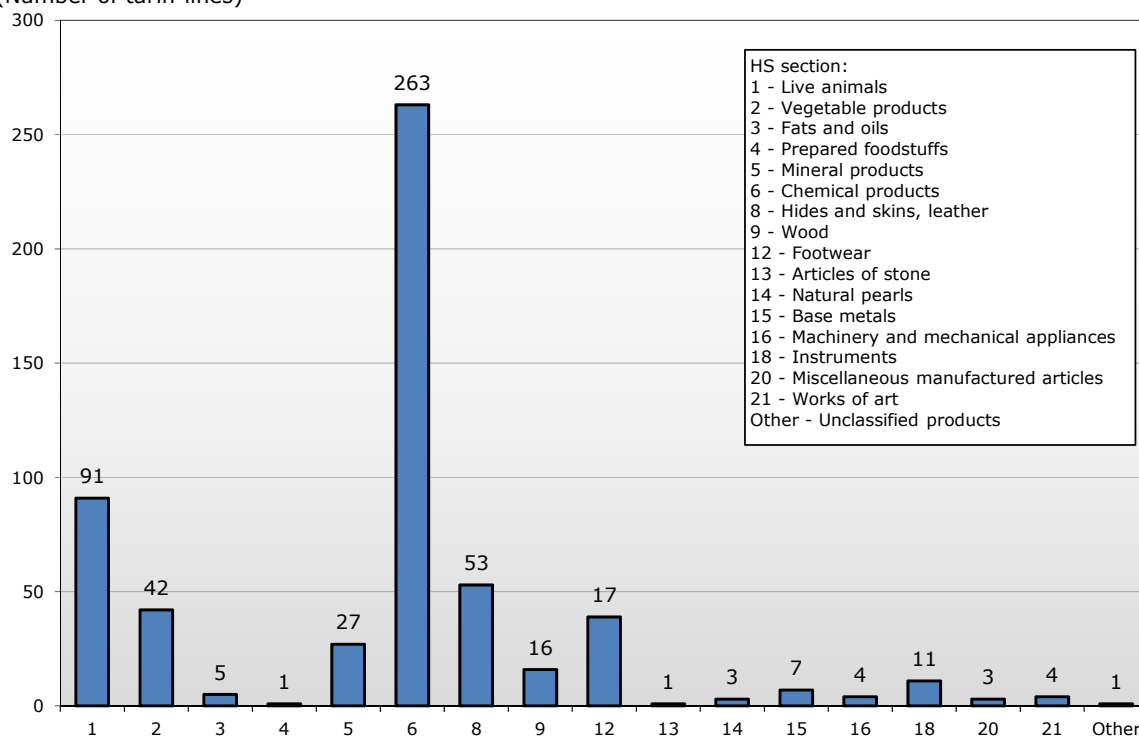


3.114. Mexico makes use of automatic licensing (automatic permits) and non-automatic licensing (prior permits) for exports. Automatic licensing (automatic permits) is used for the purpose of keeping a record of foreign trade transactions. Licences are issued by the SE and are available to any natural or legal person meeting the legal requirements for engaging in foreign trade transactions.

3.115. Non-automatic licensing (prior permits) for exports is used for the purpose of regulating trade in products in accordance with international treaties or agreements to which Mexico is party, for example, the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies; CITES; the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade; and the Kimberley Process Certification Scheme. This type of licence may also be used to protect morals, security and public order, public health, the exploitation of natural resources and to conserve flora and fauna, but may not be used to restrict exports. The licensing requirement applies to products originating in any country on the basis of most-favoured-nation treatment.<sup>83</sup> In 2016, non-automatic export licensing applied to 571 tariff lines, mostly chemical products (Chart 3.7).

**Chart 3.7 Non-automatic export licensing by HS 2016 section**

(Number of tariff lines)



Source: WTO Secretariat calculations, based on data provided by the authorities.

3.116. Non-automatic export licences for specific products must show the tariff heading and include a description of the products, the value and quantity of exports authorized and the term of validity. Licences may not be assigned, but may be extended up to three times provided that the party concerned can prove that the goods have been shipped during the licence's term of validity, which is usually one year. Some licences may be for a longer period, for example, for certain hydrocarbons and petroleum products the term is 20 years and they may only be extended once for up to half the original term.

3.117. Non-automatic licences are processed using the Digital Window and are issued by different bodies depending on the product concerned and according to specific criteria: for example, COFEPRIS and SEMARNAT grant non-automatic licences for the export of pesticides and toxic or hazardous substances, while the Ministry of Energy (SENER) issues those for hydrocarbons and petroleum products. To obtain the latter, an interested party must prove that it has the necessary

<sup>83</sup> WTO document G/LIC/N/3/MEX/2 of 18 October 2016.

infrastructure, which it is in the process of developing or expanding. The SENER may refuse to grant a licence if the authorization has an impact on government finance, if production does not suffice or if the analysis of the energy balance undertaken finds that the exports concerned jeopardize domestic supplies and are detrimental to Mexico's energy security.

3.118. Mexico has preferential export quotas under its trade agreements with Colombia (soybean oil) and Japan (citric acid and citric acid salts, and guava syrup) and the European Union (cane molasses).<sup>84</sup>

### 3.2.4 Export support

3.119. In 2014, Mexico notified the subsidies granted for agricultural exports over the period 2008 to 2012.<sup>85</sup>

3.120. Mexico still promotes exports by granting tariff and tax concessions, particularly to the manufacturing sector. The Manufacturing, Maquila and Export Services Industry (IMMEX) programme and the import duty drawback programme for exporters remained the key export promotion programmes during the review period.

3.121. Launched in 2006 to bolster the competitiveness of the export sector, the IMMEX programme is still operating. Firms taking part in the programme may import a number of inputs temporarily (for example, raw materials, spare parts and components; fuels, lubricants and other materials; packing materials and packaging; labels and leaflets; machinery, equipment and tools; and containers), for which they are given exemption from tariffs, the possibility of receiving a tax credit for VAT and/or the IEPS and, where applicable, exemption from anti-dumping or countervailing duties, provided that such inputs are used to manufacture, process or repair goods for subsequent export or to provide export-related services.<sup>86</sup> The IMMEX Decree specifies the period during which the inputs and goods may be temporarily imported. For example, some fuels, packing materials, packaging, labels and leaflets may remain in Mexican territory for up to 18 months, containers and trailer boxes may remain for up to two years and other products may be imported for the period of the programme's validity. The Decree also includes a list of sensitive products, which may not be imported under the IMMEX, except if there are unforeseeable circumstances or in cases of force majeure or for supply reasons.<sup>87</sup>

3.122. Both domestic and foreign maquila firms established in Mexico are eligible for the IMMEX programme if their annual exports exceed US\$500,000 or at least 10% of their total sales (Article 24 of the IMMEX Decree). The programme still comprises five options (Table 3.15). The programme's incentives are the same under each option.

<sup>84</sup> Online information from the SE. Viewed at: <http://www.siiicex.gob.mx/portalSiicex/SICETECA/Acuerdos/Cupos/Cupos%20x%20PRODUCTO/Cupos%20por%20producto.htm>.

<sup>85</sup> WTO document G/AG/N/MEX/27 of 21 July 2014.

<sup>86</sup> Decree to promote the Manufacturing, Maquila and Export Services Industry (published in the Official Journal of 1 November 2006, latest amendment of 28 July 2016).

<sup>87</sup> Pursuant to the Decree to promote the Manufacturing, Maquila and Export Services Industry (published in the Official Journal of 1 November 2006, latest amendment of 28 July 2016). In 2016, import of the following under the IMMEX programme was not prohibited: certain kinds of sugar (HS 1701.12.01-03, HS 1701.13.01, HS 1701.14.01-02, HS 1701.91.01, HS 1701.99.01-02 and 99, and HS 1702.90.01 and 99), flavoured syrups (HS 2106.90.05), ethyl alcohol (HS 2207.10.01, HS 2207.20.01 and HS 2208.90.01), alcoholic beverages (HS 2208.90.02), used pneumatic tyres (HS 4012.20.01) and worn clothing (HS 6309.00.01).

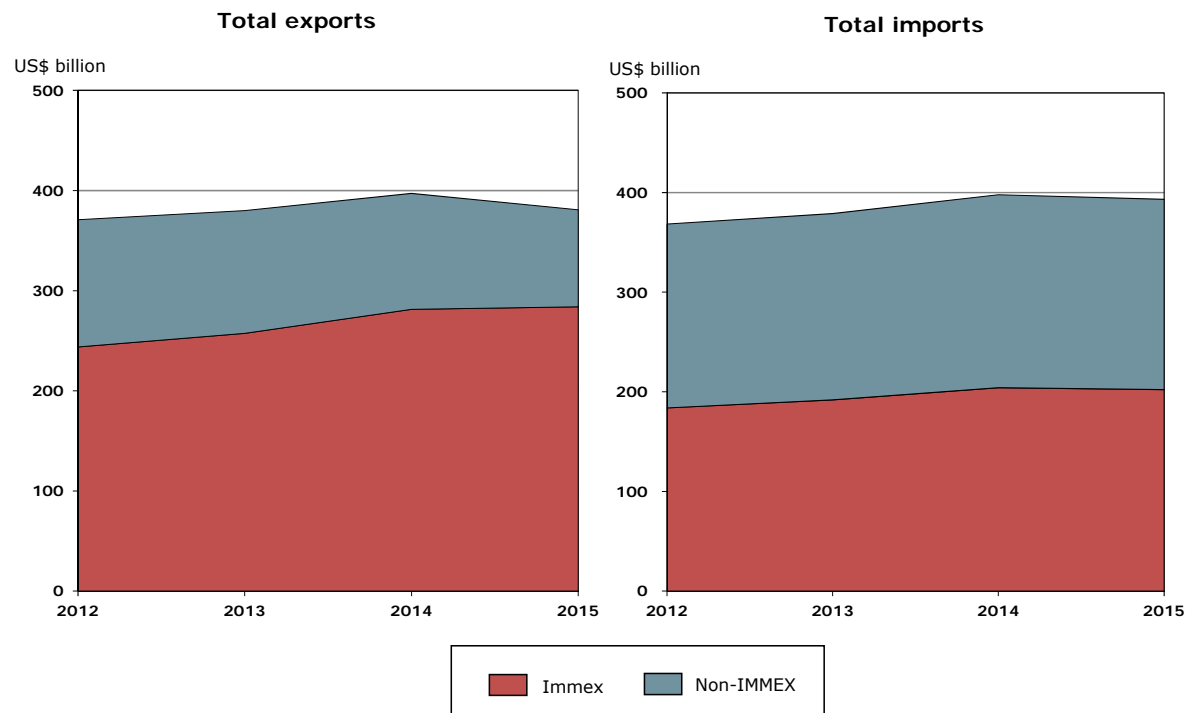
**Table 3.15 IMMEX options**

Option	Description
IMMEX holding company	Where the same programme encompasses manufacturing by a certified enterprise called the holding company and one or more firms controlled by it
IMMEX Industrial	Where an industrial process is used to manufacture or process goods for export
IMMEX Services	Where services are provided for the process of producing goods for export or export services are supplied
IMMEX Accommodation	Where foreign companies provide the technology and inputs without belonging to the programme
IMMEX Tertiary	Where a firm provides services to another firm

Source: Article 3 of the Decree to promote the Manufacturing, Maquila and Export Services Industry (IMMEX), published in the Official Journal of 1 November 2006, latest amendment of 28 July 2016.

3.123. A firm may be eligible for both the IMMEX programme and a PROSEC programme simultaneously (Section on incentives). Nevertheless, if the firm is operating under the Services option, it may only import certain types of machinery and equipment under the PROSEC (Article 7 of the IMMEX Decree).

3.124. During the period under review, the number of firms operating under the IMMEX programme rose from 5,515 in 2012 to 6,448 in 2016 (September). This programme is extremely important for Mexico's trade. Over the period 2012-2015, some 69.7% of Mexico's exports and 50.5% of its imports on average were attributable to firms benefiting from the IMMEX programme (Chart 3.8). In 2016 (up to September), firms benefiting from the IMMEX programme accounted for 58% of exports and 44% of imports.

**Chart 3.8 Mexico's imports and exports by type of regime, 2012-2015**

Source: WTO Secretariat, on the basis of information provided by the authorities.

3.125. The export-intensive enterprises (ALTEX) and foreign trade enterprises (ECEX) programmes were abolished in 2010.<sup>88</sup> Nevertheless in 2016, 1,553 enterprises were still benefiting from the incentives provided under these programmes.

<sup>88</sup> WTO document WT/TPR/S/279/Rev.1 of 10 July 2013.

3.126. Mexico has an import duty drawback programme for exporters (drawback programme) that has not seen any major changes since the previous review.<sup>89</sup> It consists of refund of the duty paid on the import of raw materials, spare parts, components or other inputs used to produce goods for export or goods that are re-exported without being transformed.

### 3.2.5 Export promotion

3.127. ProMexico remains the Federal body responsible for promoting exports and the installation of Mexican firms abroad (known as internationalization), as well as for foreign investment (Section 2.4).<sup>90</sup>

3.128. ProMexico provides financial support to exporting firms or those with export potential to enable them, *inter alia*, to commission consultancy services, conduct market surveys or take part in international fairs. In 2015, it spent Mex\$110 million on support for some 2,000 beneficiaries, an increase in spending of 37% and of 21% in the number of beneficiaries in comparison with 2014. In 2015, ProMexico's support mostly went to meet travel costs for participation in trade missions or promotional events (36% of the total) and to finance foreign trade studies (30%), among other technical assistance services (Table 3.16). According to the self-evaluation report prepared by ProMexico in 2015, 91% of the firms surveyed considered the support provided by ProMexico to be beneficial.<sup>91</sup> ProMexico also offers paid services to exporting firms.

**Table 3.16 Financial support given to the exporting sector by ProMexico**

(Mex\$, unless otherwise indicated)

Form of support	Maximum amount	Purpose
<b>Certification</b>	150,000	Commission technical standards certification services
<b>Consultancy</b>	250,000	Commission consultancy services in order to set up export networks composed of firms in the same sector or with the same line of products so that they can use the same distribution channel abroad
	200,000	Commission consultancy services to improve production processes or to develop new products
	50,000	Commission consultancy services for the registration of trademarks, taking into account requirements in the country of destination, registration of intellectual property and foreign patent procedures
	35,000-50,000	Commission special advisory services for setting up firms abroad
<b>Sending of samples</b>	50,000	Send samples abroad
<b>Specialized studies</b>	150,000	Undertake logistics studies
	400,000	Undertake studies to identify products, components or processes lacking in production chains
	75% of the total cost up to a maximum of 150,000	Undertake studies to identify export markets or internationalization opportunities
	50,000	Undertake internationalization studies
	500,000	Undertake studies to identify and select new suppliers
<b>Promotional events</b>	70,000	Participate in international competitions or fairs
	150,000	Hold promotional events abroad
	130,000	Rent physical spaces in exhibition halls (maximum rental period, 12 months)
	50,000	Hold meetings with potential clients
<b>Marketing techniques</b>	150,000-450,000	Commission design services for promotion campaigns abroad
	50,000	Commission design services for containers, packaging and labelling
	50% of the total cost up to a maximum of 50,000	Commission design services for promotional material (for example catalogues)
<b>Travel</b>	50,000	Facilitate business travel for the purpose of surveying new markets abroad

Source: Online information from ProMexico, viewed at: <http://www.promexico.gob.mx/es/mx/apoyos-y-servicios>.

<sup>89</sup> Decree establishing the drawback of import duty for exporters (published in the Official Journal of 11 May 1995; latest amendment published in the Official Journal of 29 December 2000).

<sup>90</sup> ProMexico is a decentralized body of the SE. Online information from ProMexico. Viewed at: <http://www.promexico.gob.mx>.

<sup>91</sup> Online information from ProMexico. Viewed at: <http://www.promexico.gob.mx/es/mx/apoyos-y-servicios>; and ProMexico (2016), *Informe de autoevaluación 2015*. Viewed at: <http://www.promexico.gob.mx/documentos/pdf/informe-autoevaluacion-promexico-2015.pdf>.

3.129. Other institutions also support the export sector. The National System for Guidance to Exporters (SNOE) and the Joint Export Promotion Commission (COMPEX) assist interested firms with export procedures<sup>92</sup> (Section 2).

3.130. The various states also implement export promotion programmes. Twenty-three PYMEXPORTA Centres have been set up in states to provide assistance to exporting firms seeking to enter new markets.<sup>93</sup>

### 3.2.6 Export financing, insurance and guarantees

3.131. The National Foreign Trade Bank (Bancomext) - the Federal development bank - provides financing for exporting firms (direct exporters), their suppliers (indirect exporters) and foreign-exchange-generating firms (such as firms in the tourism sector). It acts as a first and second tier bank and still offers the same financial products as those offered in 2012 (Table 3.17).<sup>94</sup>

**Table 3.17 Financial products offered by Bancomext**

	First tier	Second tier
Type of enterprise	Small, medium-sized and large enterprises	SMEs
Financial products	Credit, letters of credit, international factoring, buyers' guarantees	Lines of credit for bank and non-bank financial intermediaries

Source: Online information from Bancomext, viewed at: <http://www.bancomext.com/conoce-bancomext/quienes-somos> and at: <http://www.bancomext.com/empresas-que-apoyamos/exportadores>.

3.132. The principal financing tool is credit. Bancomext offers loans for amounts exceeding US\$3 million directly to exporters, regardless of the sector in which they operate or the size of the firm. It has also set up a mechanism using financial intermediaries (mostly banks) to grant credit amounting to less than US\$3 million to SMEs ("PyMEX loans"). During the review period, Bancomext increased the number of financial intermediaries with which it works in order to serve a larger number of SMEs. In 2016, it collaborated with 51 bank and non-bank financial intermediaries.<sup>95</sup>

3.133. Bancomext grants credit directly to exporters in order to finance working capital or to purchase fixed assets, expand their industrial infrastructure or develop investment projects (for example, upgrading their facilities). It offers different types of credit such as corporate credit and structured credit (in order to be able to take part in international tendering), and also offers syndicated loans.<sup>96</sup> The lines of credit granted to commercial banks are intended to finance working capital and fixed assets.<sup>97</sup> Interest rates are in line with market terms.

3.134. Firms in any economic sector may apply to Bancomext for credit. The Bank, nonetheless, follows a business model that promotes "strategic" sectors, namely, sectors that are key because of their substantial contribution to export and foreign currency generation. These sectors are aerospace, the automotive industry, electrical-electronic components, energy, the maquila industry and industrial premises, mining and metallurgy, telecommunications, transport and

<sup>92</sup> Online information from the National Entrepreneurs Institute. Viewed at: <https://www.redemprendedor.gob.mx/index.php/m-inadem/16-articulo-inadem-5.e>; and online information viewed at: <http://www.contactopyme.gob.mx/compex/default.asp>.

<sup>93</sup> Online information from the SME Institute. Viewed at: <http://mexico.smetoolkit.org/mexico/es/content/es/8036/Programa-PYMEXPORTA>.

<sup>94</sup> Online information from Bancomext. Viewed at: <http://www.bancomext.com/conoce-bancomext/quienes-somos>.

<sup>95</sup> Bancomext (2016), *Informe Annual 2015*. Viewed at: <http://www.bancomext.com/conoce-bancomext/bancomext-en-cifras/informe-anual>; and online information from Bancomext. Viewed at: <http://www.bancomext.com>.

<sup>96</sup> A description of the loans can be viewed at: <http://www.bancomext.com/en/products-and-services/credit>.

<sup>97</sup> Online information from Bancomext. Viewed at: <http://www.bancomext.com/en/products-and-services/credit>.

logistics, and tourism.<sup>98</sup> In 2016, Bancomext reinforced its support for tourism in the form of a new financing programme intended to expand and renovate the hotel infrastructure.<sup>99</sup>

3.135. The amount of credit granted by Bancomext increased during the review period. Between 2012 and 2015, the increase was 33%, reaching US\$11,128 million in 2015 (Table 3.18). The "strategic" sectors received 70% of the total credit in 2015; among them, tourism received 17% of all loans followed by industrial parks and premises (16%) and energy (13%).<sup>100</sup>

**Table 3.18 Credit granted by Bancomext to the export sector, 2012-2016**

(US\$ million)

	2012	2013	2014	2015	2016 (Jan-March)
Total amount of credit	8,382	11,480	12,087	11,128	2,005
First tier	6,549	8,903	9,533	8,773	1,424
Second tier	1,833	2,577	2,554	2,355	581
Beneficiary enterprises (first tier)	268	353	440	491	440

Source: Bancomext's credit financing programme 2012-2016. Viewed at: <http://www.bancomext.com/wp-content/uploads/2014/08/Prg-Fin-Cred-2012-2016t1.pdf>.

3.136. In addition, Bancomext promotes exports by means of other financial instruments, for example, international factoring, buyers' guarantees or letters of credit.<sup>101</sup> Through the international factoring service, direct and indirect exporters obtain liquidity by selling their accounts receivable to the bank; Bancomext buys these for up to 90% of the value of the invoice. The buyers' guarantee is a mechanism whereby Bancomext gives guarantees (for up to US\$3 million) to financial intermediaries located abroad so that they can finance the purchase of Mexican products and/or services. Bancomext also allows exporters to use letters of credit as a means of payment. These three instruments fully cover exporters against the risk of non-payment.

3.137. Mexico does not have any official export credit insurance programmes. Export credit insurance is offered through CESCEMEX, a company in which Bancomext has a minority holding. A private group, the International Credit Insurers Consortium, composed of four private foreign insurers, holds 51% of CESCEMEX's capital.<sup>102</sup>

### 3.3 Other measures affecting production and trade

#### 3.3.1 Incentives

3.138. During the review period, Mexico notified the WTO of various export subsidy programmes for the fisheries and aquaculture sector, the forestry sector and high-technology industries.<sup>103</sup> These programmes were already in operation in 2012 and had been notified.

3.139. Mexico still implements a number of support programmes to promote exports, attract investment and create jobs. In addition to these general programmes, it has sectoral programmes, mostly aimed at micro, small and medium-sized enterprises, which provide financial assistance, tax incentives and technical training. In this regard, mention should be made of the PROSEC and of some tax concessions for payment of the ISR and IEPS, consumption of diesel fuel and the import of environmentally friendly machinery, *inter alia*.

<sup>98</sup> Online information from Bancomext. Viewed at: <http://www.bancomext.com/en/firms-we-finance/strategic-sectors>.

<sup>99</sup> Bancomext press release of 21 April 2016. Viewed at: <http://www.bancomext.com/wp-content/uploads/2016/04/Comunicado-Sectur-SHCP-Bancomext-Mejora-tu-Hotel.pdf>.

<sup>100</sup> Bancomext (2016), *Informe Anual 2015*. Viewed at: <http://www.bancomext.com/conoce-bancomext/bancomext-en-cifras/informe-anual>.

<sup>101</sup> Online information from Bancomext. Viewed at: <http://www.bancomext.com/en/products-and-services/international-factoring>, <http://www.bancomext.com/en/products-and-services/guarantees/buyers-guarantees>, and <http://www.bancomext.com/en/products-and-services/letters-of-credit>.

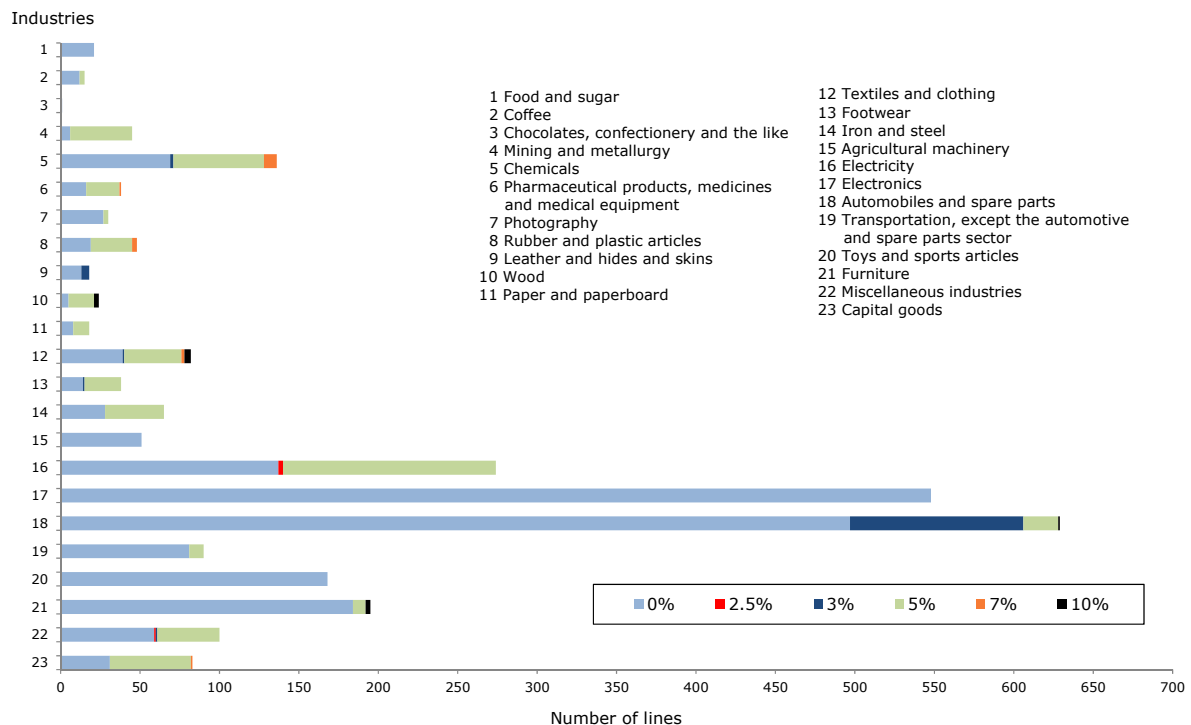
<sup>102</sup> Online information from CESCEMEX. Viewed at: <http://cescemex.mx/web/sp/index.aspx>.

<sup>103</sup> WTO documents G/SCM/N/284/MEX of 9 July 2015 and G/SCM/N/284/MEX/Suppl.1 of 11 November 2015.

3.140. The PROSEC date back to 2002 and are still in force with the aim of bolstering competitiveness.<sup>104</sup> These programmes allow inputs and machinery for manufacturing specific goods to be imported at a preferential tariff, irrespective of whether the final good is consumed on the domestic market or exported. Each sectoral programme lists the inputs by tariff line, showing the corresponding preferential tariff. The incentive provided is only granted if the inputs are used in the sector specified in the PROSEC.

3.141. The number of PROSEC and the sectors they cover have not changed since 2012, although in 2016, the total number of beneficiary products decreased, and consequently the number of tariff lines covered by the PROSEC fell from 3,005 in 2012 to 2,717 in October 2016 (Chart 3.9). The decrease in terms of product coverage has been the trend since 2007, when 6,185 tariff lines received preferential tariffs. As to the distribution of the levels of preferential tariffs granted under the PROSEC, in 2016, as in 2012, the most common rates were 0% and 5%, which applied to 75% and 19% of the tariff lines covered, respectively. Although the number of lines benefiting from the PROSEC has fallen, the number of beneficiary enterprises increased from 3,533 in 2012 to 3,989 in October 2016. The enterprises authorized may operate in more than one sector at the same time.

**Chart 3.9 Inputs covered by the various PROSEC programmes, 2016 (October)**



Source: Information provided by the authorities.

3.142. Mexico also grants tax incentives such as refund of income tax (ISR), tax credits and exemption from payment of the tax on new motor vehicles (ISAN) for electric vehicles (Table 3.19). The tax incentives available under the Federal Revenue Law apply for one year and their efficacy is evaluated annually for the purpose of drawing up the national budget. Following the 2014 fiscal reform, other incentives were amended, for example, those granted for producing Mexican films and plays, which were extended to include the distribution of Mexican films in 2014.<sup>105</sup> This tax incentive for the production of Mexican films and plays corresponds to the amount which ISR taxpayers have contributed in the form of investment in film production during the financial year concerned; the tax credit is not cumulative for the purposes of ISR. The incentive may under no circumstances exceed 10% of the tax paid during the preceding financial year.

<sup>104</sup> Decree establishing various sectoral promotion programmes (published in the Official Journal of 2 August 2002; latest amendment published in the Official Journal of 26 December 2011).

<sup>105</sup> Articles 31 and 32 of the Federal Law on the Film Industry (published in the Official Journal of 29 December 1992; latest amendment published in the Official Journal of 17 December 2015).

Table 3.19 Some tax incentives, 2016

Incentive	Description	Legal instrument
Exemption from the ISR for income earned from crop farming, livestock farming, forestry and fishing	Legal persons engaging in these activities do not pay the ISR if their annual income does not exceed the equivalent of 20 general minimum wages (SMG) per partner, although the total may not exceed 200 times the SMG. Natural persons do not pay the tax if their annual income does not exceed 40 SMG.	Article 74 (sections II and V) of the Income Tax Law
Lower rate of ISR applicable to the primary and agroindustrial sector	Natural and legal persons engaging exclusively in these activities may receive rebates of 40% and 30%, respectively.	Article 74 (sections II and V) of the Income Tax Law
Tax incentives for generating energy from renewable sources	Taxpayers may deduct from the ISR 100% of the cost of machinery and equipment used to generate renewable energy or the cost of systems for the efficient generation of electric power.	Article 34 (section XII) of the Income Tax Law
Exemption from payment of tariffs on imports of inputs, intermediate goods, machinery and equipment for research and technology development.	Exemption from payment of tariffs on inputs that contribute to the development of scientific and technological activities by dedicated institutions that are listed in CONACYT's National Register of Scientific and Technological Institutions and Companies (tariff heading 9806.00.03), subject to authorization from the SE.	Decree on the General Import and Export Tax Law (Official Journal of 18 July 2007)
Immediate deduction for investment in new fixed assets	A temporary tax incentive is granted to the following taxpayers for 2016 and 2017: natural and legal persons engaging in business and professional activities and having earned up to Mex\$100 million during the immediately preceding year; those investing in the construction and expansion of infrastructure or in hydrocarbons-related activities (Article 2 of the Hydrocarbons Law). The tax incentive consists of immediate deduction of the cost of investment in new fixed assets, according to the percentages determined in the Law.	Article 3 of the Temporary Provisions of the Income Tax Law
Tax incentives for the film industry	Tax incentives for: (a) cinemas which show Mexican films or which help to diversify the supply of foreign films; (b) companies which promote the production, distribution, screening and/or marketing of Mexican films; those which copy, subtitle or dub films in Mexico; or producers attending international film festivals at which they obtain an award; (c) building or restoration of cinemas.	Federal Law on the Film Industry
Incentives granted under the Revenue Law	Companies (other than those in the mining sector) purchasing diesel fuel for exclusive use as a fuel for machinery (except vehicles) may credit the IEPS against the ISR. Persons purchasing diesel fuel for use in agricultural or forestry activities and whose income during the preceding year did not exceed 20 SMG may request the refund of the IEPS instead of crediting it. Persons purchasing diesel fuel to be used in public or private vehicles for the transport of passengers, freight or tourists may request the refund of the IEPS, instead of crediting it. Taxpayers exclusively engaging in public or private transport of freight or passengers or tourists and using the national tolled motorway network may deduct from the ISR up to 50% of the toll charges paid. The IEPS paid on the purchase and import of fossil fuels, according to their carbon content and provided that they are not to be used for burning, may be deducted from the ISR. Holders of mining concessions and allocations, when selling or disposing of the minerals and substances specified in the Mining Law and provided that their annual gross income does not exceed Mex\$50 million, may deduct the special levy on mining activities paid from the ISR.	Federal Revenue Law for fiscal year 2015 Federal Revenue Law for fiscal year 2015 Federal Revenue Law for fiscal year 2015 Federal Revenue Law for fiscal year 2015 Federal Revenue Law for fiscal year 2015 Federal Revenue Law for fiscal year 2015 Mining Law

Source: WTO Secretariat, on the basis of online information from the SAT, viewed at: [http://www.sat.gob.mx/fichas\\_tematicas/reforma\\_fiscal/Paginas/default.aspx](http://www.sat.gob.mx/fichas_tematicas/reforma_fiscal/Paginas/default.aspx); and information provided by the authorities.

3.143. In addition to offering tax incentives, Mexico has other direct support, credit and guarantee programmes for SMEs and MSMEs or to boost competitiveness and research and experimental development (R&D), together with programmes aimed at particular sectors such as agriculture, tourism and the film industry (Table 3.20). One of the major programmes for the film industry remains the programme to support the mainstream film and audiovisual industry, which



reimburses 17.5% of the production costs incurred in Mexico, provided that a minimum of Mex\$40 million is spent in Mexico during the development and production stage and/or Mex\$10 million in post-production costs. The programme also allows the refund of VAT.<sup>106</sup>

**Table 3.20 Some support programmes, 2012-2016**

(Mex\$)

Authority	Programme	Form of support
<b>Ministry of the Economy</b>	National microenterprise financing programme, Microfinance fund for rural women (FOMMUR)	Loans
	National financing programme for microenterprises and rural women (PRONAFIM)	Guarantees Financial support
	National guarantees scheme ( <i>México Emprende</i> trust fund)	
	National business fund (created in 2014, following the amalgamation of the SME fund and the business fund)	
	Development of high-technology industries programme (PROIAT)	
	Technological development of industry programme (PRODIAT)	
	Logistics and supply centre competitiveness programme (PROLOGYCA)	
	Programme to foster competitiveness in industrial sectors (PROIND)	
<b>SAGARPA</b>	Software industry development programme (PROSOFT)	Financial support
	Investment in equipment and infrastructure programme (PAIEI)	
	Fund for production programmes in agricultural clusters (FAPPA)	
	Productivity of women in business programme (PROMETE)	
	Young farmers' programme	
<b>SICES</b>	Productivity and agrifood competitiveness programme	Financial support; guarantees
	Programme to promote research, technological development and innovation (PEI)	Financial support
<b>Nacional Financiera (NAFIN)</b>	SME loans	Loans
	Loans for the <i>Crecer Juntos</i> programme	Securities Guarantees Factoring
	Financing of transport MSMEs	
	Financing for technical modernization	
	Sustainable projects programme	
	SME women	
	Loans for the building industry	
	Eco-credits for businesses	
	Financing for the leather and footwear sector	
	Financing for car dealers	
	Support for the textiles, clothing and fashion industry	
	Microcredit programme	
	Loans to software development companies	
	Security guarantee	
Guarantees programme		
Production chains programme		
<b>Film industry</b>	Programme to support the mainstream film and audiovisual industry	Financial support; VAT refund
	Film investment and promotion fund (FIDECINE)	Financial support through a fund
	Fund for the production of high-quality films (FOPROCINE)	
	Programme in support of creators	
	Support for the production of short films	
	Support for the distribution of less popular films	
	Support for the distribution of Mexican films in commercial cinemas (EPROCINE)	

Note: SAGARPA: Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food; SICES: Ministry of Innovation, Science and Higher Education.

Source: Catalogue of Federal programmes 2013, 2014, 2015 and 2016 published by the National Institute for Federalism and Municipal Development, viewed at: [http://www.inafed.gob.mx/es/inafed/Publicaciones\\_en\\_Linea](http://www.inafed.gob.mx/es/inafed/Publicaciones_en_Linea); online information from NAFIN, viewed at: <http://www.nafin.com/portalnf/content/home/home.html>; online information from SICES, viewed at: <http://www.concyteg.gob.mx/pej>; Federal Law on the Film Industry (latest amendment published in the Official Journal of 28 April 2010); and online information from IMCINE, viewed at: <http://www.imcine.gob.mx>.

<sup>106</sup> Online information from the Mexican Film Commission (COMEFILM). Viewed at: [http://www.comefilm.gob.mx/wp-content/uploads/2013/09/Preguntas\\_Frecuentes\\_Nuevos\\_Montos.pdf](http://www.comefilm.gob.mx/wp-content/uploads/2013/09/Preguntas_Frecuentes_Nuevos_Montos.pdf).

### 3.3.2 Competition policy and price controls

#### 3.3.2.1 Competition policy

##### 3.3.2.1.1 Legal framework

3.144. Mexico's competition policy is governed by Article 28 of the Constitution<sup>107</sup>, the Federal Law on Economic Competition (LFCE) of 2014<sup>108</sup> and the Federal Telecommunications and Broadcasting Law (LFTR) of 2014<sup>109</sup>, together with the provisions on competition in the FTAs signed by Mexico.

3.145. During the review period, Mexico's competition policy underwent far-reaching changes in terms of its legal framework. Article 28 of the Constitution was amended four times over this period and a new Federal Law on Economic Competition was published in 2014, repealing the 1992 Law (last amended in 2011), which had previously governed this area. The Federal Telecommunications and Broadcasting Law was published in 2014 as well, repealing the specific laws that had applied to these sectors and affecting competition therein.

3.146. The following were some of the most important changes to Article 28 of the Constitution over the review period; the creation of the Federal Economic Competition Commission (COFECE), which replaced the Federal Competition Commission (CFC), set up in 1992; giving the Federal Telecommunications Institute (IFT) exclusive responsibilities in relation to economic competition in the telecommunications and broadcasting spheres; and the establishment of a procedure for appointing members of the COFECE and the IFT.

3.147. Article 28 of the Constitution prohibits monopolies, monopolistic practices, cartels and tax exemptions under the terms and conditions specified in the legislation. It also states that the following functions of the State exercised exclusively do not constitute monopolies: postal, telegraph and radio telegraph services; radioactive minerals and nuclear power generation; planning and control of the national electrical system, the public service of electricity transmission and distribution; and exploration for and extraction of oil and other hydrocarbons. The exclusive functions exercised by the State through the Central Bank in strategic areas such as the minting of coins and issuing of banknotes do not constitute monopolies either. The LFCE implements Article 28 of the Constitution as far as free market access and economic competition, monopolies, monopolistic practices and cartels are concerned; it serves public order and society's interests, applies to all areas of economic activity and is generally enforceable throughout Mexico.<sup>110</sup>

3.148. The LFCE prohibits monopolies, monopolistic practices, unlawful concentrations and barriers which hinder, impair, impede or condition any form of free market access or economic competition in the production, processing, distribution or marketing of goods or services (Article 52 of the LFCE). The LFCE also provides that the following do not constitute monopolies: workers' associations incorporated to protect their interests pursuant to the relevant legislation; the privileges granted for a certain period of time to authors and artists for the production of their works and those granted to inventors and individuals perfecting an invention for exclusive use in their inventions or improvements; and producers' associations or cooperatives which sell their domestic or industrial products directly on foreign markets (Articles 6, 7 and 8 of the LFCE).

3.149. The LFCE draws a distinction between absolute and relative monopolistic practices. Absolute monopolistic practices are considered illegal as such and thus punishable without exception as it is considered unlikely that they will yield benefits in terms of efficiency and always have a direct and negative impact on consumers. Such absolute monopolistic practices are defined

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<sup>107</sup> Political Constitution of the United Mexican States (published in the Official Journal of 5 February 1917, latest amendment of 27 January 2016). Document available at: <http://www.diputados.gob.mx/LeyesBiblio/htm/1.htm>.

<sup>108</sup> Federal Law on Economic Competition (published in the Official Journal of 23 May 2014). Document available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFCE.pdf>.

<sup>109</sup> Federal Telecommunications and Broadcasting Law (published in the Official Journal of 14 July 2014, latest amendment of 1 June 2016). Document available at: [http://www.diputados.gob.mx/LeyesBiblio/pdf/LFTR\\_090616.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/LFTR_090616.pdf).

<sup>110</sup> Title I of the Federal Law on Economic Competition (published in the Official Journal of 23 May 2014). Document available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFCE.pdf>.

as contracts, agreements, arrangements or combinations among competing economic agents if their purpose or effect is any of the following: (a) to fix, raise, coordinate or manipulate the sale or purchase price of goods or services supplied or demanded in the markets; (b) to establish an obligation not to produce, process, distribute, market or acquire only a restricted or limited amount of goods, or the provision or transaction of a limited or restricted number, volume or frequency of services; (c) to divide, distribute, allocate or impose portions or segments of a current or potential market for goods and services, by a determined or determinable group of customers, suppliers, time spans or spaces; (d) to establish, arrange or coordinate bids or abstentions from tenders, competitions, auctions or purchase calls; and (e) to exchange information for any of the purposes or effects referred to in the previous subsections. Absolute monopolistic practices are considered null and void and economic agents that engage in them are subject to the sanctions provided in the LFCE, regardless of any criminal or civil liability that may arise therefrom.

3.150. The LFCE considers relative monopolistic practices to be those which consist of any act, contract, agreement, procedure or combination, which: (a) corresponds to any of the criteria referred to in Article 56 of the Law<sup>111</sup>; (b) is carried out by one or more economic agents that individually or jointly exert substantial market power in the same relevant market in which the practice is executed; and (c) has or may have as its purpose or effect, in the relevant market or a related market, that of unduly displacing other economic agents, substantially impeding their access or establishing exclusive advantages in favour of one or several economic agents. These practices are deemed illegal if any of the criteria in the Law are met, unless the economic agent proves that they produce gains in efficiency and have a favourable impact upon the process of economic competition and free market access, thus overcoming their possible anticompetitive effects, and consequently result in an improvement in consumer welfare.<sup>112</sup>

3.151. The LFCE also includes provisions on determining the substantial power of economic agents, deemed to be an essential element for the analysis of relative monopolistic practices, cartels, essential inputs, barriers to competition and conditions of effective competition, as well as for imposing sectoral regulations. It is specified that, in order to determine whether one or more economic agents has substantial power in the relevant market, the following criteria are to be taken into account: (a) their share of the market in question and their ability to fix prices or restrict supplies in the relevant market; (b) the existence of barriers to entry and elements which could foreseeably alter either the said barriers or the supply of other competitors; (c) the existence and power of competitors; (d) the opportunities for economic agents and their competitors to access sources of inputs; and (e) the recent behaviour of economic agents participating in the said market.

### 3.3.2.1.2 Institutional framework

3.152. There are currently two economic competition authorities in Mexico, the COFECE and the IFT. The former is the authority responsible for implementing the LFCE in all sectors except for telecommunications and broadcasting. The IFT has sole responsibility for economic competition matters in the telecommunications and broadcasting sectors. Both bodies are autonomous constitutional entities, with their own legal status and assets, created following the constitutional reform of 11 June 2013, whose objective is to guarantee free competition and market access; and to prevent, investigate and combat monopolies, monopolistic practices, cartels and other

<sup>111</sup> These criteria include the following: (a) imposing exclusive marketing or distribution of goods or services between economic agents that are not competitors or imposing the obligation not to manufacture or distribute goods or provide services for a determined period of time; (b) imposing prices on distributors or sellers; (c) conditional sales or transactions; (d) refusing to sell, market or supply goods or services to certain individuals; (e) concerting with a view to refusing to sell, market or purchase goods or services from an economic agent with the aim of dissuading it from certain conduct; (f) selling below the average variable cost or below the average total cost in order to increase prices subsequently; (g) granting discounts or incentives to buyers on the condition that they do not market the goods or services produced; (h) cross subsidies between products or services; (i) establishing separate prices or conditions for selling to or purchasing from different buyers or sellers; (j) hindering production by other economic agents; (k) refusal or restriction of access to an essential input, or access under discriminatory terms and conditions; and (l) reducing the existing margin between the price of accessing an essential input and the price of the good or service offered to the final consumer. This list is much more exhaustive than the previous one.

<sup>112</sup> If, for example, the practice leads to: the introduction of new goods or services; lower costs; the introduction of technological advances; improvements in the quality of the goods or services; increased investment; or any other net contribution to consumer welfare which overcomes their anticompetitive effects.

restrictions on the efficient functioning of markets (Article 28 of the Constitution and Article 10 of the LFCE). It also the responsibility of these two bodies to determine the existence of and regulate access to essential inputs and to order measures to eliminate barriers to competition or other restrictions on the efficient functioning of markets.

3.153. For both of the competition authorities (the COFECE and the IFT), the investigating authority is the body responsible for conducting investigations and acts as party in legal proceedings. Each authority defines its own structure on the basis of its organic statute. In carrying out its responsibilities, the investigating authority has technical and administrative autonomy to decide on how to operate.<sup>113</sup>

3.154. The IFT has an economic competition unit (UCE), which is in charge of instituting the proceedings referred to in the LFCE and has the responsibilities determined in the organic statute.<sup>114</sup> The COFECE's Directorate-General of Mergers and the IFT's Directorate-General of Mergers and Concessions are in charge of analysing and deciding on matters relating to mergers, each of them within its own sphere of competence. Both these Directorates have the authority to propose conditions for approving mergers and to assist in their verification, and may object to a merger taking place. They may also propose the inclusion of protective and promotional measures in relation to economic competition when public enterprises or assets are disposed of, as well as in the course of assignment of concessions and permits by departments and entities of the Federal Government.<sup>115</sup>

### 3.3.2.1.3 Investigations into monopolistic practices

3.155. Pursuant to the provisions in the LFCE, before an investigation into monopolistic practices or illegal cartels may be initiated, there must be an objective cause, with some indication of its existence. An investigation procedure undertaken by the COFECE or IFT investigation authority may be initiated: (a) *ex officio*; (b) at the request of the Federal Executive itself or through the SE or the Federal Consumer Protection Agency (PROFECO); or (c) at the request of a party. Within 15 days of receiving the complaint, the investigating authority must issue a decision: (a) ordering the initiation of an investigation; (b) rejecting the complaint in all or in part on the grounds of its inadmissibility; or (c) requesting the complainant, once only, to clarify or complete its brief within a period of 15 days. The investigation period commences as of the date on which the decision to initiate the investigation in question is issued and may not be less than 30 or more than 120 days. If there are duly substantiated reasons, this period may be extended by the investigating authority up to four times for periods of up to 120 days.

3.156. Before initiating an investigation for the purpose of determining a barrier to competition, the investigating authority must issue a decision on its initiation, and publish an extract thereof in the Official Journal of the Federation, identifying the market under investigation so that any person may present information in the course of the investigation. The investigation period commences as of the date of publication of the extract and may not be less than 30 or more than 120 days. If there are duly substantiated reasons, the COFECE or the IFT may extend this period up to two times. During the investigation procedure, the investigating authority may order the initiation of new investigations, request the reports or documents needed for the investigation and order inspection visits.

3.157. After the investigation has been completed and if there are elements showing that there is no effective competition in the market investigated, within 60 days following the conclusion of the investigation, the investigating authority must issue a preliminary ruling, otherwise it proposes that the file be closed. When issuing the preliminary ruling, the investigating authority must propose the remedial measures deemed necessary to remove the restrictions on the efficient

<sup>113</sup> Online information from COFECE. Viewed at: <https://www.cofece.mx/cofece/index.php/cofece/autoridad-investigadora>.

<sup>114</sup> It is the UCE's responsibility to conduct the main proceedings covered by Chapter XVI of the IFT's organic statute. Online information from the IFT. Viewed at: [http://www.ift.org.mx/sites/default/files/estatuto\\_organico\\_04\\_09\\_14.pdf](http://www.ift.org.mx/sites/default/files/estatuto_organico_04_09_14.pdf).

<sup>115</sup> Online information from COFECE. Viewed at: <https://www.cofece.mx/cofece/index.php/cofece/secretaria-tecnica/atribuciones-de-la-direccion-general-de-concentraciones>.

functioning of the market investigated. After the preliminary ruling, a period is given in which to put forward claims, after which the file is deemed to be complete.

3.158. After the file is complete, the Board of the IFT or the COFECE issues the corresponding resolution within a period not exceeding 60 days. This resolution may include: (a) recommendations to government authorities if the IFT or the COFECE finds that there are legal provisions which unjustly prevent or distort free market access and competition; (b) an order to the economic agent concerned to remove the barrier unfairly affecting free market access and competition; (c) a determination of the existence of essential inputs and guidelines regulating, where applicable, modes of access, prices or rates, technical specifications and quality, as well as the timetable for application; or (d) the disposal of assets, rights, equity or shares belonging to the economic agent concerned, in the percentages required to eliminate the anticompetitive effects. This resolution is notified to the Federal Executive and to the department coordinating the corresponding sector, as well as to the economic agents involved, and is published in the distribution media of the IFT or the COFECE, with the relevant information being published in the Official Journal.

#### 3.3.2.1.4 Economic mergers

3.159. The LFCE provides that the following economic mergers must be authorized by the COFECE and the IFT before they occur: (a) when they directly or indirectly involve the entry into Mexican territory of an amount in excess of the equivalent of 18 million times the current SMG in Mexico City; (b) when they involve the accumulation of 35% or more of the assets or stock of an economic agent whose annual sales originating in Mexican territory or assets in the country account for more than the equivalent of 18 million times the said minimum wage; or (c) when they imply the accumulation within Mexican territory of assets or registered capital in excess of the equivalent of 8.4 times the SMG and two or more of the economic agents participating in the merger have annual sales originating in Mexican territory or assets in Mexican territory worth, jointly or separately, an amount in excess of 48 million times the current daily SMG in Mexico City.<sup>116</sup>

3.160. Economic agents must obtain an authorization in order to conclude a merger before: (a) the legal act is issued; (b) de facto or de jure control over another economic agent is acquired or is directly or indirectly exercised, or assets, participation in trusts, equity or shares of another economic agent are acquired de facto or de jure; or (c) a merger agreement is signed between the economic agents involved. Mergers as a result of legal acts drawn up abroad must be notified by the economic agents directly participating in the merger before they can have legal or material effects in Mexico. Any merger transactions which violate these provisions are considered legally null and void and the economic agents or persons which ordered or assisted in their conclusion may be subject to administrative, civil or criminal sanctions. Merger transactions may not be registered in the Public Trade Register until the COFECE or the IFT, as applicable, has given its authorization.

3.161. When notifying a merger, economic agents must forward to the COFECE or the IFT information and evidence showing that it is "clear" that the purpose or effect of the merger will not be to hinder, impair or prevent free market access and economic competition.<sup>117</sup> Within the

<sup>116</sup> Under the repealed competition law, notification was compulsory for: mergers involving an amount in excess of the equivalent of 12 million times the current daily SMG in Mexico City; if the transaction led to an accumulation of 35% or more of the assets or stock of an economic agent whose assets or sales represented more than the equivalent of 12 million times the prevailing daily SMG in Mexico City; or two or more economic agents whose assets or annual volume of sales, jointly or separately, amounted to more than 48 million times the said SMG took part in the transaction and the transaction involved an additional accumulation of assets or registered capital in excess of the equivalent of 4,800 times the SMG.

<sup>117</sup> According to Article 92 of the LFCE, it is deemed clear that a merger will not have the purpose or effect of hindering, impairing or preventing free market access and economic competition when the acquiring party does not participate in markets related to the relevant market in which the merger occurs and is not an existing or potential competitor of the acquiring party and, in addition, any of the following circumstances occur: (a) the transaction implies the participation of the acquiring party in the relevant market for the first time; (b) prior to the transaction, the acquiring party does not hold control over the acquired economic agent and, as a consequence of the transaction, the former increases its relative participation in relation to the latter, without attaining more power to influence the company's operation, management, strategy and main policies; or (c) the party acquiring stock has the control of a company and increases its relative participation in the company's capital structure.

five-day period following receipt of the merger notification, the COFECE or the IFT must issue the decision on its admissibility or declare it inadmissible. The plenary of the COFECE or the IFT has to decide whether the merger complies with the criteria of clearly not hindering, impairing or preventing free market access and economic competition, within a period not exceeding 15 days following the admissibility decision. At the end of the period, if no decision has been issued, it shall be understood that there is no objection to the merger.

3.162. The LFCE provides that no prior notification is required when: the transaction involves corporate restructuring; the holder of stock, partnership interest or units of participation increases its relative participation in a company's registered capital which it controls; the transaction concerns the incorporation of a management, guaranty or any other sort of trust, without the purpose or necessary consequence being the transfer of the said assets, or stock to a separate company; or the transaction concerns legal acts of foreign companies not fiscally resident in Mexico. It is not necessary either to notify the acquisition of equity, bonds, stock or securities using resources resulting from the placement of an equity investment company's registered capital unless these may have a significant influence over the decisions of the economic agent involved in the merger. Notification is not required for the acquisition of equity, stock, securities or documents representative of the registered capital of companies traded on stock exchanges in Mexico or abroad, unless the purchase makes the acquiring party the owner of 10% or more of the company's shares.

3.163. The COFECE or the IFT may authorize, give conditional authorization or not authorize a merger. The conditions which the competition authorities may establish include: (i) carrying out or abstaining from a specific action; (ii) divesting specific assets, rights, partnership interest or stock in favour of third parties; (iii) modifying or eliminating terms or conditions from the acts intended to be executed; (iv) committing to implement actions intended to foster the participation of competitors in the market, as well as making available or selling goods or services to them; or (v) other measures aimed at preventing the merger from hindering, impairing or preventing free competition or market access. The COFECE or the IFT may only impose or accept conditions that are directly related to remedying a merger's anticompetitive effects. The conditions that are imposed or accepted must be proportionate to the intended correction.

### 3.3.2.1.5 Activities of the competition authorities

3.164. During the period 2012-2016, the competition authorities initiated 57 investigations for alleged monopolistic practices, 41 ended because of the absence of evidence and eight led to sanctions. Over the same period 265 mergers were notified and led to 241 investigations, of which 90.9% (219) were authorized, conditions were imposed for 4.2% (ten), and 1.2% (three) were rejected, the remainder (nine) were cases that were not admissible or those for which the merger transaction was abandoned (Table 3.21).

**Table 3.21 Competition cases examined by the COFECE, 2012-2016 (Q2)**

	2012	2013	2014 (Q4)	2015 (Q4)	2016 (Q2)
<b>Investigations into monopolistic practices</b>					
Initiated during the period	39	13	0	3	2
Following a complaint	35	11	0	1	1
<i>Ex officio</i>	4	2	0	2	1
Concluded during the period	37	8	4	1	2
Closed owing to the absence of evidence	31	5	4	0	1
Sanctions	6		0	1	1
<b>Mergers</b>					
Notified during the period	94	53	41	36	41
Concluded	96	45	34	31	35
Authorized	86	44	30	26	33
Conditions imposed	6	0	2	1	1
Rejected	2	0	0	1	0
Other (transactions not submitted, inadmissible or withdrawn)	2	1	2	3	1

Note: Data prior to the period when the COFECE commenced operations in September 2013 come from the former Federal Competition Commission (CFC).

Source: CFC (2013), *Informe Anual 2012*; and COFECE (several years), *Informe trimestral*, viewed at: <https://www.cofece.mx/cofece>.

3.165. At the end of the second quarter of 2016, the IFT's investigating authority was also in the process of dealing with six investigation procedures into the probable occurrence of anticompetitive practices and an action to determine the existence of substantial market power.

### 3.3.2.2 Price controls

3.166. In Mexico, the regulatory framework governing price controls is to be found in Article 28 (third paragraph) of the Constitution and in the LFCE. During the review period, the section on determination of prices in Article 28 of the Constitution remained unchanged and the publication of the LFCE in 2014 did not entail any substantial amendments in this regard.

3.167. Article 28 of the Constitution provides that the law may establish the bases for setting maximum prices for articles, commodities or products considered as essential for the country's economy or for popular consumption in order to prevent shortages or price increases. The LFCE provides that it is the exclusive prerogative of the Federal Executive to determine by decree those goods and services that may be made subject to maximum prices, provided that there are no effective competition conditions in the relevant market. It is up to the COFECE or the IFT to determine in a declaration that there are no effective conditions of competition. The SE determines the prices for the goods or services on the basis of criteria that prevent shortages. PROFECO, coordinated by the SE, is responsible for inspection, monitoring and penalties in respect of such prices, pursuant to the Federal Consumer Protection Law.

3.168. Mexico imposes regulations or controls on the price of natural gas, liquefied petroleum gas (LPG), gasoline (petrol) and diesel fuel, electricity and medicines. First-hand sales of natural gas and LPG are regulated by the Regulatory Commission for Energy (CRE). The maximum selling price of LPG to the final user is determined by the SE through monthly presidential decrees, but prices will be freed in 2017. Prices for petrol and diesel fuel are determined by the SHCP on the basis of a formula established monthly to reflect the trend in reference prices and include an amount per litre to cover the cost of supply activities, which must be added to the taxes applicable. The prices thus determined must fall within a fluctuation band of 3% (upwards or downwards) compared to the 2015 price.

3.169. Electricity prices have traditionally been set by the SHCP. Following the energy reform, they are to be determined by the CRE, pursuant to the Law on the Electricity Industry.<sup>118</sup> The SHCP may, however, impose different rates for certain basic supply sectors. Until the CRE issues the relevant provisions, the rates determined by the SHCP continue to apply.

3.170. The maximum retail price of medicines and inputs are determined by the SE, taking into account the views of the Ministry of Health; the SHCP may intervene in the determination of prices if the medicines are being produced by the public sector.<sup>119</sup> The price of medicines for which patents are still in force (which are the subject of the direct bidding procedure provided for in the Law on Public Sector Procurement, Leases and Services (LAASSP) are negotiated annually by the Coordinating Commission for the Negotiation of Prices for Medicines and Other Health Inputs.<sup>120</sup>

### 3.3.3 State-owned enterprises

3.171. In 2000, Mexico notified that it did not have any State-trading enterprise according to the definition in Article XVII of the GATT 1994.<sup>121</sup> Since then, Mexico has not submitted any further notification to the WTO in relation to State trading

<sup>118</sup> Article 58 of the Law on the Electricity Industry, the Law on Geothermal Energy and additions and amendments to various provisions of the National Waters Law (published in the Official Journal of 11 August 2014), which repeals the Law on the Public Electric Power Service (published on 22 December 1975, the latest amendment was published on 9 April 2012). Document available at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5355986&fecha=11/08/2014](http://www.dof.gob.mx/nota_detalle.php?codigo=5355986&fecha=11/08/2014).

<sup>119</sup> Article 31 of the General Law on Health (published in the Official Journal of 7 February 1984, latest amendment of 1 June 2016). Document available at: [http://www.diputados.gob.mx/LeyesBiblio/pdf/142\\_161216.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/142_161216.pdf).

<sup>120</sup> Decision creating the Coordinating Commission for the Negotiation of Prices for Medicines and other Health Inputs (published in the Official Journal of 26 February 2008) and its amending decision (published on 23 August 2012). Viewed at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5030450&fecha=26/02/2008](http://dof.gob.mx/nota_detalle.php?codigo=5030450&fecha=26/02/2008).

<sup>121</sup> WTO document G/STR/N/6/MEX of 31 July 2000.

3.172. Mexico's State sector consists of financial and non-financial enterprises. The financial sector comprises enterprises in which the State has a majority holding, decentralized public bodies and public sector trusts providing financial services, which have their own legal status and assets, namely: national credit companies (development banking), Financiera Rural and the Institute of the National Fund for Workers' Consumption, public trust funds (promotion funds), national auxiliary credit organizations and national insurance and bonding institutions. Pursuant to the Federal Law on Parastatal Bodies, each year the SHCP must publish in the Official Journal the list of parastatal bodies that form part of the Federal Government.<sup>122</sup>

3.173. Non-financial parastatal bodies consist of companies in which the Federal Government, state or municipal governments or one or more of their parastatal bodies, jointly or separately, own over 50% of the registered capital, appoint the majority of members of the governing board or board of directors, or appoint the president or director-general with the power to veto agreements by the board. Their main purpose is to produce goods and services for sale at market prices and they are directly or indirectly controlled by government departments. This sector also includes enterprises similar to businesses but which are not set up as such, even though they operate as businesses, in other words, their operations are conducted autonomously and independently of the departments owning them. Such enterprises are usually self-sufficient as regards funding. Nevertheless, on an exceptional basis, they may receive transfers from the Government if their income from prices and rates fails to cover their production costs or to allow them to invest in facilities or make financial investments.<sup>123</sup>

### 3.3.4 Government procurement

3.174. Transactions and procedures for government procurement and contracts are mainly governed by the Constitution (Article 134), the Law on Public Sector Procurement, Leases and Services (LAASSP), the Law on Public Works and Related Services (LOPSRM) and their respective implementing Regulations, as well as by the provisions laid down in the FTAs signed by Mexico. Public-private partnership projects are not usually governed by the provisions in the LAASSP or the LOPSRM.<sup>124</sup> Mexico has not signed the WTO Agreement on Government Procurement and does not participate as an observer in the WTO Committee on Government Procurement.

3.175. During the period under review, both Laws were amended as a result of the new Mexican Petroleum Law (2014) and the Law on the Federal Electricity Commission (2014), which provide that procurement, leasing and services contracted by State-owned production enterprises (EPE) and their subsidiaries fall outside the scope of the laws on government procurement (Table 3.22).<sup>125</sup>

<sup>122</sup> List of parastatal bodies belonging to the Federal Government. Online information viewed at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5447909&fecha=15/08/2016](http://www.dof.gob.mx/nota_detalle.php?codigo=5447909&fecha=15/08/2016).

<sup>123</sup> SHCP (2013), *Manual de contabilidad gubernamental para el sector paraestatal federal, Clasificación del Sector Paraestatal*. Viewed at: [http://www.shcp.gob.mx/LASHCP/MarcoJuridico/ContabilidadGubernamental/SCG2014/paraestatal/manual\\_paraestatal/doc/capituloiii/mp3a01\\_2014.pdf](http://www.shcp.gob.mx/LASHCP/MarcoJuridico/ContabilidadGubernamental/SCG2014/paraestatal/manual_paraestatal/doc/capituloiii/mp3a01_2014.pdf).

<sup>124</sup> Law on Public-Private Partnerships (Article 7) (published in the Official Journal of 16 January 2012; latest amendment published in the Official Journal of 21 April 2016).

<sup>125</sup> Mexican Petroleum Law (published in the Official Journal of 11 August 2014); and Law on the Federal Electricity Commission (published in the Official Journal of 11 August 2014).



**Table 3.22 Amendments to the LAASSP and the LOPSRM introduced between 2012 and 2016**

Legal instrument amending the Law	Amendments introduced
<b>Law on Public Sector Procurement, Leases and Services (LAASSP)</b>	
Decree issuing the Mexican Petroleum Law and the Law on the Federal Electricity Commission, and amending and repealing various provisions of the Federal Law on Parastatal Bodies; the LAASSP; and the Law on Public Works and Related Services of 11 August 2014.	The LAASSP has been amended to exclude from its scope procurement, leases and services contracts entered into by State-owned production enterprises (PEMEX and the CFE) and their production subsidiaries. Previously, this exclusion only applied partially to PEMEX and the CFE (substantive activities).
Decree amending Articles 14 of the LAASSP and 34 of the General Law on Gender Equality of 10 November 2014.	The LAASSP has been amended to extend preferences to companies which implement policies for gender equality, for disabled persons or companies which employ disabled persons, and to micro, small or medium-sized enterprises producing goods involving technological innovation.
<b>Law on Public Works and Related Services (LOPSRM)</b>	
Decree issuing the Mexican Petroleum Law and the Law on the Federal Electricity Commission of 11 August 2014.	The LOPSRM has been amended (third paragraph of Article 1) to exclude from its scope public works and services contracts entered into by State-owned production enterprises (PEMEX and the CFE) and their production subsidiaries. Previously, this exclusion only applied partially to PEMEX and the CFE (substantive activities).
Decree adding Section XXI to Article 31 of the Law on Public Works and Related Services of 13 January 2016.	Criteria have been added with regard to the procedure/requirements to be specified in the public invitation to tender.

Source: WTO Secretariat.

3.176. The Ministry of Public Administration (SFP) is the Federal authority responsible for government procurement in Mexico; it also determines policies and guidelines for government procurement at the Federal level. At the sub-Federal level, procurement by federative entities is governed by their own laws and procedures. The SFP is also in charge of issuing the administrative provisions necessary for compliance with the LAASSP and the LOPSRM and for promoting a clear government procurement policy. For this purpose, the SFP has to take into account the views of the SHCP and, where applicable, those of the SE. It also investigates irregularities and penalizes bidders or suppliers who break the law.

3.177. There were no major changes to procurement procedures during the review period and they remain the same as those followed in 2012. Government procurement policy did not change either. The LAASSP provides for three types of procurement procedure and government departments and bodies have to choose the one which, depending on the nature of the procurement, offers the State the best available terms as regards price, quality, financing and availability. The three types of procedure are: public invitation to tender; invitation to at least three bidders; and direct award of a contract. According to the national government procurement scheme and based on the LAASSP, the value of each contract may not exceed the maximum amount established in the Federal Expenditure Budget published each year.<sup>126</sup> There are no thresholds determining the use of a particular type of government procurement procedure.

3.178. As a general rule, government procurement contracts are awarded by means of a public invitation to tender so that bids can be freely submitted in closed envelopes, which are opened in public. The other two procedures are used in special cases and their use must be justified in writing. They are used, for example, when: (a) there are no alternative or replacement goods or services or there is only one possible supplier in the market, or a person has exclusive use of a patent, copyright or other exclusive rights, or in the case of works of art; (b) there is a risk for public order, the economy, health, security or the environment in Mexico as a result of an event of *force majeure*; (c) there are justified reasons for purchasing or leasing goods of a particular brand; and (d) the goods to be purchased are perishable goods, or staple or semi-processed grains or foods. Contracts awarded using these two procedures, and which can be justified in view of the amount of the transaction, may not account for more than 30% of the budget for procurement,

<sup>126</sup> The Federal Expenditure Budget for fiscal year 2016 was published in the Official Journal of 27 November 2015.

leases or services of the department or entity (Article 42 of the LAASSP). In addition to these procedures, there are also special government procurement procedures in each state.<sup>127</sup>

3.179. There are three forms of public bidding: public bidding by Mexican nationals; public bidding by international bidders under an agreement and open public bidding for international bidders (Article 28 of the LAASSP). Each department decides which form of bidding is to be used in each case. Only Mexican nationals may take part in national bidding procedures and the goods to be purchased must be produced in Mexico with a minimum of 65% local content. Mexico gives priority to domestic suppliers in order to foster economic development.<sup>128</sup> In international bidding covered by an agreement, only Mexican or foreign bidders from countries with which Mexico has a trade agreement containing a section on government procurement may participate, and the goods to be purchased must comply with the rules of origin criteria in the agreement. Any bidder may take part in open international bidding and the goods or services may be of any origin. This procedure is followed when a national invitation to tender has been issued but has been unsuccessful or when this is specified in contracts financed by external loans granted to the Federal Government (or with their guarantee).

3.180. Depending on the procedure followed, public bidding may be in person, electronic or mixed, and this is decided by each department and specified in the invitation. If the procedure is public bidding in person, bids must be submitted in writing at the time the bids are to be opened, unless the invitation specifies that they can be submitted by post. The other procedures (information sessions, sessions at which bids are presented and opened and the final decision) all take place in the presence of the bidders. In electronic public bidding, all the procedures are conducted through CompraNet, and in mixed bidding, the bidders may choose to take part in person or electronically (Article 26 *bis* of the LAASSP).

3.181. Mexico still gives preferences to Mexican bidders in open international bidding. These preferences only apply to those countries with which Mexico has no trade agreement on government procurement. During the review period, the margin of preference applied in open international bidding did not change and remains at 15% of the lowest price in the domestic market for goods of Mexican origin in comparison with imported goods (Articles 14 and 28 of the LAASSP).<sup>129</sup> Moreover, since 2014, where applicable, points are also awarded to Mexican companies applying gender equality policies and practices, policies for the disabled and also companies which employ disabled workers (at least 5% of the total workforce). Points are also given to micro, small and medium-sized companies producing goods incorporating technological innovation, on the basis of a report prepared by the Mexican Industrial Property Institute (IMPI).<sup>130</sup> Also, in January 2016, the LOPSRM was amended *inter alia* to require the public invitation to tender to show "the minimum percentage of local labour which bidders must incorporate in the works or services to be supplied".<sup>131</sup>

3.182. The Government Procurement Policy Unit (UPCP), part of the SFP, is responsible for the CompraNet electronic public information system on procurement, leases and services. This system allows bidding procedures to be followed from publication of the invitation up to the final decision. Registration and use of the system is free of charge. In order to be registered and able to use the system, businesses must have, among other things, an advanced electronic signature (FIEL), issued by the Tax Administration Service (SAT). Foreign bidders use the electronic means of identification determined by the SFP, in which case, the electronic means of identification needed to be able to use CompraNet is generated by the system itself, following receipt of the legally certified documents and information required.

3.183. In 2015, CompraNet recorded government procurement amounting to Mex\$479,952 million (Table 3.23). Of this amount, 34.9% corresponded to national public bidding,

<sup>127</sup> *Guía práctica de compras públicas*. Viewed at: [http://imco.org.mx/wp-content/uploads/2013/7/Guia\\_de\\_compras\\_publicas\\_011012.pdf](http://imco.org.mx/wp-content/uploads/2013/7/Guia_de_compras_publicas_011012.pdf).

<sup>128</sup> *Idem*.

<sup>129</sup> This implies that the price of the Mexican bid taken into account for the purpose of comparison between Mexican and foreign goods is the cost of the Mexican goods minus 15%.

<sup>130</sup> Amended by the Decree amending Article 14 of the Law on Public Sector Procurement, Leases and Services, and Article 34 of the General Law on Gender Equality (published in the Official Journal of 10 November 2014).

<sup>131</sup> Section XXI of Article 31 of the LOPSRM.

25.0% to international public bidding and the remainder to bidding upon invitation to at least three persons and direct award of the contract.

**Table 3.23 Amount and number of contracts by type of bidding procedure registered by CompraNet, 2011-2015**

(Mex\$ million)

	Contracts									
	2011		2012		2013		2014		2015	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
Public invitation to tender	14,360	148,675	22,745	206,036	21,571	207,810	22,995	332,069	22,822	285,719
National	9,725	73,306	15,673	110,407	15,030	118,219	15,725	199,475	15,569	165,538
International	4,635	75,369	7,072	95,629	6,541	89,591	7,270	132,594	7,253	120,182
Open international	1,685	5,744	2,816	25,974	2,726	11,203	3,189	30,858	2,271	9,666
International under an agreement	2,950	69,626	4,256	69,655	3,815	78,388	4,081	101,736	4,982	110,516
Invitation to at least three persons	9,516	13,414	15,505	34,019	17,279	40,239	18,600	49,455	16,311	46,441
Direct award of a contract	61,547	74,187	88,091	99,255	90,997	120,681	100,240	151,348	127,977	147,792
<b>Total</b>	<b>85,423</b>	<b>236,275</b>	<b>126,341</b>	<b>339,310</b>	<b>129,847</b>	<b>368,730</b>	<b>141,835</b>	<b>532,872</b>	<b>167,110</b>	<b>479,952</b>

Note: Contracts recorded by the Federal Government.

Source: CompraNet relational database.

### 3.3.5 Trade-related intellectual property rights (IPRs)

3.184. The intellectual property regime is governed by the 1998 Industrial Property Law, the 1996 Copyright Law and the 1996 Federal Law on New Plant Varieties, amendments thereto and their respective implementing Regulations.

3.185. The authorities responsible for managing intellectual property rights are the IMPI, the National Copyright Institute (INDAUTOR) and the National Seed and Inspection Service (SNICS).

3.186. Mexico is party to 22 treaties of the World Intellectual Property Organization (WIPO).<sup>132</sup> During the review period, it signed the Beijing Treaty on Audiovisual Performances (2012) and ratified the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities (2015). This Treaty came into force on 30 September 2016.<sup>133</sup> The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, to which Mexico acceded in 2012, came into force in 2013.

#### 3.3.5.1 Industrial property rights

3.187. The 1998 Industrial Property Law (LPI), which was last amended in 2012, and its implementing Regulations, still govern all matters relating to patents, utility models, industrial designs, industrial secrets, trademarks, appellations of origin and layout-designs of integrated circuits<sup>134</sup> (Table A3.5).

3.188. As regards the procedure for patenting an invention, an application has to be filed with the IMPI, which examines its form and substance and, depending on the result of the examination, grants or refuses the patent. The IMPI may base its decision on the conclusions of a substantive examination conducted by a foreign patent office with which it has an agreement.<sup>135</sup> On average, the IMPI takes four and a half years from the date on which an application is filed to the date on

<sup>132</sup> Online information from WIPO. Viewed at: [http://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=123C](http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=123C).

<sup>133</sup> Idem.

<sup>134</sup> The latest amendment to the Industrial Property Law was published in the Official Journal of 9 April 2012. The latest amendment to the implementing Regulations was published in the Official Journal of 10 June 2011.

<sup>135</sup> The IMPI has signed memorandums of understanding with the European Patent Office and the offices of Canada, China, Japan, the Republic of Korea, Portugal, Spain and the United States (IMPI 2015). *Informe Anual 2014*. Viewed at: <http://www.gob.mx/impj/documentos/informe-anual-del-impj>.

which it is granted. The patent gives the holder the exclusive right to work the patent, which may be assigned by means of a licence. A patent is valid for 20 years as of the date of the application and protection may not be renewed. An annual fee ranging from Mex\$1,162 to Mex\$1,536 must be paid in order to maintain a patent.<sup>136</sup> The IMPI may grant (non-exclusive) compulsory licences if a patent is not being worked or for reasons of emergency, national security or public health. Mexico has not granted any compulsory licence since 2012. Parallel imports of patented products are not allowed.

3.189. Trademarks are also protected by the LPI and its implementing Regulations. To register a trademark, an application must be filed with the IMPI, which examines it and then decides whether or not to grant registration. Since 2016, the IMPI has published the registrations granted, as well as the applications. Collective and well-known or famous trademarks must be registered in order to be protected. For such a trademark to be registered, however, a declaration of brand awareness issued by the IMPI and valid for five years has to be obtained and published in the Industrial Property Bulletin. Registration of a trademark gives the owner the exclusive right to exploit it, a right which may be assigned by means of a licence. The IMPI usually takes six months to complete the procedure for registering a trademark. An annual fee of Mex\$2,628 is payable to ensure that registration does not expire.<sup>137</sup> Registration may lapse if the trademark has not been used for three consecutive years. Registration gives a term of protection lasting ten years from the date of application. This term may be renewed, indefinitely, but in order to do so its owner must prove that products or services bearing the trademark are being marketed.

3.190. In 2015, PROFECO signed a cooperation agreement with the IMPI to prevent the registration of products and trademarks that may mislead consumers by using "arbitrary expressions" such as "the best".<sup>138</sup> The previous regime only allowed a trademark to be opposed after registration. In August 2016, however, a system came into force allowing registration of a trademark to be opposed prior to its registration. The purpose of the opposition system is to improve decision-making procedures in the IMPI and reduce the number of annulment procedures. This system provides for the publication of registration applications in order to enable opposition to be voiced, citing any of the reasons for which a trademark may not be registered pursuant to the provisions in the LPI. It is not necessary to have a legitimate interest in the trademark in order to oppose registration, and any person who considers that the registration application violates the LPI's provisions may do so. The LPI gives a non-renewable period of one month as of the publication of the application in which to oppose registration and pay the corresponding opposition fee. At the end of this period, the IMPI makes the opposition known and calls on the registration applicant to express his opinion (if he so wishes) within a non-renewable period of one month. In its substantive examination, the IMPI may take into account the reasons expressed both as regards opposition and the replies of the applicant.<sup>139</sup> Mexico's system for opposition does not provide for suspension of the registration procedure, therefore, the IMPI proceeds with the examining the formal aspects of the registration even when there is opposition. Both procedures run simultaneously so the new system in no way affects the period required by the IMPI for registering a trademark (an average of six months).

3.191. The LPI and its implementing Regulations also protect utility models. Registration gives the owner the exclusive right of exploitation, which may be assigned by means of a licence. The IMPI takes an average of four and a half years from the date of filing the application to register a utility model. The annual fee for maintaining registration ranges from Mex\$1,099 to Mex\$1,290.<sup>140</sup> Utility models are protected for a non-renewable term of 15 years from the date of the application.

3.192. The protection of industrial designs is also regulated by the 1998 LPI and its implementing Regulations. In this case as well, the IMPI is the body responsible for granting registration, which necessitates an average of one year from the date of filing the application. Industrial designs are

<sup>136</sup> Online information from the IMPI. Viewed at: <http://www.gob.mx/impj>.

<sup>137</sup> Online information from the IMPI. Viewed at <http://www.gob.mx/impj>.

<sup>138</sup> PROFECO press release 0011 of 2 March 2015. Viewed at: <http://www.profeco.gob.mx/prensa/prensa15/marzo15/bol0011.asp>.

<sup>139</sup> Draft decree amending and supplementing various provisions of the Industrial Property Law. Viewed at: [http://sil.gobernacion.gob.mx/Archivos/Documentos/2015/12/asun\\_3318384\\_20151210\\_1449173771.pdf](http://sil.gobernacion.gob.mx/Archivos/Documentos/2015/12/asun_3318384_20151210_1449173771.pdf).

<sup>140</sup> Online information from the IMPI. Viewed at: <http://www.gob.mx/impj>.

protected for a non-renewable term of 15 years from the date of application and an annual fee ranging from Mex\$1,107 to Mex\$1,185 is payable to maintain registration.<sup>141</sup>

3.193. The 1998 LPI and its implementing Regulations also protect layout-designs of integrated circuits. The term of protection is not renewable and lasts for ten years from the date of filing the registration application. The annual registration fee ranges from Mex\$1,099 to Mex\$1,290.<sup>142</sup>

3.194. Appellations of origin (AO) are also protected under the LPI.<sup>143</sup> The procedure for registering an AO may be initiated by the party concerned or *ex officio* by the IMPI. Declaration of protection for an AO is issued by the IMPI and does not expire as long as the original conditions for which it was issued persist and only ceases to have effect if the IMPI issues another declaration. The State is the owner of AOs and authorizes their use through the IMPI for a renewable term of ten years. Authorization is given to any natural or legal person engaged in the extraction, production or manufacture of the products protected by the AO, engaging in this activity within the territory specified in the declaration and complying with the official standards determined by the SE for the product in question. Users of AOs are obliged to use them in the way in which they are declared protected. If they are not used in the way specified in the authorization, the AOs are cancelled (Articles 156-178 of the LPI).

3.195. In Mexico, unlawful use of a trademark is considered an offence, while unlawful or unauthorized use of an AO is simply an administrative misdemeanour. Repetition of the conduct is, however, considered an offence (Articles 213 and 223 of the LPI).

3.196. Mexico does not at present have any legislation protecting geographical indications (GI), although the LPI provides for effective protection against unlawful use and registration of GIs inasmuch as it prohibits trademarks which include commonly used expressions to refer to the geographical origin of goods or services. Furthermore, some specially identified foreign GIs are protected under bilateral international treaties to which Mexico is party. In addition, the Federal Law on Metrology and Standardization includes elements which approximate certification marks for GIs as it is provided that products or services subject to Mexican Official Standards (NOMs) and Mexican Standards (NMXs) may voluntarily display official signs when their conformity has been assessed and the signs are accompanied by the trademarks registered according to the provisions in the LPI (Article 76).

3.197. Undisclosed information is also protected under the LPI. Protection is automatic if the criteria indicated in the Law are met and confidentiality is maintained (Table A3.5).

3.198. The number of applications for patents and registration submitted to the IMPI rose between 2012 and 2015 (Table 3.24). Most of the patents were requested using the registration procedure set out in the PCT. The number of patent applications filed by Mexican residents remained small, accounting for 7.5% of the total in 2015. According to the IMPI, the small percentage of applications filed by residents may, among other things, be attributable to the low level of investment in R&D or to ignorance of the industrial property system.<sup>144</sup>

**Table 3.24 Industrial property indicators, 2012-2016**

(Number)

	2012	2013	2014	2015	2016 (June)
<b>Patents</b>					
Patent applications	15,314	15,444	16,135	18,071	8,761
applications filed under the PCT procedure (%)	75.3	76.2	76.9	76.3	76.3
applications filed by residents (%)	8.4	7.8	7.7	7.5	6.1
Patents granted	12,330	10,343	9,819	9,338	4,254
<b>Utility models</b>					

<sup>141</sup> Idem.

<sup>142</sup> Idem.

<sup>143</sup> Mexico has 14 AOs: five concern beverages (Tequila, Mezcal, Bacanora, Soto and Charanda); three are for handicrafts (Talavera, Olinalá and Ámbar del Chiapas) and six are for agricultural products (Café de Chiapas, Café Veracruz, Mango Ataulfo, Vainilla de Papantla, Chile Habanero de Yucatán and Arroz de Morelos). Online information from the IMPI. Viewed at: <http://www.gob.mx/impj>.

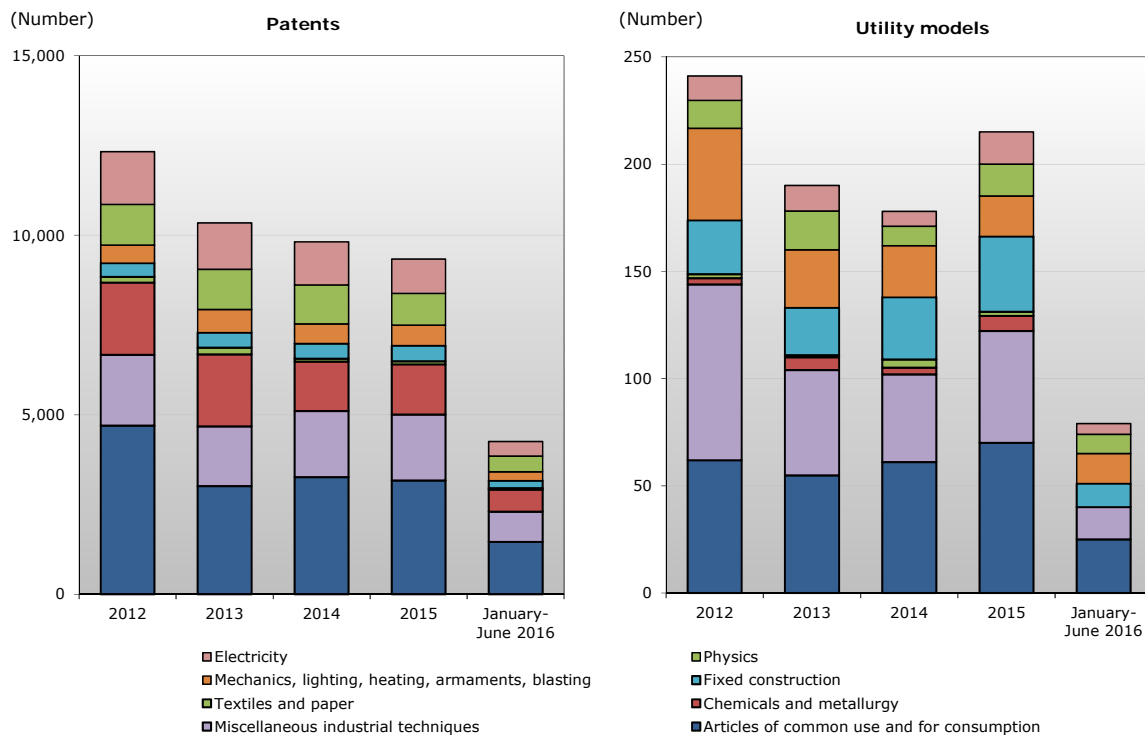
<sup>144</sup> IMPI, *Programa de Innovación Protegida 2013-2018* (published in the Official Journal of 9 May 2015). Viewed at: <http://transparencia.impi.gob.mx/Paginas/Planes-programas-e-informes.aspx>.

	2012	2013	2014	2015	2016 (June)
Applications for registration	593	714	707	661	269
Registration granted	241	190	178	215	79
<b>Industrial designs</b>					
Applications for registration	4,137	4,011	4,080	3,999	2,099
Registration granted	2,611	2,825	2,371	2,852	1,244
<b>Layout-designs of integrated circuits</b>					
Applications for registration	2	3	2	0	5
Registration granted	0	1	0	0	2
<b>Trademarks</b>					
Applications for registration	98,628	107,063	118,745	134,342	67,929
Registration granted	75,992	79,365	83,970	94,639	54,166
<b>Appellations of origin</b>					
Applications for declaration of protection	0	1	0	0	0
Declarations of protection granted	0	0	0	0	1

Source: IMPI (2016), *IMPI en cifras*, viewed at: <http://www.impi.gob.mx/Paginas/IMPICifras.aspx>; and IMPI (2015), *Informe anual 2014*, viewed at: <http://www.impi.gob.mx/Informes%20Anuales/IA2014.pdf>.

3.199. Articles in common use or for consumption and various industrial techniques account for the majority of patents and utility models (Chart 3.10).

**Chart 3.10 Patents and utility models by type of technology, 2012-2016 (June)**



Source: IMPI (2016), *IMPI en cifras*. Viewed at: <http://www.impi.gob.mx/Paginas/IMPICifras.aspx>.

3.200. Applications to register trademarks and industrial designs can be filed via the IMPI's website, which can also be used to make payments and view the Industrial Property Bulletin.

### 3.3.5.2 Copyright and related rights

3.201. During the review period, the Federal Copyright Law (LFDA) was the subject of a number of amendments, the latest in 2016.<sup>145</sup> The following are some of the amendments: (a) an increase

<sup>145</sup> The latest amendment to the Federal Copyright Law, published in the Official Journal on 13 January 2016 (latest amendment to the implementing Regulations published in the Official Journal of 14 September 2005).

in the number of instances in which a work may be used without paying royalties (for example, no authorization from the author is required to publish works intended for disabled persons, provided that it is for non-profit-making purposes); (b) changes to the powers of INDAUTOR, which may now pay inspection visits and require further information when investigating alleged administrative violations; (c) an increase in the number of practices deemed to be infringement, for example, the fixing of works, audiovisual works, phonograms or videograms; and (d) inclusion of clauses to protect copyright in televised works. The latter change followed the entry into force of the new Federal Telecommunications and Broadcasting Law in 2014, which obliges operators of pay television channels to broadcast open/free television signals through their own systems.

3.202. Literary and artistic works and related rights are protected in Mexico even if they have not been registered. Nevertheless, registration in the Public Copyright Register affords authors and right holders legal security and allows them to make their works known (Article 162 of the LFDA).

3.203. The legislation gives authors exclusive personal privileges (moral rights) and economic privileges (economic rights). Protection of moral rights is indefinite, whereas protection of economic rights lasts for the author's lifetime plus 100 years. The protection given to performers and phonogram producers is 75 years, for videogram producers and broadcasting organizations, it is 50 years.

3.204. Economic rights may be assigned through licences. Unless otherwise specified, licences are granted for five years. In special cases, however, a licence may be valid for over 15 years, for example, when publication of a work necessitates large-scale investment or in the case of musical works which require a longer period for dissemination (Article 33 of the LFDA and Article 17 of its implementing Regulations).

### 3.3.5.3 New plant varieties

3.205. New plant varieties are protected by the Federal Law on New Plant Varieties of 1996 and its implementing Regulations.<sup>146</sup> There have been no major changes to the procedure for obtaining a plant breeder's right since 2012 (Table A3.5). The SNICS in the SAGARPA is responsible for processing applications and granting breeders' rights. The exclusive right to exploit a new plant variety is valid for 18 years for perennial species and for 15 years for other species, and cannot be renewed in either case.<sup>147</sup> A breeder may assign his exclusive right to third persons by means of a licence. Pursuant to the Law, however, in some cases the consent of the breeder is not required to exploit a new variety of plant, for example, for research purposes. In addition, the SNICS may issue emergency licences because of failure to exploit the variety or because of shortages.

### 3.3.5.4 Provisions for enforcement of intellectual property rights

3.206. Any infringement of intellectual property rights can be denounced through administrative channels, via the IMPI (industrial property rights and copyright when the infringement is for profit), INDAUTOR (copyright) or SAGARPA (new plant varieties); through civil proceedings before the courts; or through criminal proceedings brought by the Public Prosecutor's Office (PGR).

3.207. The General Customs Administration (AGA) may suspend the free movement of goods that infringe intellectual property rights at the border, including those in transit, subject to approval by the competent administrative or judicial authority. The AGA may not prohibit the entry of such goods into the Mexican market.<sup>148</sup> It may, however, *ex officio*, suspend customs clearance of counterfeit goods for five days, if the trademark has been registered by the owner in the Customs

<sup>146</sup> Latest amendment to the Federal Law on New Plant Varieties, published in the Official Journal of 9 April 2012 (the implementing Regulations were not amended).

<sup>147</sup> Articles 4-5, 20 and 25 of the Federal Law on New Plant Varieties.

<sup>148</sup> Online information from the International Intellectual Property Alliance (IIPA). Viewed at: <http://www.iipawebsite.com/rbc/2016/2016SPEC301MEXICO.PDF>.

database (called the Trademark Database).<sup>149</sup> In such cases, the AGA informs the authorities or the owner of the incident so that the relevant action can be taken.<sup>150</sup>

3.208. In 2014, following an order from the IMPI and the PGR, the AGA retained over 2 million counterfeit goods at the border with an estimated value of Mex\$5.7 million. The AGA did not only withhold goods whose final destination was the Mexican market but also goods in transit.<sup>151</sup>

3.209. In 2014, the IMPI dealt with 600 administrative declarations concerning trade-related copyright infringement and 450 in respect of industrial property infringement. It also carried out over 4,300 inspections to ensure compliance with the legislation. Around 30% of the IMPI's inspections were carried out at the request of a party in relation to trade infringement and prevention of unfair competition (according to the definition in Article 6 *bis* of the Commercial Code). In 2014 as well, the IMPI seized over 6 million goods with an estimated value of Mex\$18 million.<sup>152</sup>

3.210. The IMPI consults the parties concerned as to the destination of the goods seized, which may be either donated or destroyed. The Asset Administration and Disposal Service (SAE), a decentralized unit of the Federal Government, is responsible for destroying seized goods that infringe intellectual property rights.<sup>153</sup> Such goods are usually destroyed to prevent their sale.

3.211. The PGR has a specialized unit for investigating copyright and industrial property offences (UEIDDAPI), which oversees and monitors the application of the administrative regulations relating to intellectual property rights and prevents, investigates and proceeds against infringements and offences in this sphere.<sup>154</sup> In 2015, the PGR established a special section within the UEIDDAPI to deal with digital piracy. According to information provided by the authorities, this section has undertaken numerous investigations and seized various pirated and counterfeit goods, in collaboration with the owners of the rights.<sup>155</sup>

3.212. Concerning digital piracy, the Coalition for Legal Access to Culture (CALC), which groups 38 authors' associations, encourages cooperation between owners of rights and Internet service providers. According to the CALC, however, the principle of the liability of Internet service providers needs to be introduced into the legal framework as currently they are not liable for Internet transactions involving illegal goods.<sup>156</sup>

3.213. PROFECO monitors compliance with Mexican Official Standards, including appellations of origin, for products requiring an assessment of conformity with a NOM and the issue of a certificate, as is the case for Tequila. PROFECO estimates that there is a large percentage of illicit alcoholic beverages known as "agave spirits", the majority of which are sold as Tequila.<sup>157</sup>

<sup>149</sup> Over the period 2012-2016 (November) 6,448 trademarks were registered in the AGA's Trademark Database.

<sup>150</sup> Online information from the European IPR Helpdesk. Viewed at: [http://www.latinamerica-ipr-helpdesk.eu/sites/default/files/factsheets/es\\_aduanas\\_en\\_mexico.pdf](http://www.latinamerica-ipr-helpdesk.eu/sites/default/files/factsheets/es_aduanas_en_mexico.pdf).

<sup>151</sup> Ministry of Finance and Public Credit (2015), *Informe 2014 Mesa de Combate a la Ilegalidad*. Viewed at: [http://www.sat.gob.mx/sala\\_prensa/combate\\_economia\\_ilegal/Documents/Inf\\_combate\\_ilegalidad\\_07042015.pdf](http://www.sat.gob.mx/sala_prensa/combate_economia_ilegal/Documents/Inf_combate_ilegalidad_07042015.pdf).

<sup>152</sup> IMPI (2015), *Informe anual 2014*. Viewed at: <http://www.gob.mx/impi>.

<sup>153</sup> Article 75 of the Federal Law on the Administration and Disposal of Public-Sector Assets (latest amendment published in the Official Journal of 9 April 2012).

<sup>154</sup> Online information from the PGR. Viewed at: <http://www.pgr.gob.mx/Unidades-Especializadas/ueiddapi/Paginas/default.aspx>.

<sup>155</sup> PGR, *Intellectual Property Enforcement in Mexico*, 10<sup>th</sup> Session of the Advisory Committee on Enforcement, WIPO, 23-25 November 2015. Viewed at: [http://www.wipo.int/edocs/mdocs/enforcement/en/wipo\\_ace\\_10/wipo\\_ace\\_10\\_panel\\_2\\_mexico.pdf](http://www.wipo.int/edocs/mdocs/enforcement/en/wipo_ace_10/wipo_ace_10_panel_2_mexico.pdf); and Office of the United States Trade Representative (USTR) (2016), *Special 301 Report*. Viewed at: <https://ustr.gov/sites/default/files/USTR-2016-Special-301-Report.pdf>.

<sup>156</sup> Online information from the International Intellectual Property Alliance (IIPA). Viewed at: <http://www.iipawebsite.com/rbc/2016/2016SPEC301MEXICO.PDF>.

<sup>157</sup> Draft decree on the creation of the Law on Geographical Indications and Appellations of Origin. Viewed at: [http://sil.gobernacion.gob.mx/Archivos/Documentos/2013/10/asun\\_3021658\\_20131017\\_1381936360.pdf](http://sil.gobernacion.gob.mx/Archivos/Documentos/2013/10/asun_3021658_20131017_1381936360.pdf).



3.214. During the review period, Mexico continued to implement the National Anti-Piracy Decision, whose aim is to defend intellectual property rights by promoting public awareness, recovering market segments lost as a result of piracy and combating the production and sale of illegal products. The various institutions coordinate the measures to be adopted and also cooperate with the private sector. This is how the committee to support and protect copyright and industrial property rights (COIDAPI), headed by the PGR, came into being. The COIDAPI brings together public and private institutions (such as chambers of commerce), and cultural institutions (such as authors' associations).<sup>158</sup>

3.215. In order to combat piracy, the IMPI also promotes involvement of the general public through the "*Buzón de Piratería*" (Piracy Mailbox), an electronic platform through which possible infringements of industrial property rights can be reported. The Institute undertakes to examine each allegation within a maximum of 48 hours.<sup>159</sup> The Mailbox is one of the measures adopted under the National Anti-Piracy Decision.

3.216. In connection with the previous review, Mexico indicated that the IMPI had signed agreements with various Mexican copyright and related rights associations to combat illegal downloading from the Internet. In 2012, several campaigns were launched in Internet cafes to inform owners and users about the use of illegal downloaders.<sup>160</sup> These campaigns are still taking place, above all to prevent illegal downloading of music. Furthermore, since 2012 the IMPI has conducted a survey in some of the major cities on the consumption of counterfeit goods in order to make the public aware of the risks of consuming them.

3.217. According to a survey carried out in 2015 by the Center of Investigation for Development (CIDAC) and the American Chamber of Commerce in Mexico, the cost of counterfeit goods amounted to Mex\$43,000 million in 2014.<sup>161</sup> According to the CALC, in 2014 there were 6,300 illegal downloads from the Internet, mostly of musical works (46%) and films and videos (19%).<sup>162</sup>

3.218. The penalties for administrative violation of the Industrial Property Law consist of fines (up to 20,000 minimum wages<sup>163</sup>), temporary closure (for up to 90 days) or definitive closure of the facility and detention of the perpetrator (maximum 36 hours). In the case of offences, the penalties include imprisonment (of two to six years) and a fine (of 100,000 minimum wages). Moreover, the Law obliges the offender to compensate the owner who has suffered damages; compensation is at least 40% of the selling price of the counterfeit good to the public.<sup>164</sup> For copyright infringement, fines range from 5,000 to 15,000 minimum wages and may rise to 40,000 minimum wages if the work is used for commercial purposes. In the case of new plant varieties, the fines range from 200 to 10,000 minimum wages.

3.219. International observers such as the International Intellectual Property Alliance (IIPA) acknowledge the efforts made at the Federal level to combat piracy, but consider that the measures adopted at the state and municipal levels are insufficient. The IIPA has also recommended that the IMPI and INDAUTOR be given greater resources to carry out their work in relation to intellectual property rights.<sup>165</sup> Mexico appears on the United States "Special 301 – Priority Watch List".<sup>166</sup>

<sup>158</sup> PGR, *Intellectual Property Enforcement in Mexico*, 10<sup>th</sup> Session of the Advisory Committee on Enforcement, WIPO, 23-25 November 2015.

<sup>159</sup> IMPI (2015), *Informe anual 2014*. Viewed at: <http://www.gob.mx/impj>.

<sup>160</sup> WTO document T/TP/M/279/Add.1 of 10 September 2013.

<sup>161</sup> CIDAC/AMCHAM (2015), *Piratería, entendiendo el mercado "sombra" en México*. Viewed at: [http://cidac.org/esp/uploads/1/PIRATERIA\\_Entendiendo\\_el\\_mercado\\_sombra\\_en\\_Mexico\\_1.pdf](http://cidac.org/esp/uploads/1/PIRATERIA_Entendiendo_el_mercado_sombra_en_Mexico_1.pdf).

<sup>162</sup> CLAC (2015), *Reporte Descargas Digitales 2015*, February. Viewed at: [http://media.wix.com/ugd/5b1d95\\_f3d0db5cfa8a47dc9e2b1f0a6368a53d.pdf](http://media.wix.com/ugd/5b1d95_f3d0db5cfa8a47dc9e2b1f0a6368a53d.pdf).

<sup>163</sup> An additional fine (15,000 minimum wages) may be imposed for each day during which the violation persists.

<sup>164</sup> Article 221 *bis* of the LPI.

<sup>165</sup> Online information from the IIPA. Viewed at: <http://www.iipawebsite.com/rbc/2016/2016SPEC301MEXICO.PDF>.

<sup>166</sup> USTR (2016), *Special 301 Report*. Viewed at: <https://ustr.gov/sites/default/files/USTR-2016-Special-301-Report.pdf>.

## 4 TRADE POLICIES BY SECTOR

### 4.1 Agriculture

#### 4.1.1 Main features

4.1. The contribution of the agricultural sector (including crop farming, livestock farming, forestry, fishing and other related services) to Mexico's GDP remained stable at 3.4% during the period 2012-2015 (3.6% during the first half of 2016). However, annual growth was erratic. There has been no substantial change in the structure of the sector since 2012; in the first half of 2016, crop farming accounted for 65.9% of agricultural GDP (63% in 2012), livestock farming for 27.7% (30.1% in 2012) and the other activities (forestry, fishing, hunting and services related with farming and forestry) 6.6% (6.8% in 2012). The percentage of the population employed in the sector declined from 14.1% in 2012 to 12.8% in 2016 (first half) (Table 4.1).

**Table 4.1 Main indicators for the agricultural sector, 2012-2016**

	2012	2013	2014	2015	2016
<b>Crop farming, livestock farming, hunting, forestry and fishing</b>					
Share of GDP (% at current prices)	3.4	3.4	3.4	3.4	3.6 <sup>a</sup>
Real growth rate (% at 2008 prices)	7.4	0.9	4.2	0.4	3.4 <sup>a</sup>
Structure of the sector (% at 2008 prices)					
Crop farming	63.0	63.9	64.3	64.0	65.9 <sup>a</sup>
Animal breeding and raising	30.1	29.3	28.5	29.1	27.7 <sup>a</sup>
Forest management	3.5	3.4	3.3	3.4	3.2 <sup>a</sup>
Fishing, hunting and trapping	1.9	2.0	2.3	2.1	2.1 <sup>a</sup>
Services related with agricultural and forestry activities	1.4	1.4	1.6	1.4	1.2 <sup>a</sup>
Employment (% of working population, end of period)	14.1	13.8	13.4	13.5	12.8 <sup>a</sup>
<b>Agricultural production (total volume in thousands of tonnes)<sup>b</sup></b>					
<b>Total agricultural production</b>	..	..	..	..	..
Total perennial crops	339,008	391,430	481,928	655,714	..
Sugar cane (%)	79.0	80.0	82.8	87.2	..
Bananas (%)	4.1	3.5	2.8	2.1	..
Cherry coffee (%)	2.5	2.0	2.0	1.8	..
Avocados (%)	2.6	2.5	2.1	1.6	..
Total harvested crops	163,331	170,762	182,774	188,663	..
Maize (corn) (%)	50.1	54.1	51.2	54.6	..
Sorghum (%)	18.0	15.7	17.9	13.4	..
Wheat (%)	9.1	9.3	9.4	9.5	..
Beans (%)	2.7	3.6	3.8	3.0	..
Soya (%)	0.5	0.6	0.6	0.8	..
Rice (%)	0.4	0.5	0.5	0.6	..
Total meat	5,950	5,996	6,095	6,244	..
Poultry (%)	46.9	46.8	47.2	47.6	..
Bovine animals (%)	30.6	30.1	30.0	29.6	..
Pigs (%)	20.8	21.4	21.2	21.2	..
Total fishing	1,687	1,746	1,634	1,389	..
Sardines (%)	42.8	41.7	34.4	32.0	..
Other (%)	57.2	58.3	65.6	68.0	..
<b>Agricultural exports (WTO definition)<sup>c</sup></b>					
Value (US\$ million)	22,452	24,095	25,583	26,916	15,015
Most important products, according to HS chapter (% of total agriculture)					
08 – Edible fruit and nuts	16.8	17.1	19.5	21.2	23.2
07 – Edible vegetables and certain roots and tubers	22.3	22.7	21.4	21.2	27.2
22 – Beverages, spirits and vinegar	15.3	15.2	16.0	15.6	14.8
19 – Preparations of cereals, flour, starch or milk	6.1	6.0	5.6	5.8	5.5
17 – Sugars and sugar confectionery	6.4	8.5	6.7	5.8	5.3
<b>Agricultural imports (WTO definition)<sup>c</sup></b>					
Value (US\$ million)	27,104	26,567	27,238	24,974	12,592
Most important products, according to HS chapter (% of total agriculture)					
10 – Cereals	20.1	16.2	15.6	16.0	17.8
02 – Meat and edible meat offal	13.1	14.9	16.9	15.3	13.8
12 – Oil seeds and oleaginous fruits and miscellaneous	13.7	13.5	12.8	11.8	11.6
04 – Dairy produce	6.0	7.3	7.4	6.6	6.1
23 – Residues and waste from the food industries	5.7	5.9	6.1	6.4	6.4
Agricultural trade balance (US\$ million)	-4,652	-2,471	-1,655	1,941	2,424

.. Not available.

a Figures for first half of 2016.

b National Institute of Statistics and Geography (INEGI), October 2016.

c The data for 2016 (October) are from the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food (SAGARPA).

Source: WTO Secretariat estimates, based on data provided by the Bank of Mexico, SAGARPA and the INEGI Economic Information Bank (BIE). Online information viewed at: <http://www.inegi.org.mx>.

4.2. Perennial crop production volume almost doubled during the review period; the most important perennial crop is sugar cane, which in 2015 accounted for 87.2% of production of this type of product. Maize (corn) is the most important of the staple grain crops, accounting for 54.6% of staple grain production. Where fishing is concerned, the catch volume has remained stable, although it fell in 2015. Sardines continue to be the most important species; however, their relative importance has declined as a result of the increase in the production of other species, such as tilapia and shrimp (Table 4.1).

4.3. Up until 2014, Mexico was a net importer of agricultural products; however, in 2015 exports exceeded imports. Mexican exports of agricultural products (WTO definition) increased from US\$22,452 million in 2012 to US\$26,916 million in 2015. The main export products are fruit and vegetables. The total value of Mexico's imports declined from US\$27,104 million in 2012 to US\$24,974 million in 2015. The main agricultural imports include cereals (yellow maize), seeds and meat (Table 4.1).

4.4. The Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food (SAGARPA) continues to be responsible for implementing agricultural and fishing policy, whose objectives are set out in the National Development Plan (PND) 2013-2018 and in the Sectoral Development Programme for Agriculture, Fisheries and Food 2013-2018.<sup>1</sup> In the PND the agricultural and fishery sector is regarded as a strategic sector in view of its contribution to poverty reduction and economic development.<sup>2</sup>

4.5. One of the most important objectives of Mexican agricultural policy is guaranteeing food security, an objective that it is intended to pursue by increasing productivity, including that of dwarf holdings, since small and medium-sized farming operations account for 80% of total Mexican agricultural producers.<sup>3</sup> It is hoped to achieve this target by promoting: the sustainable use of water; domestic production of agricultural inputs (fertilizers and seed); research; access to credit; better protection against weather-related risks; and the development of the insurance market.<sup>4</sup>

4.6. The PND and the Sectoral Programme also set performance goals: for example, it is expected that by 2018 the average annual rate of growth of agricultural and fisheries GDP will reach 3%, that grain production (rice, beans, maize, sorghum, soya and wheat) will satisfy 75% of the demand, and that the agrifood trade balance will be in equilibrium.<sup>5</sup> However, the achievement of some of these objectives will, in its turn, depend on the full implementation and effectiveness of the reforms introduced in other sectors, such as the energy and financial sectors. For example, by introducing energy reforms it is planned to increase the supply of natural gas for the production of petrochemicals for manufacturing fertilizer.<sup>6</sup> One of the objectives of financial reform is to strengthen development banking to allow more credit to be granted to priority sectors, including the agricultural sector. SAGARPA is also implementing a series of support programmes for agriculture.

<sup>1</sup> PND. Viewed at: <http://pnd.gob.mx> and Sectoral Programme at: [https://www.gob.mx/fnd/documentos/programa-sectorial-de-desarrollo-agropecuario-pesquero-y-alimentario-2013-2018\\_dof](https://www.gob.mx/fnd/documentos/programa-sectorial-de-desarrollo-agropecuario-pesquero-y-alimentario-2013-2018_dof).

<sup>2</sup> Strategy 4.10.1 of the PND 2013-2018, Sectoral Development Programme for Agriculture, Fisheries and Food, and SAGARPA (2014), *2<sup>do</sup> Informe de Labores 2013-2014*. Viewed at: <http://www.sagarpa.gob.mx/Transparencia/Informes/SEGUNDO INFORME DE LABORES 2013 %202014 SA GARPA.pdf>.

<sup>3</sup> SAGARPA (2013), *1<sup>er</sup> Informe de Labores 2012-2013*. Viewed at: [http://www.sagarpa.gob.mx/Transparencia/Pot%202013/Informes%202013/INFORME\\_SAGARPA.pdf](http://www.sagarpa.gob.mx/Transparencia/Pot%202013/Informes%202013/INFORME_SAGARPA.pdf).

<sup>4</sup> Sectoral Development Programme for Agriculture, Fisheries and Food and SAGARPA (2014), *2<sup>do</sup> Informe de Labores 2013-2014*. Viewed at: <http://www.sagarpa.gob.mx/Transparencia/Informes/SEGUNDO INFORME DE LABORES 2013 %202014 SA GARPA.pdf>.

<sup>5</sup> PND 2013-2018 and Sectoral Development Programme for Agriculture, Fisheries and Food 2013-2018. Viewed at: <http://www.sagarpa.gob.mx/asuntosinternacionales/cooperacioninternacional/Documents/Febrero%202014/Programa%20Sectorial%20de%20Desarrollo%20Agro%20Pesq%20%20y%20Alim%20%202013-2018.pdf>.

<sup>6</sup> Online information from the Government of the Republic. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion\\_ampliada\\_de\\_la\\_Reforma\\_Energetica1.pdf](https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion_ampliada_de_la_Reforma_Energetica1.pdf).

#### 4.1.2 Measures affecting imports and exports

4.7. During the review period, Mexico substantially reduced its tariffs on agricultural products (WTO definition), from 20.9% in 2012 to 14.3% in 2016. On the other hand, the average tariff on agricultural products is still considerably higher than that applied to non-agricultural products (4.6% in 2016, the same as in 2012). The agricultural products which benefited from the highest rate of protection of 254% in 2012, such as animal products and bacon, and animal and vegetable fats and oils, are currently subject to tariffs of 20% or 45%. Imports of poultry meat and edible offal are subject to a tariff of 100% (234% in 2012), while other products, such as fresh cheese and white and black beans, which in 2012 were protected by 125% tariffs, are currently subject to a tariff of 45%. Despite this reduction, on average the highest duties by WTO category are still being applied to agricultural products, specifically sugar and sugar confectionery, and to animals and products of animal origin, with tariffs of 40.9% (63.3% in 2012) and 24.8% (48.2% in 2012), respectively (Table A3.1). The protection for fish and fish products fell from 16.8% in 2012 to 15.5% in 2016.

4.8. A total of 56 tariff lines corresponding to agricultural products is subject to specific and compound tariffs. Of these, 14 lines are subject to specific tariffs: sugars, chemically pure sucrose and cocoa, and 42 lines are subject to compound tariffs: various kinds of milk, cream and ice cream; certain fruits (for example, strawberries, raspberries and other berries); molasses and articles of sugar confectionery, whether or not containing cocoa; extracts of malt; biscuits and other food preparations; waters, sweetened and flavoured; and ethyl alcohol.

4.9. Mexico bound all its tariff lines in the Uruguay Round, at levels ranging from 0 to 254%. Both the bound and the applied tariff contain specific and compound duties. The compound bound tariffs are applied primarily to agricultural products such as meat and offal; milk and dairy products; potatoes and dried leguminous vegetables; cereals; animal or vegetable fats and oils; and sugars and articles of sugar confectionery. The compound tariffs have a specific component and an *ad valorem* component that acts as a minimum tariff; the *ad valorem* component ranges from 47% to 254%.

4.10. Some agricultural products such as sorghum (HS 1007.90.01-1007.90.02), soya beans (HS 1201.90.01-1201.90.02) and safflower seeds (HS 1207.60.02-1207.60.03) are subject to seasonal tariffs. Thus, imports of these three products enter Mexico duty-free during a certain period of the year, whereas outside that period imports of sorghum and soya beans are subject to a 15% tariff and imports of safflower seeds to a 10% tariff.

4.11. Mexico continues to use three kinds of tariff quotas: those negotiated under the WTO, unilateral quotas, and preferential quotas.

4.12. Within the WTO framework, Mexico applies tariff quotas to 72 HS eight-digit lines. These products are: sugar and products with a high sugar content, coffee, meat and edible offal, barley, animal fats, beans, powdered milk, maize, potatoes, cheese and wheat. In 2015, the only quota used was that for powdered milk. Otherwise, the WTO quotas were not used, since the products affected could be imported under better conditions of access within the framework of bilateral agreements or unilateral quotas (for example, among other products, barley, beans and coffee). In other cases, the ex-quota applied tariff is lower than the in-quota applied tariff (hard and semi-hard cheeses, some types of coffee, animal fats and some types of maize and sugar). The tariff quotas continue to be administered by the Ministry of the Economy (SE). In general, quotas are allocated by open tender, although there are other allocation procedures (such as direct allocation and "first come, first served").

4.13. In 2016, Mexico was applying unilateral quotas for certain agricultural products (including fishery products) contained in 20 HS eight-digit tariff lines. Some of these products, such as coffee, poultry meat, barley, beans, preparations based on dairy products and chicken and turkey cuts, are also being allocated to WTO tariff quotas (Table A3.2). However, the tariff under the unilateral quota is less than that under the WTO quota. In 2015, volumes imported under unilateral quotas were generally well below the quota amount (Table A3.3).

4.14. Mexico has negotiated preferential quotas for agricultural products (including fishery products) under its trade agreements with: Argentina - ECA 6 (6 tariff lines at 2012 HS 8-digit

level); Colombia (28 lines); Costa Rica (18 lines); Cuba – ECA 51 (14 lines); El Salvador (11 lines); Guatemala (15 lines); Honduras (12 lines); Israel (21 lines); Japan (40 lines); Nicaragua (11 lines); Peru (32 lines); Uruguay (13 lines) and the European Union (4 lines).

4.15. During the period 2012–2015, Mexico made no use of the special safeguard provided for in the Agreement on Agriculture.<sup>7</sup>

4.16. Mexico administers a system of automatic import licences (automatic permits or notices) and non-automatic licences (prior permits) for the purpose of protecting plant and animal health. To import products and by-products of plant or animal origin it is also necessary to possess a health certificate and, in some cases, a non-automatic import licence. Exports of agricultural products are also subject to phytosanitary and zoosanitary requirements.

4.17. In 2014, Mexico notified the WTO that in the period 2008-2009 export subsidies had been granted for wheat and maize, while in 2010-2012 only wheat exports had been subsidized. In 2016, Mexico notified the WTO that no export subsidies had been provided in 2013–2015.<sup>8</sup>

#### 4.1.3 Support measures

4.18. Mexico continues to provide support for the agriculture, livestock and fishery sector under a series of programmes administered by SAGARPA (Table 4.2). These programmes are drawn up each year and their rules of operation are included in a Decision published in the Official Journal of the Federation.<sup>9</sup> The objective of the programmes does not appear to have changed since 2012; however, it is difficult to draw a comparison between the programmes implemented in 2012 and those currently in force, since the names of some have changed and others have been regrouped. Currently, SAGARPA is implementing nine programmes incorporating 44 subprogrammes.<sup>10</sup>

4.19. SAGARPA also offers incentives for promoting productivity in the agrifood, livestock and fishery sectors. By means of these programmes, SAGARPA provides direct transfers to the producers. These resources must be used, among other things, for the following purposes: investing in human capital, capital goods and technology; improving risk management; and promoting Mexican products in new foreign markets. In 2016, under the Agrifood Productivity and Competitiveness Programme, SAGARPA offered farmers, guarantees for up to 100% of the amount of loans obtained from commercial banks.

4.20. The majority of the incentive programmes offered by SAGARPA are nationwide in scope and can be used for any kind of agricultural activity. However, there are some specific programmes, such as the Small Producers Support Programme, whose sole beneficiaries are small coffee, bean and maize producers.<sup>11</sup> The subprogrammes of the Rural Productivity Programme support people living in poverty in rural and peri-urban areas and small rural producers working in highly and very highly marginalized localities (Table 4.2).

**Table 4.2 SAGARPA incentive programmes, 2012-2016**

(Mex\$ million)

	Programmes	Disbursements
2012	Action together with federative entities in the area of investment, sustainability and capacity building	4,876
	Support for investment in equipment and infrastructure	..
	Support for agricultural incomes (PROCAMPO for a Better Life)	..
	Capacity building, technological innovation and rural extension	..
	Risk prevention and management	..
	Sustainability of natural resources	..
2013	Action together with federative entities in the area of investment, sustainability and capacity building	3,746
	Support for investment in equipment and infrastructure	..
	Capacity building, technological innovation and rural extension	..

<sup>7</sup> WTO documents G/AG/N/MEX/29 of 29 August 2016 and G/AG/N/MEX/26 of 21 July 2014.

<sup>8</sup> WTO documents G/AG/N/MEX/27 of 21 July 2014 and G/AG/N/MEX/32 of 1 September 2016.

<sup>9</sup> Decision announcing the rules of operation of the programmes of the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food for fiscal year 2016 (published in the Official Journal of 30 December 2015).

<sup>10</sup> SAGARPA (2016), *3<sup>er</sup> Informe de Labores 2014-2015*. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/32511/informe\\_labores\\_SE\\_2014-2015.pdf](https://www.gob.mx/cms/uploads/attachment/file/32511/informe_labores_SE_2014-2015.pdf).

<sup>11</sup> Online information from SAGARPA. Viewed at: [http://www.sagarpa.gob.mx/ProgramasSAGARPA/2016/pequenos\\_productores/Incentivos\\_productivos/Paginas/Conceptos\\_de\\_Apoyo.aspx](http://www.sagarpa.gob.mx/ProgramasSAGARPA/2016/pequenos_productores/Incentivos_productivos/Paginas/Conceptos_de_Apoyo.aspx).

	Programmes	Disbursements
	Risk prevention and management	..
	Productive PROCAMPO	..
	Sustainability of natural resources	..
2014	Marketing and market development programme	..
	Action together with federative entities programme	4,186
	Agriculture promotion programme	22,838
	Programme for the promotion of fishing and aquaculture productivity	..
	Livestock promotion programme	4,961
	Innovation, research, technological development and education programme	3,284
	Agrifood productivity and competitiveness programme	6,837
	Agrifood health and safety programme	..
	Integrated rural development programme	..
2015	Productivity of women in business programme	..
	Marketing and market development programme	..
	Action together with federative entities programme	4,158
	Agriculture promotion programme	20,702
	Programme for the promotion of fishing and aquaculture productivity	..
	Livestock promotion programme	3,951
	Innovation, research, technological development and education programme	3,711
	Agrifood productivity and competitiveness programme	5,167
	Agrifood health and safety programme	..
2016 <sup>a</sup>	Fund in support of production projects in agricultural clusters programme	..
	Integrated rural development programme	..
	<b>Small producers support programme</b> To support small coffee, maize and bean producers with economic incentives, extension services, innovation and training in order to increase their productivity	3,004
	<b>Marketing and market development programme</b> To help producers and/or buyers of agricultural products to manage market risks To provide incentives for agricultural producers that have difficulties in marketing their production	..
	<b>Action together with federative entities programme</b> To promote the development of primary agricultural activities by means of strategic projects with regional, state or local impact	2,145
	<b>Agriculture promotion programme</b> To provide farmers with an economic incentive to increase mechanization and the level of technology used, and improve the use of water, equipment and infrastructure To encourage producers to become organic producers and certify their processes	13,769
	<b>Programme for the promotion of fishing and aquaculture productivity</b> To provide support for the fishing and aquaculture sector in order to increase its capitalization, improve the management and surveillance of fishing resources and improve the genetic quality of the species To promote the development of aquaculture	..
	<b>Livestock promotion programme</b> To provide support for the livestock sector in order to improve the processes for adding value to livestock products To provide support in order to increase the availability of water for animal consumption To provide support in order to improve pasture and rough grazing land To provide support in order to increase the level of technology in the sector and hence its productivity To provide support in order to increase the number and genetic quality of livestock species	3,097
	<b>Rural productivity programme</b> To support the commercial development of family farming To support agricultural producers in arid and semi-arid areas in order to help them increase their productivity through the Productive Infrastructure for Sustainable Soil and Water Management, Arid Zone Development (PRODEZA) programme To support family production units in highly and very highly marginalized rural localities in order to improve their production capacity through the Strategic Food Security Project (PESA) To support agricultural producers in improving their capacity for confronting natural disasters	6,306
	<b>Agrifood productivity and competitiveness programme</b> To support agricultural producers, fishermen, fish farmers and the rural sector in order to facilitate access to financing To support agricultural producers, fishermen, fish farmers and other rural sector economic operators forming part of the production chain in order to promote the use of market risk management tools	2,888
	<b>Agrifood health and safety programme</b> To improve health and safety in the agrifood, aquaculture and fishery sector	..

.. Not available.

a The data for 2016 correspond to the January-September period.

Note: These programmes are divided into subprogrammes. Information on the implementation of each programme and its subprogrammes is available online at: <http://www.sagarpa.gob.mx/ProgramasSAGARPA/2016/Paginas/default.aspx>.

Source: WTO Secretariat, on the basis of the annual operating rules published in the Official Journal and online information viewed at: [http://www.sagarpa.gob.mx/transparencia\\_rendicion/Paginas/Indicadores\\_Prog\\_Presupuestarios.aspx](http://www.sagarpa.gob.mx/transparencia_rendicion/Paginas/Indicadores_Prog_Presupuestarios.aspx) and at: <http://www.sagarpa.gob.mx/ProgramasSAGARPA/2016/Paginas/default.aspx>.

#### 4.1.3.1 PROAGRO

4.21. Among SAGARPA's domestic support programmes for agriculture, the most important in terms of disbursements is the Agriculture Promotion Programme, whose main component is Productive PROAGRO, which, in 2014, replaced the Direct Support to Farmers Programme (PROCAMPO), introduced in 1994. The rights of the producers who were already benefiting from PROCAMPO were not affected by the entry into force of the new programme. Under Productive PROAGRO, as with PROCAMPO, direct payments per hectare are granted to producers of any crop whose holdings are entered in the Productive PROAGRO Directory.<sup>12</sup> The principal change introduced by PROAGRO is that the producer must show that the support has actually been used in the production process.

4.22. The incentive granted under PROAGRO depends on the area planted and all those producers that own or lease or have beneficial interests in holdings registered under the Programme are eligible. PROAGRO benefits both commercial producers and those that produce for their own consumption, since payment depends on the area planted. The incentive is granted even if the harvest is lost, as a result of adverse weather conditions or other disasters outside the producer's control.

4.23. Producers eligible for the incentive are divided into three groups (self-consumption, transitional and commercial) and the size of the unit is determined in accordance with its water regime. The incentive is paid per hectare under an allocation system (Table 4.3). The general criteria for granting the incentive vary annually and by agricultural cycle (Autumn-Winter 2015/2016 and Spring-Summer 2016).

**Table 4.3 PROAGRO, general criteria, 2016**

Group	Water regime		Allocation per hectare
	Rain fed	Irrigated	
Self-consumption	Up to 5 ha	Up to 0.2 ha	Mex\$1,500 <sup>a</sup> Mex\$1,300 <sup>b</sup>
Transitional	Above 5 ha and up to 20 ha	Above 0.2 ha and up to 5 ha	Mex\$800
Commercial	Above 20 ha	Above 5 ha	Mex\$700

- a Producers with production units of up to 3 hectares of rain-fed land located in National Crusade against Hunger municipalities.
- b Rest of the country corresponds to production units of up to 3 hectares of rain-fed land located in municipalities not included in the National Crusade against Hunger, together with the rest of the production units.

Source: Decision announcing the rules of operation of the programmes of the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food for fiscal year 2016 (published in the Official Journal of 30 September 2015).

4.24. To be eligible for PROAGRO, certain limits on the size of the holding must not be exceeded, namely, a maximum of 100 hectares of irrigated land or 200 hectares of rain-fed land per natural person. However, the maximum amount of the incentive per beneficiary, per agricultural cycle, is limited to an amount equivalent to 80 hectares, irrespective of the total area of the production unit. Commercial companies and civil corporations are entitled to own up to a maximum of 25 times the individual area, that is, 2,500 hectares of irrigated land or 5,000 hectares of rain-fed land. If an owner registered with PROAGRO exceeds the maximum limit on the area owned, the holdings will be identified and the incentive will not be granted until the owner complies with the limit on the maximum area in ownership. In 2014, when PROAGRO came into operation, a total of Mex\$13,160 million was disbursed for the benefit of some two million producers farming around 12.3 million hectares. In 2015, the expenditure on PROAGRO reached the sum of Mex\$13,006 million.

#### 4.1.3.2 PROGAN

4.25. The new PROGAN, which since 2014 has been known as Productive PROGAN, is a programme similar to its predecessor, which offers the livestock farmer a unit payment for cattle

<sup>12</sup> Online information from the Support Services for Agricultural Marketing Agency (ASERCA). Viewed at: <http://www.qob.mx/aserca>.

(sheep, bovine animals and goats), bees, rabbits and pigs. The maximum amount of the incentive to be granted is established annually in accordance with the size of the herd or the apiary and the level (Table 4.4). There is also a maximum amount of support per beneficiary, which will be Mex\$500,000 per natural person and Mex\$5 million per legal person.<sup>13</sup>

**Table 4.4 PROGAN – Maximum amounts of assistance, 2016**

<b>Level A: For natural or legal persons, as follows:</b>		
<b>Species</b>	<b>Authorized bellies or hives in stock per application</b>	<b>Support per authorized belly or hive</b>
Bovine animals, meat	1-35	Mex\$300
Bovine animals, small family dairy	5-35	Mex\$300
Sheep	25-175	Mex\$76
Goats	30-210	Mex\$63
Bees	10-175	Mex\$76
Rabbits	3-200	Mex\$30
Pigs	15-105	Mex\$117
<b>Level B: For natural or legal persons, as follows:</b>		
<b>Species</b>	<b>Authorized bellies or hives in stock per application</b>	<b>Support per authorized belly or hive</b>
Bovine animals, meat and dual-purpose	36-100	Mex\$250
Sheep	176-500	Mex\$60
Goats	211-600	Mex\$50
Bees	176-500	Mex\$60
Rabbits	201-600	Mex\$20
Pigs	106-300	Mex\$93

Source: Decision announcing the rules of operation of the programmes of the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food for fiscal year 2016 (published in the Official Journal of 30 September 2015).

#### 4.1.3.3 Marketing incentives

4.26. Mexico has various incentive programmes for agricultural product marketing, designed to help producers and/or buyers to manage market risks. The implementation of these programmes is the responsibility of the Support Services for Agricultural Marketing Agency (ASERCA).<sup>14</sup> The incentives are available for "eligible" agricultural products that are in surplus and/or having marketing problems. Potential beneficiaries of the programme include both the producers and/or marketers of these products and persons participating in the programmes in support of market risk management implemented by SAGARPA, the National Agricultural, Rural, Forestry and Fisheries Development Bank (FND), and the Trust Fund for Agriculture (FIRA) and parties insured under the farm income insurance by AGROASEMEX. In 2016, there were several incentives for marketing, such as the Incentives for Marketing in Contract Farming (AxC), Supplementary Incentives for Target Income, Emerging Incentives for Marketing, and Incentives for the Quality Certification Process.

4.27. The Incentives for Marketing in Contract Farming (AxC) seek to encourage and promote the signing of contracts of sale between producers and buyers of maize, sorghum, wheat and soya, under specific conditions which affect, among other things, the price, volume, quality, time, place of delivery and conditions of payment, in order to ensure that the product is marketed under competitive conditions for the parties. This type of contract offers producers certainty with regard to their income and buyers stability with regard to cost and supply. The support granted under the programme makes it possible to compensate for fluctuations that arise between the price agreed in the contract of sale and the market price. The compensation is calculated on the basis of a formula and, depending on the result, may be in favour of the producer or the buyer.<sup>15</sup>

4.28. The Supplementary Incentives for Target Income, called in 2012 Supplementary Support for Target Income and Marketing, guarantee a minimum income per tonne marketed for producers who, before planting or harvesting, sign contracts of sale with a buyer that include the volume and

<sup>13</sup> Online information from SAGARPA. Viewed at: <http://www.qob.mx/cms/uploads/attachment/file/44530/Reglas-Operacion-2016-sagarpa.pdf>.

<sup>14</sup> Online information from ASERCA. Viewed at: <http://www.qob.mx/aserca>.

<sup>15</sup> The terms of "contract farming" are established by crop, agricultural cycle and federative entity or region, in accordance with Notices published in the Official Journal and online. Viewed at: <http://www.qob.mx/aserca>.



identification of the beneficiaries of the AxC. This incentive helps to provide certainty in marketing and to promote the integration of the different links in the agrifood chains and is used when the amount of income received by the producer on selling the harvest of certain products, generally staple grains (for example: wheat, maize, beans, soya, sorghum), falls below an income level predetermined for each crop, called the "target income" (pesos/tonne). In 2016, "target incomes" were defined for: raw cotton, rice, canola, safflower, sunflower, maize, durum wheat, bread wheat, sorghum and soya.<sup>16</sup>

4.29. In addition, there is a specific incentive for marketing beans in order to ensure the supply. The Bean Marketing Incentives mechanism provides for the granting of up to 100% of the operating costs associated with gathering, processing (cleaning), shipping, financing and marketing the product, as estimated by the unit responsible.

#### 4.1.3.4 Other incentives

4.30. The prices of electricity and diesel used by low-income agricultural producers are subsidized to promote productivity and the development of agricultural activities.

4.31. The Rural Energy Law stipulates that a programme must be established annually by means of tariffs designed to stimulate the use of agricultural energy sources.<sup>17</sup> These stimulus tariffs are applied to an "energy quota" determined by SAGARPA when electricity is put to specific uses, such as operating water pumping and booster equipment for agricultural irrigation. In 2015-2016, farmers on SAGARPA's list of beneficiaries of agricultural energy sources could also benefit from stimulus tariffs for the electricity consumed in aquaculture installations.<sup>18</sup> The energy consumption quota per beneficiary at promotional prices and tariffs is delivered in accordance with the procedures laid down by SAGARPA. Applications are made per production cycle. The energy quota is openly allocated, with the list of beneficiaries being published on the Internet at the beginning of each production cycle.

4.32. Likewise, up until 2013, the Rural Energy Law also provided for an "Agricultural Diesel" programme, which established a preferential price for a quota of this type of diesel. In 2016, SAGARPA reactivated the programme in a new format. Beneficiaries under the new programme must register with SAGARPA by enrolling in a new "List of Agricultural Diesel Beneficiaries". Beneficiaries can obtain an agricultural diesel quota only up to the total allocated in 2013. Producers receive support in the form of up to 5,000 litres per item of equipment and up to 20,000 litres per beneficiary per year. Users must also register the equipment that they are going to use, which may not be more than 20 years old for tractors and machinery or 10 years old for pumping equipment.<sup>19</sup>

4.33. Mexico also supports the crop and livestock farming, rural, forestry and fishery sectors by facilitating access to credit and offering guarantees for projects related with crop and livestock farming, poultry farming, agro-industry, fishing and other related or similar activities carried out in a rural environment. This support is mainly channelled through the National Agricultural, Rural, Forestry and Fisheries Development Bank (formerly Financiera Rural) and the Trust Fund for Agriculture (FIRA).

4.34. FIRA has several credit programmes under which, as a second-tier bank, it grants loans through registered financial intermediaries authorized to manage FIRA resources. The credit programmes can be used to cover working capital requirements, as well as to purchase inputs, raw materials and supplies and to pay day wages, salaries and other direct production costs. FIRA rural microcredit is intended to increase the penetration and coverage of rural financial markets, through microcredit operations.<sup>20</sup> In addition, FIRA operates programmes in coordination with

<sup>16</sup> Online information from ASERCA. Viewed at: <http://www.gob.mx/aserca>.

<sup>17</sup> Rural Energy Law (published in the Official Journal of 30 December 2002; latest amendment published in the Official Journal of 28 December 2012).

<sup>18</sup> Tariffs for the supply and sale of electricity (2015-2016). Online information from the Federal Electricity Commission (CFE). Viewed at: [http://app.cfe.gob.mx/Aplicaciones/CCFE/Tarifas/Tarifas/tarifas\\_industria.asp](http://app.cfe.gob.mx/Aplicaciones/CCFE/Tarifas/Tarifas/tarifas_industria.asp).

<sup>19</sup> Online information from SAGARPA. Viewed at: <http://www.sagarpa.gob.mx/Delegaciones/colima/boletines/Paginas/2016B058.aspx>.

<sup>20</sup> Online information from FIRA. Viewed at: <http://www.gob.mx/fira/acciones-y-programas/credito-fira-a-traves-de-intermediarios-financieros?idiom=es>.

other entities, such as SAGARPA, with a view to supplementing, among other things, the guarantees for small producers in the crop and livestock farming, rural, forestry and fishery sectors.<sup>21</sup>

4.35. FIRA credit can be used to finance any lawful economic activity carried out in the crop and livestock farming, rural, forestry and fishery sectors, provided that the economic activity takes place in localities with a population of up to 50,000 inhabitants. All enterprises that operate in these sectors are eligible. The maximum amount of credit varies with the size of the enterprise: micro-enterprises can obtain a maximum of 10,000 investment units (UDI) and large enterprises more than 4 million UDI. FIRA resources, which the financial intermediaries receive in national currency or in dollars, generate interest in accordance with the interest rate scheme in force on the date on which the resources are made available. There are two interest rate schemes: variable (market) interest rates and interest rate hedging (fixed rate). FIRA financing has increased since 2011 (Mex\$111 billion) to reach Mex\$132 billion in 2016.

4.36. One of the main functions of the National Agricultural, Rural, Forestry and Fisheries Development Bank (Financiera Nacional, formerly Financiera Rural) is to promote financial expansion in the rural sector. To achieve this objective, it grants loans to producers and rural financial intermediaries in order that they, in their turn, may provide financing to promote crop and livestock farming, forestry and fishing and all activities linked with the rural and indigenous environment. In addition, Financiera Nacional offers guarantees and security. It also promotes training for producers and advises them on the better use of credit resources; and it supports producers that decide to set up as rural financial intermediaries.

4.37. Financiera Nacional also offers credit directly for financing any activity linked with the rural environment.<sup>22</sup> This type of credit is available to any natural or legal person from a "certain segment of the population requiring more attention" that is in need of financing to develop their activity. The credit granted is subject to a minimum of 7,000 UDI and a maximum of 600,000 UDI, at "affordable" interest rates, and is intended to support rural producers and enterprises.<sup>23</sup> In 2011, Financiera Nacional disbursed Mex\$23,957 million and contributed 14% of rural sector financing. In 2015, it granted credit amounting to Mex\$55,093 million.

4.38. AGROASEMEX is a State agency responsible for providing insurance for the rural sector. Through its programmes, AGROASEMEX promotes the use of insurance and comprehensive risk management by Mexico's agricultural sector. Its programmes include: the Agricultural Insurance Premium Subsidy Programme, the Weather Risk Subsidy and Agricultural Disaster Insurance.<sup>24</sup>

## 4.2 Energy

### 4.2.1 Main features

4.39. In 2015, the energy sector contributed 7.9% of Mexico's GDP and 7.5% of the value of its total merchandise exports.<sup>25</sup> Petroleum and gas extraction accounted for 5.3% of GDP, while the generation, distribution and transmission of electricity accounted for 2.1% and the manufacturing of petroleum and coal products for 0.5%.

4.40. Since 2015, the energy sector has been experiencing the negative effects of lower oil prices, which have led to a fall in production. Between 2012 and 2015, primary energy production contracted at an annual rate of 3% (Table 4.5). In 2015, it amounted to 8,261 petajoules, with hydrocarbons accounting for 87.2%, renewables for 7.9%, coal for 3.5%, and nuclear energy for the remaining 1.5%.

<sup>21</sup> Online information from FIRA. Viewed at: <http://www.gob.mx/fira/acciones-y-programas/programas-de-sagarpa-y-otras-entidades-operados-por-fira?idiom=es>.

<sup>22</sup> Organic Law of the National Agricultural, Rural, Forestry and Fisheries Development Bank (Financiera Nacional), published in the Official Journal of 26 December 2002; latest amendment published in the Official Journal of 10 January 2014.

<sup>23</sup> Online information from Financiera Nacional. Viewed at: <http://www.gob.mx/fnd/acciones-y-programas/financiamiento-pre-autorizado?idiom=es>.

<sup>24</sup> Online information from AGROASEMEX. Viewed at: <http://www.gob.mx/agroasemex#acciones>.

<sup>25</sup> The data for the energy sector include the extraction of petroleum and gas, the generation and supply of electricity, and the manufacture of petroleum and coal products.

**Table 4.5 National Energy Balance: Economic and Energy Indicators, 2012-2015**

Description	2012	2013	2014	2015
National energy consumption (petajoules)	8,814.8	8,988.4	8,650.7	8,528.9
GDP (billion 2008 pesos)	13,287.5	13,471.8	13,760.2	14,110.1
National population (million inhabitants)	117.1	118.4	119.7	121.0
Energy intensity (KJ/\$ produced)	663.4	667.2	628.7	604.5
Per capita energy consumption (GJ/inhab.)	75.3	75.9	72.3	70.5
Electricity consumption (GWh)	233,306.5	235,140.8	241,196.7	248,738.7
Electricity consumption/capita (kWh/inhab.)	1,993.2	1,986.1	2,014.8	2,055.6
Energy production (petajoules)	9,059.4	9,052.9	8,854.3	8,261.0
Coal	310.8	299.9	303.7	287.7
Hydrocarbons	8,035.7	7,994.3	7,783.0	7,203.9
Crude petroleum	5,918.9	5,814.6	5,597.2	5,067.7
Condensates	87.7	134.1	106.3	98.8
Natural gas	2,029.1	2,045.6	2,079.5	2,037.3
Nuclear energy	91.3	122.6	100.6	120.4
Renewables	621.6	636.1	667.0	649.1
Hydropower	114.9	100.9	140.0	111.2
Geo-energy	133.1	131.3	129.9	134.5
Solar energy	6.6	7.6	8.7	10.2
Wind energy	13.3	15.1	23.1	31.5
Biogas	1.8	2.0	1.9	1.9
Biomass	351.8	379.3	363.3	359.8
Cane bagasse	95.1	123.9	109.2	107.0
Wood	256.7	255.4	254.1	252.8

Source: Energy Information System, Ministry of Energy. Viewed at: <http://sie.energia.gob.mx/bdiController.do?action=cuadro&cvequa=IE0C01>; and information provided by the authorities.

4.41. Total investment in the hydrocarbons energy sector grew by 14.4% between 2012 and 2014, but declined in 2015 to a value of Mex\$306,300 million (some US\$18 billion), as a result of lower oil prices.

4.42. In 2013, Mexico implemented a reform of the energy sector which affected various institutional and legal aspects and sought to increase the efficiency of the sector's State-owned production enterprises.

#### 4.2.2 General legal and institutional framework

4.43. The formulation and management of energy policy is the responsibility of the Ministry of Energy (SENER), which is also tasked with regulating the activities of the sector's State-owned production enterprises (EPE), granting energy-related authorizations and permits and allocations for hydrocarbon exploration and exploitation, and issuing the necessary regulations. The Minister for Energy chairs the boards of the EPEs (PEMEX in the hydrocarbons sector, and the Federal Electricity Commission (CFE)).

4.44. Apart from SENER, various government agencies interact in the energy sector: (a) the National Hydrocarbons Commission (CNH); (b) the Regulatory Commission for Energy (CRE); (c) the Ministry of Finance and Public Credit (SHCP); (d) the Ministry of the Economy (SE); (e) the National Natural Gas Control Centre (CENAGAS); (h) the National Energy Control Centre (CENACE); and (i) the National Agency for Industrial Safety and Environmental Protection in the Hydrocarbons Sector, known as the Safety, Energy and Environment Agency (ASEA) (Table 4.6). Moreover, SENER has several decentralized bodies with technical and managerial autonomy: the National Commission for the Efficient Use of Energy; the National Nuclear Safety and Safeguards Commission; the Mexican Petroleum Institute, and the National Electricity and Clean Energy Institute.

Table 4.6 Principal functions of the energy sector institutions

	Hydrocarbons and their products	Electricity
<b>SENER</b>	<ul style="list-style-type: none"> <li>Grants and revokes exploration and extraction allocations.</li> </ul>	<ul style="list-style-type: none"> <li>Drew up the National Electrical System Development Programme (SEN).</li> </ul>
	<ul style="list-style-type: none"> <li>Selects the contract areas for exploration and extraction contracts, with the assistance of the CNH. Approves and issues the five-year tender schedule.</li> </ul>	<ul style="list-style-type: none"> <li>Establishes the criteria for granting clean energy certificates and the requirements for obtaining them.</li> </ul>
	<ul style="list-style-type: none"> <li>Establishes the model contract for each contract area and determines the technical terms of the contracts. Chooses the type of contract.</li> </ul>	<ul style="list-style-type: none"> <li>Gives its opinion on the operation of the wholesale electricity market (MEM).</li> </ul>
	<ul style="list-style-type: none"> <li>Issues the permits for treating and refining petroleum and processing natural gas.</li> </ul>	<ul style="list-style-type: none"> <li>Determines whether it is necessary to form partnerships or sign contracts for financing, installing, maintaining, managing, operating, extending, modernizing, monitoring and preserving the transmission and distribution infrastructure.</li> </ul>
	<ul style="list-style-type: none"> <li>Grants prior import/export permits for petroleum products.</li> </ul>	<ul style="list-style-type: none"> <li>Issues the bidding conditions and the public call for tenders for contracts.</li> </ul>
	<ul style="list-style-type: none"> <li>Approves the five-year plan for the expansion of the natural gas transport and storage network at the proposal of CENAGAS</li> </ul>	<ul style="list-style-type: none"> <li>Determines the minimum percentages of local content in the contracts.</li> </ul>
<b>CNH</b>	<ul style="list-style-type: none"> <li>Proposes to SENER the five-year plan for the areas to be put out to tender and assists with the selection of the contract areas.</li> </ul>	
	<ul style="list-style-type: none"> <li>Carries out the tendering procedures. Awards and signs contracts on behalf of the State.</li> </ul>	
	<ul style="list-style-type: none"> <li>Authorizes the drilling of wells.</li> </ul>	
	<ul style="list-style-type: none"> <li>Approves the exploration or extraction development plans.</li> </ul>	
	<ul style="list-style-type: none"> <li>May carry out or contract for survey and surface exploration studies, and manages the information obtained through the National Hydrocarbons Information Centre.</li> </ul>	
<b>CRE</b>	<ul style="list-style-type: none"> <li>Issues permits for the storage, transport, distribution, marketing, export, import and retailing of hydrocarbons, petroleum products and petrochemicals. Issues permits for the compression / decompression / liquefaction / regasification of natural gas.</li> </ul>	<ul style="list-style-type: none"> <li>Issues electricity generation and marketing permits.</li> <li>Keeps the register of qualified users.</li> <li>Grants clean energy certificates.</li> </ul>
	<ul style="list-style-type: none"> <li>Approves the installation of integrated systems for the transport by pipeline and storage of natural gas, petroleum products and petrochemicals.</li> </ul>	<ul style="list-style-type: none"> <li>Authorizes electricity imports and exports.</li> <li>Regulates transmission and distribution tariffs.</li> </ul>
	<ul style="list-style-type: none"> <li>Determines the general conditions and prices for first-hand sales.<sup>a</sup></li> </ul>	<ul style="list-style-type: none"> <li>Oversees the operation of the MEM and CENACE's determinations to ensure the efficient functioning of the MEM.</li> </ul>
	<ul style="list-style-type: none"> <li>Establishes the tariffs for the transport, storage and distribution of hydrocarbons and petroleum products.</li> </ul>	
<b>SE</b>	<ul style="list-style-type: none"> <li>Establishes the methodology for measuring and verifying fulfilment of the local content percentage in allocations and contracts.</li> </ul>	<ul style="list-style-type: none"> <li>Establishes the methodology for measuring and verifying fulfilment of the local content percentage.</li> </ul>
	<ul style="list-style-type: none"> <li>Establishes and regulates the retail prices for LPG.</li> </ul>	<ul style="list-style-type: none"> <li>Promotes the participation of domestic providers in the electricity sector.</li> </ul>
	<ul style="list-style-type: none"> <li>Promotes the participation of domestic providers in the hydrocarbons sector.</li> </ul>	
	<ul style="list-style-type: none"> <li>Gives its opinion on applications for prior import and export permits.</li> </ul>	
<b>SHCP</b>	<ul style="list-style-type: none"> <li>Determines the economic contract conditions relating to the fiscal terms of tenders and contracts. Gives its opinion on the type of contract. Determines the award variables in tendering procedures. Participates in contract administration and auditing.</li> </ul>	<ul style="list-style-type: none"> <li>Regulates basic supply tariffs.</li> </ul>
	<ul style="list-style-type: none"> <li>Supervises contract operations and accounting records (including by carrying out audits and inspections).</li> </ul>	
	<ul style="list-style-type: none"> <li>Oversees the payment of the considerations which, in each contract, correspond to the State and the contractor.</li> </ul>	
	<ul style="list-style-type: none"> <li>Establishes the retail prices for gasoline (petrol) and diesel.</li> </ul>	
<b>CENAGAS</b>	<ul style="list-style-type: none"> <li>Operates and administers the natural gas transport and storage system.</li> </ul>	
	<ul style="list-style-type: none"> <li>Proposes to SENER the five-year plan for the expansion of the natural gas transport and storage network.</li> </ul>	
<b>CENACE</b>		<ul style="list-style-type: none"> <li>Supervises the operation of the national electricity grid.</li> </ul>
		<ul style="list-style-type: none"> <li>Formulates the plans for the expansion and modernization of the transmission and distribution networks.</li> </ul>
		<ul style="list-style-type: none"> <li>Establishes the interconnection requirements for new generating plants.</li> </ul>
		<ul style="list-style-type: none"> <li>Operates the wholesale electricity market.</li> </ul>

	Hydrocarbons and their products	Electricity
ASEA	<ul style="list-style-type: none"> <li>• Issues the rules and regulations on industrial safety and environmental protection.</li> <li>• Define protocols for mitigating risks.</li> <li>• Proposes measures for monitoring and supervising oil field dismantlement and restoration operations.</li> <li>• Establishes measures for managing the waste from hydrocarbon exploration and extraction activities.</li> </ul>	

- a First-hand sales are the first sales of hydrocarbons and petroleum products made by PEMEX (or another enterprise), for the account of the State, to a third party on the domestic market.

Source: WTO Secretariat and information provided by the authorities.

4.45. In establishing, managing and coordinating energy policy SENER follows a pluriannual sectoral programme in which the objectives for the period are set out. The latest Sectoral Energy Programme corresponds to the period 2013-2018 (Box 4.1).<sup>26</sup> The Minister for Energy chairs the Energy Sector Coordination Council, established in 2014 to acquaint the CNH and the CRE with energy policy and to analyse the recommendations and proposals made by the two commissions in this regard.<sup>27</sup> SENER acquired new powers under the 2013 reform, for example, it is now empowered to grant PEMEX hydrocarbon exploration and extraction allocations; to issue permits for refining, for processing natural gas and for importing and exporting hydrocarbons and petroleum products; and to determine the minimum local content percentages in electricity transmission and distribution contracts.

#### Box 4.1 Objectives of energy policy

The objectives of the Sectoral Energy Programme 2013-2018 are:

- to improve hydrocarbon production and processing capacity, by ensuring efficient and competitive processes;
- to improve the operation and promote the extension of electricity infrastructure;
- to develop transport infrastructure so as to ensure energy security, thereby contributing to economic growth;
- to increase the number of users;
- to extend the use of renewable and clean energy sources, while encouraging energy efficiency and social and environmental responsibility;
- to strengthen the operational safety of the installations;
- to promote the financing of energy projects; and
- to encourage the participation of domestic suppliers.

Source: Sectoral Energy Programme 2013-2018. Viewed at:

[http://www.dof.gob.mx/nota\\_detalle.php?codigo=35326587%26fecha=3D13/12/2013](http://www.dof.gob.mx/nota_detalle.php?codigo=35326587%26fecha=3D13/12/2013).

4.46. The CNH and the CRE are the energy sector's regulatory bodies, whose functions are described in detail in the Law on the coordinated regulatory bodies in the energy sector of 2014 (Table 4.6).<sup>28</sup> Up until 2014, SENER was responsible both for managing trade policy and for regulating the activities of the sector through the CNH and the CRE, which were two of its decentralized (hierarchically subordinate) bodies. Under the reform process, the CNH and the CRE became bodies dependent on the central government, on a par with the Ministries of State and the Legal Service;<sup>29</sup> therefore, the sector now has two regulatory entities that act independently in the performance of their functions.<sup>30</sup> Moreover, the CNH and the CRE assumed new regulatory responsibilities; it is a matter of regulating not only the State-owned production enterprises but all the enterprises operating in the sector.

<sup>26</sup> Article 33 of the Organic Law of the Federal Government of 1976 (latest amendment published in the Official Journal of 18 July 2016). The Sectoral Energy Programme 2013-2018 was published in the Official Journal of 13 December 2013.

<sup>27</sup> Article 21 of the Law on the coordinated regulatory bodies in the energy sector of 2014 (published in the Official Journal of 11 August 2014).

<sup>28</sup> The Law on the National Hydrocarbons Commission of 2008 and the Law on the Regulatory Commission for Energy of 1995 were repealed.

<sup>29</sup> Article 2 of the Organic Law of the Federal Government.

<sup>30</sup> Online information from the Government of Mexico. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion\\_ampliada\\_de\\_la\\_Reforma\\_Energetica1.pdf](https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion_ampliada_de_la_Reforma_Energetica1.pdf).

4.47. As a result of the energy reforms, two other ministries of State now intervene in the sector. The SCHP establishes the economic clauses of hydrocarbon exploration and extraction contracts, while the SE gives opinions on the local content percentage and verifies its fulfilment. The SE also gives its opinion on applications for prior import and export permits. In addition, the two ministries of State are responsible for determining retail prices and giving their opinion on import and export permits for hydrocarbons, petroleum products and petrochemicals (Table 4.6).

4.48. The reform also led to the creation of three new institutions, which have been operating since 2015: CENAGAS, CENACE and ASEA (Table 4.6). CENAGAS and CENACE are decentralized public agencies of SENER. CENAGAS independently manages and administers the natural gas pipeline transport and storage system in order to ensure an uninterrupted supply. CENACE controls the operation of the national electricity grid, operates the wholesale electricity market and guarantees non-discriminatory access to the transmission and distribution networks.<sup>31</sup> ASEA is a decentralized agency of the Ministry of the Environment and Natural Resources (SEMARNAT), which regulates and supervises the operational safety of the installations, industrial safety in the enterprises, the dismantlement and abandonment of installations, and the management of waste and pollutants.<sup>32</sup>

4.49. A constitutional amendment, introduced in 2013, changed the model for the management of energy resources and introduced a series of modifications of energy sector legislation. Pursuant to this amendment, the State retains control of "strategic" activities, namely: the supply of radioactive minerals for nuclear power generation; exploration for and extraction of hydrocarbons; the transmission and distribution of electricity; and planning and control of the national electricity grid. The new legal framework stipulates that the private sector may participate in "strategic" activities through contracts with the State but not under concessions.<sup>33</sup>

4.50. The constitutional amendment led to a substantial change in the legal framework of the energy sector (Table 4.7). Several instruments entered into force between 2014 and 2015 and others were repealed or revised. In addition, amendments were made to the Foreign Investment Law which, in line with the constitutional changes, stipulates that private investment (domestic and foreign) is permitted – without ceilings – in all energy sector activities, except for "strategic" activities.<sup>34</sup> Moreover, the clause excluding foreigners from the retail trade in petrol and the distribution of LPG was abolished.<sup>35</sup>

**Table 4.7 Changes in the legal framework of the energy sector introduced as a result of the constitutional reform of 2013**

	New laws (and their new regulations)	Laws repealed	Laws revised
<b>Regulatory bodies</b>	Law on the coordinated regulatory bodies in the energy sector	Law on the Regulatory Commission for Energy; Law on the National Hydrocarbons Commission	Organic Law of the Federal Government
<b>State-owned production enterprises</b>	Mexican Petroleum Law (Regulations implementing the Mexican Petroleum Law)	Mexican Petroleum Law (2008)	Federal Law on Parastatal Bodies; Law on Public Sector Procurement, Leases and Services; Law on Public Works and Related Services; General Law on Public Debt; Federal Budget and Treasury Accountability Law
	Law on the Federal Electricity Commission (Regulations implementing the Law on the Federal Electricity Commission)		

<sup>31</sup> Decree creating the National Energy Control Centre and Decree creating the National Natural Gas Control Centre (both published in the Official Journal of 28 August 2014); Articles 66-69 of the Hydrocarbons Law (published in the Official Journal of 11 August 2014); Article 107 and transitional Article 2 of the Law on the Electricity Industry (published in the Official Journal of 11 August 2014); and online information from CENAGAS. Viewed at: <http://www.cenagas.gob.mx>.

<sup>32</sup> Article 1 of the Law on the National Agency for Industrial Safety and Environmental Protection in the Hydrocarbons Sector.

<sup>33</sup> Amended Articles 25, 27 and 28 of the Constitution published in the Official Journal of 20 December 2013 and transitional Article 11 of the Decree amending and supplementing various provisions of the Constitution in relation to energy.

<sup>34</sup> Private investment in the secondary petrochemicals industry had already been permitted in 2014.

<sup>35</sup> Articles 5 and 6 of the Foreign Investment Law (amendment published in the Official Journal of 11 August 2014).

	New laws (and their new regulations)	Laws repealed	Laws revised
<b>Hydrocarbons</b>	Hydrocarbons Law (Regulations implementing the Hydrocarbons Law and Regulations on the activities referred to in Title 3 of the Hydrocarbons Law)	Law regulating Article 27 of the Constitution in the petroleum sector	Foreign Investment Law; Mining Law; Law on Public-Private Partnerships
	Hydrocarbons Revenue Law (Regulations implementing the Hydrocarbons Revenue Law)	Regulations implementing the Mining Law concerning gas associated with coal deposits	Fiscal Coordination Law; Federal Law on Duty
	Law on the Mexican Petroleum Fund for Stabilization and Development		
<b>Electricity</b>	Law on the Electricity Industry (Regulations implementing the Law on the Electricity Industry)	Law on the Public Electric Power Service	Foreign Investment Law
	Law on Geothermal Energy (Regulations implementing the Law on Geothermal Energy)		National Waters Law
	Law on Energy Transition (not yet regulated)	Law for the development of renewable energies and the financing of the energy transition; Law for the sustainable supply of energy	
<b>Safety and the environment</b>	Law on the National Agency for Industrial Safety and Environmental Protection in the Hydrocarbons Sector		

Note: The Laws mentioned in the above Table were published in the Official Journal of 11 August 2014, except for the Law on Energy Transition, which was published in the Official Journal of 24 December 2015. The Regulations were published in the Official Journal of 31 October 2014.

Source: WTO Secretariat, on the basis of the Portal of the Office of the President of the Republic, viewed at: <http://presidencia.gob.mx/reformaenergetica/>; SENER (2015), *Prospectiva de Petróleo Crudo y Petrolíferos 2015-2029*, viewed at: [https://www.gob.mx/cms/uploads/attachment/file/44327/Prospectiva\\_Petroleo\\_Crudo\\_y\\_Petrolifero\\_s.pdf](https://www.gob.mx/cms/uploads/attachment/file/44327/Prospectiva_Petroleo_Crudo_y_Petrolifero_s.pdf); and information provided by the authorities.

4.51. The objectives of the reform of the energy sector carried out by Mexico during the review period include: (a) maintaining the ownership of the hydrocarbon reserves and the planning and control of the national electricity system in the hands of the State; (b) permitting the participation of private enterprises; (c) transforming the State-owned enterprises PEMEX and CFE so as to enable them to compete with the private sector; (d) obtaining a more abundant supply of energy at better prices; and (e) strengthening the administration of petroleum revenue and promoting long-term savings.<sup>36</sup>

4.52. The State participates in the energy market through two different enterprises, PEMEX and the CFE. As part of the reforms, the Mexican Petroleum Law and the Law on the Federal Electricity Commission, which entered into force in 2014, modified the model used for the organization and operation of the two enterprises.<sup>37</sup> As a result of the reforms, PEMEX and the CFE ceased being parastatal enterprises and became EPEs. This change is intended to provide greater flexibility and efficiency so that each enterprise can compete with private-sector companies in its respective market. Both enterprises continue to be 100% State-owned. The main differences between the legal status of a parastatal entity and the current status of an EPE are the following:

- a. *business model*: EPEs adopt a business model designed to generate greater economic value and greater profits for the State, while the function of parastatal enterprises is to help the Federal Government with the management of areas considered strategic and prioritized by the State;
- b. *corporate structure*: as a result of the reforms, PEMEX and the CFE have a board of directors and a chief executive officer. The State has therefore abandoned the role of

<sup>36</sup> Online information from the Government of Mexico. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion\\_ampliada\\_de\\_la\\_Reforma\\_Energetica1.pdf](https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion_ampliada_de_la_Reforma_Energetica1.pdf); and Reform Portal of the Government of the Republic. Viewed at: <http://reformas.gob.mx/reforma-energetica/que-es>.

<sup>37</sup> Mexican Petroleum Law (published in the Official Journal of 11 August 2014) and Law on the Federal Electricity Commission (published in the Official Journal of 11 August 2014). The Mexican Petroleum Law of 2014 repeals that of 2008.

general manager and assumed that of owner. Nonetheless, the members of the board of directors and the chief executive officer are appointed by the Executive Branch. The board of directors is composed of government directors, independent directors and, in the case of the CFE, a director designated by the employees of the enterprise<sup>38</sup>; and

- c. *functioning and operating regime*: PEMEX and the CFE now benefit from a flexible and autonomous functioning and operating regime which enables them to compete with the private sector and includes: (i) the creation of subsidiary production enterprises (EPS)<sup>39</sup>; (ii) participation in affiliated enterprises<sup>40</sup>; (iii) remuneration of the personnel; (iv) the purchase of goods, services and works (Box 4.2); (v) the use and enjoyment of land and buildings; (vi) liability for damage and injury caused; (vii) the payment of an annual dividend to the State; (viii) budgeting; and (ix) the determination of debt levels.<sup>41</sup> Where taxation is concerned, PEMEX and the CFE are subject to income tax (ISR).<sup>42</sup>

#### Box 4.2 Procurement procedures for State-owned production enterprises

PEMEX and the CFE remain totally excluded from the application of the Law on Public Sector Procurement, Leases and Services and the Law on Public Works and Related Services. Each of the two enterprises has its own legal framework for procurement.

PEMEX's legal framework for the procurement of goods, services and works is established by the Mexican Petroleum Law of 2014, while procurement by the CFE is governed by the Law on the Federal Electricity Commission of 2014. In both cases, government procurement is also governed by Article 134 of the Constitution, which states that a public invitation to tender must be the preferred method of procurement, and by the general provisions on procurement approved by the respective boards of directors.

In each case, the board of directors is responsible for: (a) approving the annual procurement programme proposed by the chief executive officer on the recommendation of the enterprise's purchasing committee; (b) selecting the method of procurement (public invitation to tender, closed bidding or direct award); and (c) determining the method of awarding the contract (an ascending or descending-price or sealed-bid first-price auction).

PEMEX and the CFE must circulate information on their suppliers, the progress of the contracts signed and the award of contracts. Contracts are signed after a period of five working days, during which it is possible to make applications for reconsideration to a collegiate body composed of several of the enterprise's executives. Disputes over contracts are governed by commercial law.

Irregular purchases may be subject to sanctions under the Federal Law against corruption in government procurement.

Source: WTO Secretariat, on the basis of the Mexican Petroleum Law of 2014, the Law on the Federal Electricity Commission of 2014, the general provisions on procurement, and the Note by the law firm Martens of June 2015. Viewed at: <http://www.martens.com.mx/es/index.php>.

### 4.2.3 Hydrocarbons

#### 4.2.3.1 Regulatory framework

4.53. The Hydrocarbons Law (LH) of 2014 and its implementing Regulations govern the sector's activities.<sup>43</sup> The 2014 Law repealed the Law implementing Article 27 of the Constitution in the petroleum sector of 1958. The main institutions operating in the hydrocarbons sector are SENER, the CNH and the CRE. The SCHP, the SE, CENAGAS and the ASEA are also involved (Table 4.6). The State participates in the market through PEMEX.

<sup>38</sup> Transitional Article 19 of the Decree amending and supplementing various provisions of the Constitution in relation to energy.

<sup>39</sup> The EPSs are also EPEs. They are subject to control and coordination by PEMEX or the CFE.

<sup>40</sup> Affiliate companies are those in which PEMEX or the CFE holds, directly or indirectly, more than 50% of the capital, regardless of whether or not they were established in Mexico (Article 61 of the Mexican Petroleum Law and Article 59 of the Law on the Federal Electricity Commission).

<sup>41</sup> Mexican Petroleum Law and Law on the Federal Electricity Commission; Portal of the Office of the President of the Republic. Viewed at: <http://presidencia.gob.mx/reformaenergetica>.

<sup>42</sup> Article 2 of the Hydrocarbons Revenue Law (published in the Official Journal of 11 August 2014).

<sup>43</sup> Hydrocarbons Law (published in the Official Journal of 11 August 2014), Regulations implementing the Hydrocarbons Law (published in the Official Journal of 31 October 2014) and Regulations on the activities referred to in Title 3 of the Hydrocarbons Law (published in the Official Journal of 31 October 2014).



4.54. In Mexico, the State is the owner of the hydrocarbons in the subsoil and only the State may conduct the "strategic" activities of exploration and extraction via allocations or contracts but not concessions (Table 4.8).<sup>44</sup> Surveying and surface exploration are carried out only by authorized enterprises, which may be PEMEX or contractors. The information gathered in carrying out these activities belongs to the State and must be delivered to the CNH, but the authorized enterprise may market it for a maximum period of 12 years.<sup>45</sup>

**Table 4.8 Authorizations to operate in the initial phases of the hydrocarbon production process**

Activity	Type	Beneficiary	Duration	Entity
Surveying and surface exploration	Authorization	PEMEX and private companies	6 years (existing information) 12 years (new information)	CNH
Exploration and extraction	Allocation	PEMEX	Exploration: 25 years, with an extension of up to 25 years; extraction: 20 years, with an extension of up to 25 years	SENER
	Contract	PEMEX and private companies	25-35 years (exploration: 2-4 years, evaluation: 1-3 years, extraction: 21-24 years) with two extensions of up to 15 years (first 5-10 years, second 5 years)	CNH

Source: Hydrocarbons Law of 2014.

4.55. SENER is responsible for granting allocations for exploration and extraction activities, provided it receives a favourable technical opinion from the CNH. The constitutional reform established a scheme, known as Round Zero, by means of which PEMEX obtained certain preferences (Box 4.3). Thus, all the allocations were granted to PEMEX. SENER may grant PEMEX other allocations subsequently and exceptionally.<sup>46</sup> It is estimated that, under Round Zero, SENER awarded PEMEX 83% of Mexico's total proven and probable reserves, as well as 21% of total prospective resources. This represents more than 44 billion barrels of crude oil equivalent (MMbcoe), which would make it possible to produce 2.5 million barrels per day for 20 years. Round Zero does not prevent PEMEX from competing in rounds of bidding for contracts.<sup>47</sup> PEMEX has the right to renounce allocations or to cede them to another EPE; in both cases, SENER's approval is required and the CNH has to be informed (Article 8 of the LH).

#### Box 4.3 Round Zero

Round Zero allowed PEMEX to retain:

- fields in which exploration investments had been made and for which a development plan had been submitted. In response to this request it was given a period of up to five years to fulfil the development plan, it being provided that otherwise the field would revert to the State.
- producing fields with respect to which it had shown that it was technically and financially capable of carrying out the activities efficiently and competitively.

PEMEX obtained 100% of the proven and probable reserves it requested and 68% of the prospective resources.

Source: Transitional Article 6 of the Decree amending and supplementing various provisions of the Political Constitution of the United Mexican States in relation to energy; and SENER (2015), *3<sup>er</sup> informe de labores*. Viewed at: <http://www.gob.mx/cms/uploads/attachment/file/25591/3erInformeLabores.pdf>.

<sup>44</sup> An allocation is the administrative legal act whereby the Executive grants PEMEX the exclusive right to carry out hydrocarbon exploration and extraction activities in the allocation area for a specified period of time.

<sup>45</sup> Article 32 of the LH and Article 40 of the General administrative provisions concerning hydrocarbon surveying and surface exploration authorizations (published in the Official Journal of 26 January 2015 and amended by the Official Journal of 15 April 2015).

<sup>46</sup> Online information from the Government of Mexico. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion\\_ampliada\\_de\\_la\\_Reforma\\_Energetica1.pdf](https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion_ampliada_de_la_Reforma_Energetica1.pdf).

<sup>47</sup> Online information from SENER. Viewed at: <http://www.gob.mx/sener/articulos/ronda-cero-y-migracion-de-contratos-de-pemex>; Government Reform Portal. Viewed at: <http://reformas.gob.mx/reforma-energetica/que-es>; and SENER (2015), *3<sup>er</sup> informe de labores*. Viewed at: <http://www.gob.mx/cms/uploads/attachment/file/25591/3erInformeLabores.pdf>.

4.56. The 2014 Mexican Petroleum Law stipulates that PEMEX must create subsidiary production enterprises (EPS) to carry out hydrocarbon exploration and extraction activities. The company PEMEX Exploración y Producción (PEP) was thus established in 2015.<sup>48</sup> PEMEX may also sign services contracts with private suppliers for carrying out allocation-related activities (Article 9 of the LH). At the same time, the LH allows PEMEX to "migrate" (convert) an allocation into an exploration and extraction contract. There are two "migration" procedures: (a) "migration" allows PEMEX to enter into a partnership with private companies to explore and exploit highly complex areas requiring technical specialization, in which the private partner is selected by means of a tender process organized by the CNH; the partnership contracts are known as "farm-out" contracts; (b) "migration" allows PEMEX to change the legal nature of the contracts signed with private service providers before the reform, that is, comprehensive exploration and production contracts (CIEP) and financed public works contracts (COPF); in this case "migration" does not require a tender process.<sup>49</sup>

4.57. Tendering for exploration and extraction contracts is organized in accordance with the provisions of the LH. SENER, the SCHP and the CNH participate in the tender process. SENER selects the areas to be bid for and drafts the technical clauses for the bidding conditions, in consultation with the Federal Economic Competition Commission (COFECE) with regard to the prequalification criteria and the award mechanism; the SCHP determines the economic terms of the contracts and the economic variables of the award procedure; and the CNH is responsible for the bidding process and awards and signs the contracts.

4.58. The public tender process begins with an invitation to bid from the CNH published in the Official Journal and on the Internet page [www.rondasmexico.gob.mx](http://www.rondasmexico.gob.mx). At least 90 days are allowed for submitting bids. Bids may be submitted by PEMEX and private companies established in Mexico, individually or in a consortium or partnership with other companies. The process includes the prequalification of the contractors. SENER may decide whether State participation is mandatory; the State may participate through PEMEX or the Mexico Energy Fund of Funds (FdeF México Energía). This happens when: (a) the field for tender co-exists with a field allocated to PEMEX; (b) when there is a possibility of PEMEX benefiting from technology transfer; (c) the project is financed by FdeF México Energía; or (d) there is a possibility of cross-border deposits being discovered. The State participation must not amount to more than 30% of the investment. If there is a possibility of encountering cross-border deposits, the State has to contribute at least 20% of the investment (Articles 16-17 and 28 of the LH).

4.59. The LH establishes a mechanism for awarding contracts by means of auctions, which may take one of three forms: ascending-price, descending-price, or sealed-bid first price. The authorities indicated that the sealed-bid first price method was the type of auction used in the tender processes. The main element to be taken into account in awarding the contract is the price that the State is offered; the amount that the contractor undertakes to invest may also be taken into account.<sup>50</sup> There is an exception to the use of auctions for awarding contracts. This occurs in the case of mining concession-holders, who may apply directly for a natural gas exploitation contract. However, the natural gas must be extracted in a coal mine that the holders are exploiting.<sup>51</sup>

4.60. SENER establishes a procurement model for each contract area that is tendered or awarded directly, in which case it may choose, *inter alia*, between services, profit- or production-sharing and licensing contracts. Contracts that combine elements specific to each of these may also be signed (Article 18 of the LH). The Hydrocarbons Revenue Law determines the considerations received by the State and the contractor under each type of contract. The considerations received by the State include royalties, a contractual sum for the exploration phase, a contractual sum in the form of a percentage of the operating profit and a signature bond. All the contracts include an

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<sup>48</sup> Article 59 of the Mexican Petroleum Law and Decision creating the Subsidiary State Production Enterprise of Petróleos Mexicanos, called PEMEX Exploración y Producción, issued by the Board of Directors of Petróleos Mexicanos (published in the Official Journal of 28 April 2015). The enterprises PEMEX Transformación Industrial, PEMEX Logística and PEMEX Etileno were also created.

<sup>49</sup> Articles 12 and 13 of the LH, transitional Article 28 of the LH, and SENER (2015), *3<sup>er</sup> informe de labores*. Viewed at: <http://www.gob.mx/cms/uploads/attachment/file/25591/3erInformeLabores.pdf>.

<sup>50</sup> Article 26 of the Hydrocarbons Revenue Law.

<sup>51</sup> Articles 11-31 of the LH and SENER (2015), *Prospectiva de Petróleo Crudo y Petrolíferos 2015-2029*. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/44327/Prospectiva\\_Petroleo\\_Crudo\\_y\\_Petroliferos.pdf](https://www.gob.mx/cms/uploads/attachment/file/44327/Prospectiva_Petroleo_Crudo_y_Petroliferos.pdf).

adjustment mechanism actuated when, for example, the price of crude oil exceeds estimates or a significant find is made. The adjustment mechanism allows for the contract to provide a better return for the State.<sup>52</sup> The authorities expect the contracts with the private sector to increase the revenue from petroleum and tax receipts.<sup>53</sup>

4.61. The Law envisages three possible ways of marketing the hydrocarbons extracted. Private companies may: (a) directly market the hydrocarbons they receive as a consideration (licensing contracts), (b) deliver all or part of the output to the State marketing enterprise (services or profit-sharing contracts) or (c) deliver some to the State marketing enterprise and market the rest directly (production-sharing contracts). The LH stipulates that the State must market the hydrocarbons through a marketing company retained by the CNH. On a transitional basis, up to the end of 2017, the CNH may contract directly with PEMEX or one of its subsidiaries to act as marketer (the contract will not be renewable). In 2018, the marketing company will be selected by tender.<sup>54</sup>

4.62. Round One of tendering for hydrocarbon exploration and extraction contracts began in 2014 (Table A4.1). In November 2016, the four calls for bids envisaged were concluded and, as a result, 38 production-sharing or licensing contracts were awarded.<sup>55</sup> In the same month, bids were invited under Round Two and 41 areas put out to tender for exploration and extraction (Table A4.1). To ensure transparency, the information relating to a contract (for example, terms and conditions, payments made to contractors and income received by the State) has to be published on the Internet page [www.rondasmexico.gob.mx](http://www.rondasmexico.gob.mx) or, once the contract has been signed, on the Internet page of the CNH.<sup>56</sup>

4.63. The LH calls for a local content requirement in allocations and contracts. In 2014, the Ministry of the Economy (SE) published the methodology for calculating the minimum percentage local content.<sup>57</sup> The LH stipulates that the local content will go on gradually increasing, from a minimum percentage of 25% in 2015 to 35% in 2025. The local content requirement will be less in the case of deep and ultra-deep water activities, owing to the type of technology required, which might not be available in Mexico.<sup>58</sup> In 2014, SENER, with account for the opinion of the SE, established thresholds for local content requirements, which differ according to whether it is a question of allocations or contracts, exploration or extraction and land or sea areas (Table 4.9). The SE is responsible for monitoring compliance with the local content requirements.

**Table 4.9 Local content in PEMEX allocations in Rounds 1 and 2 contracts**

Tender	Contract areas	Location	Exploration	Evaluation	Development (extraction)	Production
<b>Round One</b>						
<b>1st</b>	14	Shallow water	13%	n/a	25% 1 <sup>st</sup> year up to 35% in 2025	35%
<b>2nd</b>	5	Shallow water	n/a	17%	25% 1 <sup>st</sup> year up to 35% in 2025	35%
<b>3rd</b>	25	Land	n/a	22%	27% 1 <sup>st</sup> year up to 38% in 2025	38%
<b>4th</b>	12	Deep water	3% <sup>a</sup> , 6%, or 8%	3% <sup>a</sup> , 6%, or 8%	4%	10%

<sup>52</sup> SENER (2015), *Prospectiva de Petróleo Crudo y Petrolíferos 2015-2029*. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/44327/Prospectiva\\_Petroleo\\_Crudo\\_y\\_Petroliferos.pdf](https://www.gob.mx/cms/uploads/attachment/file/44327/Prospectiva_Petroleo_Crudo_y_Petroliferos.pdf).

<sup>53</sup> Online information from the Government of Mexico. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion\\_ampliada\\_de\\_la\\_Reforma\\_Energetica1.pdf](https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion_ampliada_de_la_Reforma_Energetica1.pdf); and Government Reform Portal. Viewed at: <http://reformas.gob.mx/reforma-energetica/que-es>.

<sup>54</sup> Article 28 and transitional Article 8 of the LH and Centre for Public Finance Studies (2014), *Reforma Energética: principales modificaciones al régimen fiscal en materia de hidrocarburos*, CEFP/011/2014. Viewed at: <http://www.cefp.gob.mx/publicaciones/documento/2014/septiembre/cefp0112014.pdf>.

<sup>55</sup> Online information from the CNH. Viewed at: <http://ronda1.gob.mx>.

<sup>56</sup> Online information from the Government of Mexico. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion\\_ampliada\\_de\\_la\\_Reforma\\_Energetica1.pdf](https://www.gob.mx/cms/uploads/attachment/file/10233/Explicacion_ampliada_de_la_Reforma_Energetica1.pdf); and information provided by the authorities.

<sup>57</sup> Article 46 of the LH and Decision establishing the methodology for measuring local content in allocations and contracts for the exploration and extraction of hydrocarbons, as well as for permits in the hydrocarbons industry (published in the Official Journal of 13 November 2014).

<sup>58</sup> Transitional Articles 46 and 24 of the LH and Decision establishing the local content values for 2015 and 2025 in connection with hydrocarbon exploration and extraction activities carried out in deep and ultra-deep waters (published in the Official Journal of 29 March 2016).

Tender	Contract areas	Location	Exploration	Evaluation	Development (extraction)	Production
<b>Round Two</b>						
1st	15	Shallow water	15%	17%	26% 1 <sup>st</sup> year up to 35% in 2025	35%
2nd	14	Land	26%	26%	27% 1 <sup>st</sup> year up to 38% in 2025	38%
<b>Partnerships</b>						
Trión	2	Deep water	3% <sup>a</sup> , 6%, or 8%	3% <sup>a</sup> , 6%, or 8%	4%	10%

a Initial period, first additional period and second additional period, respectively.

n/a: Not applicable.

Source: Information provided by the authorities.

4.64. The allocations and contracts also include clauses for giving preference to domestic suppliers as well as for promoting the hiring of Mexican nationals. Preference will be given to the purchase of goods, services and works from domestic suppliers if the conditions they offer (price, quality or delivery date, for example) are similar to those being offered by foreign suppliers (Article 128 of the LH). There are also other initiatives on the part of the SE to encourage the greater participation of domestic suppliers in the hydrocarbons sector (Box 4.4).

#### Box 4.4 Some measures to encourage the participation of domestic suppliers in the hydrocarbons sector

In 2014, PEMEX transferred the Public Trust Fund for Promoting the Development of Domestic Suppliers and Contractors for the Energy Industry to the SE. The Trust Fund is a fund that specializes in promoting the participation of domestic suppliers and the development of the production chains in the energy sector, through which financing is provided for those companies that do not meet the requirements of the energy industry with respect to regulations, standards and certification. The maximum amount of financing is between 50% and 70% of the total to be financed. While the Trust Fund was being managed by PEMEX, financing amounting to Mex\$25.9 million was granted for the benefit of 406 suppliers (52 projects). In 2015, 39 projects were concluded. As of November 2016, the new Trust Fund had not yet granted any financing, having confined itself to bringing to a conclusion the projects already existing at the time of transfer.

Source: WTO Secretariat, on the basis of SENER (2015), *3er informe de labores 2014-2015*, viewed at: [http://transparencia.energia.gob.mx/rendicion\\_cuentas/archivos/SENER%20-%203er\\_Informe\\_Labores-web.pdf](http://transparencia.energia.gob.mx/rendicion_cuentas/archivos/SENER%20-%203er_Informe_Labores-web.pdf); and information provided by the authorities.

4.65. PEMEX pays levies to the State for allocations. The Hydrocarbons Revenue Law of 2014 established the levy regime, which includes exploration, extraction and shared profit levies.<sup>59</sup> The Hydrocarbons Revenue Law also established the tax regime for PEMEX and the contractors. Since 2015, the taxes payable have been the ISR and a monthly exploration and extraction tax paid to the state and municipal authorities. In addition, PEMEX has to pay an annual dividend to the State.<sup>60</sup> The amount of the annual dividend corresponds to 30% of the previous year's after-tax income.<sup>61</sup> The dividend was to be paid for the first time in 2016 (on 2015 income), but it has been proposed that payment be suspended in view of PEMEX's financial situation following the fall in the international price of oil.<sup>62</sup> VAT is not paid on the execution of the contract but is paid on allocations.<sup>63</sup>

4.66. The Mexican Petroleum Fund for Stabilization and Development (FMP) was set up in 2014 to manage, invest and distribute the income derived from allocations and contracts.<sup>64</sup> In particular,

<sup>59</sup> Transitional Article 2 of the Hydrocarbons Revenue Law (Official Journal of 11 August 2014).

<sup>60</sup> Mexican Petroleum Law.

<sup>61</sup> A gradual decrease in the annual dividend is planned, to 15% of income by 2021 and 0% by 2026.

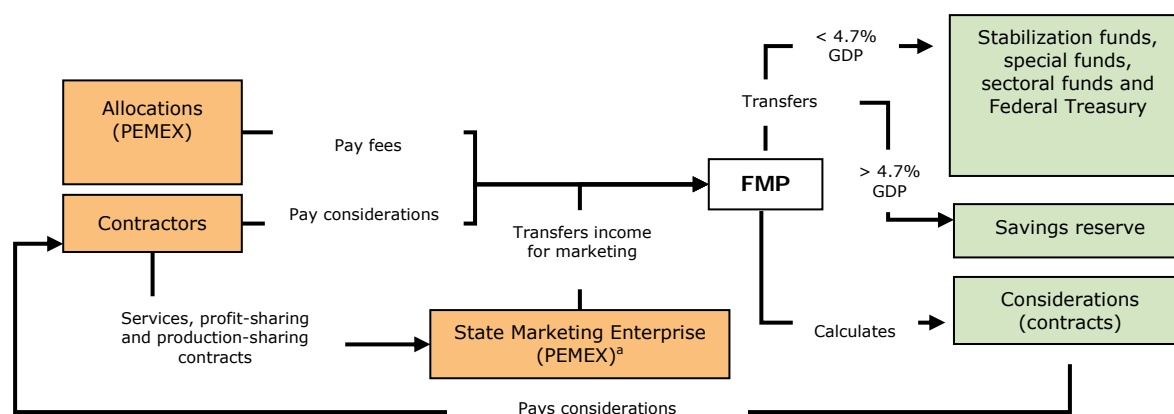
<sup>62</sup> Article 97 and transitional Article 14 of the Mexican Petroleum Law, and proposed Federal Revenue Law for fiscal year 2016. Viewed at: [http://www.transparenciapresupuestaria.gob.mx/work/models/Finanzas\\_Publicas/docs/paquete\\_economico/ilif/ilif\\_2016.pdf](http://www.transparenciapresupuestaria.gob.mx/work/models/Finanzas_Publicas/docs/paquete_economico/ilif/ilif_2016.pdf).

<sup>63</sup> Centre for Public Finance Studies (2014), *Reforma Energética: principales modificaciones al régimen fiscal en materia de hidrocarburos*, CEFP/011/2014. Viewed at: <http://www.cefp.gob.mx/publicaciones/documento/2014/septiembre/cefp0112014.pdf>.

<sup>64</sup> Law on the Mexican Petroleum Fund for Stabilization and Development (published in the Official Journal of 11 August 2014); transitional Article 14 of the Decree amending and supplementing various

the FMP is intended to build up and manage a long-term savings reserve. Although other funds for managing part of the revenue from petroleum existed before the reform, such as the Oil Revenue Stabilization Fund, they were of limited scope and an explicit savings mechanism had not been established. The FMP collects and distributes all the income (except for taxes) that the State receives for hydrocarbon extraction activities (Chart 4.1). The FMP also calculates the considerations, in accordance with the terms of each contract, and pays the contractors those which are due to them. The Bank of Mexico (Banxico) manages the FMP, while the SHCP supervises its operation. The FMP has been operating since 2015.<sup>65</sup> When the amount that the Fund receives exceeds 4.7% of GDP, a savings reserve begins to be built up. When the savings reserve reaches 3% of the previous year's GDP, 40% of the income collected will continue to be added to the savings reserve, while the rest will be transferred to the pensions system, to R&D projects or to fellowships.

**Chart 4.1 Functioning of the Mexican Petroleum Fund for Stabilization and Development**



a PEMEX is marketing hydrocarbons on behalf of the State until the end of 2017.

Source: Article 16 of the Law on the Mexican Petroleum Fund for Stabilization and Development.

4.67. A permit from SENER or the CRE is required to operate in the processing and logistical branches of the hydrocarbons industry (Table 4.10) and to install and manage integrated transport (by pipeline) and storage systems for natural gas, petroleum products and petrochemicals. Permits may be ceded, subject to authorization by SENER and the CRE.<sup>66</sup>

**Table 4.10 Permits for operating in the middle and subsequent phases of the hydrocarbons production process**

Activity	Type	Beneficiary	Duration	Governing body
<b>Middle phases of production</b>				
Transport of hydrocarbons, petroleum products and petrochemicals <sup>a</sup>	Permit	PEMEX and private companies	30 years, once renewable for 15 years	CRE <sup>b</sup>
Storage of hydrocarbons, petroleum products and petrochemicals				
Marketing of hydrocarbons, petroleum products and petrochemicals				

provisions of the Constitution in relation to energy; and online information from the FMP. Viewed at: <http://www.fmped.org.mx>.

<sup>65</sup> Online information from the FMP. Viewed at: <http://www.fmped.org.mx/%7B43A01066-DD67-B66F-60A7-D260F8D3171E%7D.pdf>.

<sup>66</sup> Article 53 of the LH and Article 50 of the Regulations on the activities referred to in Title 3 of the Hydrocarbons Law (Regulations published in the Official Journal of 31 October 2014).

Activity	Type	Beneficiary	Duration	Governing body
<b>Subsequent phases of production</b>				
Treatment and refining of petroleum	Permit	PEMEX and private companies	30 years, once renewable for 15 years	SENER
Processing and purification of natural gas				
Distribution of natural gas and petroleum products				CRE <sup>b</sup>
Retailing of natural gas and petroleum products				

a Only the transport of petrochemicals by pipeline requires a permit.

b In 2014 and 2015, SENER issued the permits for LPG (storage, transport and distribution by means other than pipeline, and retail sale).

Source: Hydrocarbons Law of 2014 and Regulations on the activities referred to in Title 3 of the Hydrocarbons Law.

4.68. Although there is a methodology for calculating local content requirements in permits, the authorities point out that these requirements are not being applied.

4.69. The company that obtains the permit to transport and distribute (by pipeline) and store hydrocarbons, petroleum products and petrochemicals must offer open access and equal terms and treatment to any user wishing to use its infrastructure.<sup>67</sup> The CRE and CENAGAS monitor the correct application of the rules of access. Since 2015, CENAGAS has managed and administered the natural gas transport (by pipeline) and storage system. CENAGAS also provides transport services, for which purpose, in 2015, PEMEX transferred its pipeline infrastructure to it.<sup>68</sup>

4.70. Although energy reform made it possible to invest directly in most hydrocarbons sector activities, in some cases the opening-up has been gradual. For example, where the marketing of hydrocarbons is concerned, the CNH has designated PEMEX to market hydrocarbons extracted under contract. PEMEX holds an exclusive, non-renewable contract ending on 31 December 2017. As from 2018, marketing will be contracted out under a tender process, in which the private sector will be able to participate. Where the retail sale of gasoline (petrol) and diesel is concerned, up until the end of 2015 gas (petrol) stations operated only under the PEMEX brand, but as from 2016 they began to operate under any brand and obtain supplies through PEMEX or another supplier. To promote competition, the LH stipulates that PEMEX must separate franchise contracts from supply contracts.<sup>69</sup> Likewise, as from 2016, petrol stations are allowed to cancel their franchise agreements with PEMEX.<sup>70</sup> Up until the end of 2015 only PEMEX could import petrol, diesel and LPG for marketing. However, as from 2015, SENER began granting private companies prior permits to import jet fuel and, since 2016, petroleum products.<sup>71</sup> According to the authorities, in October 2016 SENER had granted 473 prior import permits.

4.71. In 2016, the tariffs for transporting, storing and distributing petrol, diesel and LPG, together with their retail prices (PVP), were regulated (Table 4.11). From 1 January 2017, the price of these products will begin to be gradually liberalized by region; in some regions the price established by the SHCP will continue to be used. In those regions in which prices are determined by the market, the CRE will be able to regulate prices if the COFECE considers that there has been an unjustified increase. The retail prices of petrol and diesel are regulated under a price band system, introduced in 2016, which allows the price to fluctuate between a minimum and a maximum which, according to COFECE, can be regarded as a basis for establishing market conditions.<sup>72</sup> During the review

<sup>67</sup> Articles 70-75 of the LH, and PowerPoint Presentation by the CRE of 2 September 2015. Viewed at: <http://www.cre.gob.mx/documento/5597.pdf>.

<sup>68</sup> Articles 66-69 of the LH, Portal of the Office of the President of the Republic. Viewed at: <http://presidencia.gob.mx/reformaenergetica>; and online information from PEMEX. Viewed at: [http://www.pemex.com/saladeprensa/boletines\\_nacionales/Paginas/2015-099-nacional.aspx](http://www.pemex.com/saladeprensa/boletines_nacionales/Paginas/2015-099-nacional.aspx).

<sup>69</sup> Transitional Article 14 of the LH and CRE Resolution No. RES/635/2015 of 17 September 2015.

<sup>70</sup> Transitional Article 14 of the LH and CRE Resolution No. RES/156/2016 (published in the Official Journal of 22 March 2016).

<sup>71</sup> Transitional Articles 14 and 29 of the LH and Notice advising that, as from 1 April 2016, the Ministry of Energy will be able to grant petrol and diesel import permits to any interested party that complies with the legal provisions applicable (published in the Official Journal of 23 February 2016) and Decision establishing the classification and coding of hydrocarbons and petroleum products whose import and export are subject to a prior permit from the Ministry of Energy (published in the Official Journal of 29 December 2014; latest amendment published in the Official Journal of 30 December 2015).

<sup>72</sup> COFECE Opinion OPN-014-2015 of 7 January 2016. Viewed at: <http://www.cofece.mx:8080/cfresoluciones/docs/Mercados%20Regulados/V9/1/2429105.pdf>.

period, and prior to 2016, other methods of determining the retail prices of petrol and diesel were applied, including controlled monthly increments and the fixing of a maximum retail selling price.<sup>73</sup>

**Table 4.11 Price control in the hydrocarbons sector**

	Entity	Method of regulation	Duration
Tariffs for the transport, storage and distribution of natural gas	CRE	Maximum tariff	Indefinite
Tariffs for the transport and distribution of LPG	CRE	Maximum tariff	Indefinite
Retail prices of petrol and diesel	SHCP	Price band system	Up to 31.12.2016 <sup>a</sup>
Retail price of LPG	SE	Maximum price	Up to 31.12.2016

a Initially up to 31 December 2017.

Source: Transitional Articles 14 and 29 of the LH, Revenue Law for fiscal year 2017, Decision notifying the maximum price band for petrol and diesel for 2016 and other indicated measures (published in the Official Journal of 24 December 2015), and online information from the CRE, viewed at: <http://www.cre.gob.mx/articulo.aspx?id=478> and at: <http://www.cre.gob.mx/articulo.aspx?id=456>.

4.72. The CRE continues to regulate the first-hand selling prices of some hydrocarbons, until COFECE declares the existence of effective competition.<sup>74</sup> Currently, the first-hand selling price of natural gas, petroleum products and petrochemicals is regulated, whereas the selling price of crude oil was liberalized in 2015.<sup>75</sup> The purpose of regulation is to ensure a fair market by promoting competition and diversifying the options for buyers.<sup>76</sup>

4.73. Imports and sales of petrol and diesel are subject to the special tax on production and services (Section 3.1.5).

4.74. The CONACYT-SENER-Hydrocarbons Sectoral Fund is used for financing public, private and academic R&D projects in hydrocarbon exploration, exploitation and refining and in basic petrochemicals production, together with training programmes.<sup>77</sup>

#### 4.2.3.2 Market structure

4.75. On 1 January 2016, it was estimated that Mexico's remaining hydrocarbon reserves totalled 24,074 million barrels of crude oil equivalent (MMbcoe). Of these, 43% were proven reserves, 26% probable reserves and 31% possible reserves. The reserves level fell by 45% between 2012 and 2016. In 2016, PEMEX and 37 private companies were operating in the area of hydrocarbon exploration and extraction. Mexico has a 14,000 km network of oil and multipurpose pipelines and a 22.2 million barrel storage capacity.

4.76. PEMEX continues to control the sector's infrastructure, in particular the refineries and the transport and storage network.<sup>78</sup> In 2015, PEMEX transferred its gas pipeline network to CENAGAS, following the latter's establishment as a provider of gas transport services.<sup>79</sup> PEMEX

<sup>73</sup> Centre for Public Finance Studies (2014), *¿El qué, cómo y cuándo de la reforma energética?*, CEFP/015/2014. Viewed at: <http://www.cefp.gob.mx/publicaciones/documento/2014/septiembre/cefp0152014.pdf>; and Decision of the SHCP No. 016/2014 subjecting petrol and diesel to maximum retail prices (published in the Official Journal of 1 January 2015).

<sup>74</sup> First-hand sales are the first sales of hydrocarbons and petroleum products (produced locally or imported) made by PEMEX (or another company), on behalf of the State, to a third party in the domestic market. Article 28 and transitional Article 8 of the Hydrocarbons Law.

<sup>75</sup> Natural gas: CRE Resolution No. RES/996/2015 (published in the Official Journal of 19 February 2016); petroleum products and petrochemicals: CRE Resolution No. RES/717/2015 (published in the Official Journal of 16 December 2015); and CRE Decision No. A/044/2015 (published in the Official Journal of 18 September 2015).

<sup>76</sup> Online information from PEMEX. Viewed at: <http://www.gas.pemex.com.mx/PGPB/Productos+y+servicios/Gas+natural/Marco+regulatorio/Qu%C3%A9+son+las+VPM>.

<sup>77</sup> Online information from the National Science and Technology Council (CONACYT). Viewed at: <http://www.conacyt.mx/index.php/fondos-y-apoyos/fondos-sectoriales>.

<sup>78</sup> SENER (2016), *Diagnóstico de la industria de petrolíferos en México*. Viewed at: <http://energiaadebate.com/wp-content/uploads/2016/06/PechPetroliferos.pdf>.

<sup>79</sup> Online information from PEMEX. Viewed at: [http://www.pemex.com/saladeprensa/boletines\\_nacionales/Paginas/2015-099-nacional.aspx](http://www.pemex.com/saladeprensa/boletines_nacionales/Paginas/2015-099-nacional.aspx).

must allow access to the rest of its infrastructure for transporting hydrocarbons, which it has yet to do.<sup>80</sup>

4.77. Despite the reform, PEMEX continues to be Mexico's main producer of hydrocarbons and petroleum products (Table 4.12). During the review period, crude production continued to fall (Table 4.12). In 2015, the production level was 2,267 tbd, 11% below the level produced in 2012. The fall is attributable to the natural decline in reserves and PEMEX's limited financial and technical capacity for fully developing extraction activities.<sup>81</sup> The oil extracted in Mexico comes mainly from mature fields and high levels of investment and technology are required to be able to recover the remaining oil. Thus, the reserves located in deep and ultra-deep waters have not yet been exploited; PEMEX has drilled wells for exploration purposes but has been unable to exploit the deposits owing to the high cost of extraction.

**Table 4.12 Indicators for the hydrocarbons and derivatives industry, 2012-2016**

	2012	2013	2014	2015	2016 <sup>a</sup>
<b>Crude oil</b>	(thousand barrels per day, tbd)				
Production	2,548	2,522	2,429	2,267	2,183
PEMEX share, %	100	100	100	100	99.9
Domestic demand	1,211	1,229	1,161	1,063	986
Imports	0.0	0.0	0.0	0.0	0.0
Exports	1,298	1,190	1,148	1,177	1,182
<b>Natural gas</b>	(million cubic feet per day, MMcfd)				
Production	6,385	6,370	6,532	6,401	5,927
PEMEX share, %	100	100	100	100	99.4
Domestic demand	6,678	6,952	7,209	7,504	..
Imports	2,129	2,516	2,861	3,548	..
Imports as a % of domestic demand	32	36	40	47	..
Exports	7.8	12.4	12.5	12.5	..
<b>Petroleum products</b>	(tbd)				
Production	1,301	1,057	996	922	1,015
PEMEX share, %	100	100	100	100	100
Domestic demand	1,464	1,432	1,347	1,352	1,439
Imports	558	483	499	579	704
Imports as a % of domestic demand	38	34	37	43	49
Exports	85	114	140	134	193
<b>LPG</b>	(tbd)				
Production	204	206	205	174	157
PEMEX share, %	100	100	100	100	100
Domestic demand	291	287	287	283	206
Imports	86	80	85	105	127
Imports as a % of domestic demand	29	28	30	37	62
Exports	0.1	0.2	1.3	0.0	3.7

.. Not available.

a January-September.

Source: SENER Energy Information System, viewed at: <http://sie.energia.gob.mx>; SENER (2016), *Diagnóstico de la industria de petrolíferos en México*, viewed at: [http://www.gob.mx/cms/uploads/attachment/file/92090/DGP\\_Diagnostico\\_petroliferos\\_Mayo\\_2016\\_FINAL.pdf](http://www.gob.mx/cms/uploads/attachment/file/92090/DGP_Diagnostico_petroliferos_Mayo_2016_FINAL.pdf); and data provided by the authorities.

4.78. In the review period there was a fall in petroleum product production, which in 2015 reached its lowest level since 2012 (Table 4.12). The decline was due to operating problems in the refineries, which led to their operating at below capacity.<sup>82</sup> Between January and September 2016, 60% of the installed capacity of the national refinery system was in use. The fall in production resulted in an increase in imports, which supplied 49% of domestic demand (Table 4.12). Moreover, between 2012 and 2015 there was also a fall in the demand for petroleum products.

<sup>80</sup> CRE Resolutions Nos. RES/225/2016 and RES/226/2016, and online information from PEMEX. Viewed at: <http://www.pemex.com/nuestro-negocio/logistica/Paginas/temporada-abierta.aspx>.

<sup>81</sup> Online information from the Government of Mexico: Energy Reform. Viewed at: <http://reformas.gob.mx/reforma-energetica/que-es>.

<sup>82</sup> PEMEX (2016), *Informe anual 2015*. Viewed at: [http://www.pemex.com/acerca/informes\\_publicaciones/Documents/Informe-Anual/Informe\\_Anual\\_2015.pdf](http://www.pemex.com/acerca/informes_publicaciones/Documents/Informe-Anual/Informe_Anual_2015.pdf).



The greatest fall was recorded in the demand for fuel oil (-65%) following the implementation of energy source substitution programmes in electricity production.<sup>83</sup>

4.79. Natural gas continues to be an important component of the Mexican energy mix. Domestic demand for natural gas rose from 6,678 to 7,504 MMcf between 2012 and 2015 (Table 4.12). Natural gas is used mainly in the electricity sector (51% of total demand), followed by the petroleum sector (29%) and the industrial sector (18%).<sup>84</sup> The gas pipeline network comprises more than 9,000 km of pipe and it is planned to lay an additional 5,000 km before 2019.<sup>85</sup>

#### 4.2.4 Electricity

##### 4.2.4.1 Regulatory framework

4.80. The Law on the Electricity Industry (LIE) of 2014, which repealed the Law on the Public Electric Power Service of 1975, regulates the Mexican electricity sector. The Law introduced fundamental changes, ending the CFE's monopoly on electricity generation and allowing private sector investment. Since the energy reform, the State has retained only control over the "strategic" activities of transmission and distribution, which are carried out by the CFE. Another "strategic" activity is the use of radioactive minerals for generating nuclear power, so that the State can generate electricity in nuclear power stations. However, the private sector may participate in strategic activities under contracts concluded with the State, but not under concessions. Public and private enterprises may participate in the marketing (supply) of electricity.

4.81. The sector's main regulatory institutions are SENER, the CRE and CENACE (Table 4.6). CENACE is responsible for planning and supervising the national electrical system (SEN). The CFE, as a State-owned production enterprise (EPE), has been subject to payment of the ISR and an annual dividend based on its profits since 2015.<sup>86</sup>

4.82. The electricity sector is composed of:

- a. the generating plants, which are classified according to their output (small power stations are those which produce less than 0.5 MW);
- b. the transmission network, operated by the CFE;
- c. suppliers, classified as suppliers of qualified services (SSC), basic services (SSB) and last resort and non-trading suppliers; in 2016, the CFE was the only SSB in the Mexican electricity market; and
- d. the distribution network operated by the CFE.

4.83. End users are classified as qualified or basic, according to their level of consumption. The qualified users are large users whose consumption exceeds the threshold established by SENER, which has been gradually falling, from 3 MW as at August 2015 to 2 MW as at August 2016 and to 1 MW since then. The rest are basic users (mostly residential or commercial users).<sup>87</sup>

4.84. To produce and market electricity in Mexico it is necessary to obtain a permit from the CRE, which is issued for a maximum period of 30 years. Small power stations are exempted from this

<sup>83</sup> SENER (2016), *Diagnóstico de la industria de petrolíferos en México*. Viewed at: <http://energiaadebate.com/wp-content/uploads/2016/06/PechPetroliferos.pdf>; and SENER (2015), *Prospectiva de petróleo crudo y petrolíferos 2015-2029*. Viewed at: [http://www.gob.mx/cms/uploads/attachment/file/92090/DGP\\_Diagn\\_stico\\_petrol\\_feros\\_Mayo\\_2016\\_FINAL.pdf](http://www.gob.mx/cms/uploads/attachment/file/92090/DGP_Diagn_stico_petrol_feros_Mayo_2016_FINAL.pdf).

<sup>84</sup> SENER (2014), *Prospectiva de gas natural y gas L.P. 2014-2018*. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/44327/Prospectiva\\_Petroleo\\_Crudo\\_y\\_Petroliferos.pdf](https://www.gob.mx/cms/uploads/attachment/file/44327/Prospectiva_Petroleo_Crudo_y_Petroliferos.pdf); and information provided by the authorities.

<sup>85</sup> Online information from CENAGAS. Viewed at: <http://www.cenagas.gob.mx/fag.html> and at: [http://www.cenagas.gob.mx/res/plan\\_quinquenal/documento\\_plan\\_quinquenal\\_2015.pdf](http://www.cenagas.gob.mx/res/plan_quinquenal/documento_plan_quinquenal_2015.pdf).

<sup>86</sup> Article 99 of the Law on the Federal Electricity Commission (published in the Official Journal of 11 August 2014).

<sup>87</sup> Law on the Electricity Industry, and online information from the CRE. Viewed at: <http://www.cre.gob.mx/documento/fag-regulacion-electricos.pdf>.

requirement, provided that they do not sell their output directly to qualified users (large buyers).<sup>88</sup> The LIE requires the vertical and horizontal separation of the activities of generation, transmission, distribution, marketing and input supply: one and the same enterprise may not engage in several of these activities, unless it sets up subsidiaries.<sup>89</sup> In accordance with the provisions of the LIE, in 2016 the CFE established subsidiary production enterprises (EPS) for electricity generation (CFE Generación), distribution (CFE Distribución), transmission (CFE Transmisión) and supply (CFE Suministrador de Servicios Básicos).<sup>90</sup>

4.85. Before the reform, the private sector could only participate in certain electricity-generating projects. The CRE granted permits to private companies for self-supply, co-generation and small-scale production (up to 30 MW) projects, as well as for them to operate as independent producers, subject to the requirement that the output would be sold to the CRE or exported. Since the reform, the private sector has been able to participate in generation. In accordance with the LIE, the permits granted under the former law remain in force, although the holders could opt to avail themselves of the new regulatory provisions.<sup>91</sup>

4.86. The CFE provides transmission and distribution services and CENACE is charged with drawing up plans for the expansion of the transmission network. The CFE is authorized to enter into contracts with private companies in order that, either individually or in partnership with the CFE, they may finance, install, maintain and operate infrastructure. Contracts are awarded by means of competitive procedures which ensure free competition. Contract execution is subject to a minimum percentage of local content, determined for each contract by SENER, after obtaining the opinion of the SE.<sup>92</sup> The contracts must allow the CFE to use the technology and experience of private companies that employ the best practice in order to reduce operating costs and power losses. In 2016 (November), no contract with the private sector had been signed.

4.87. Generating plants need an interconnection contract issued by the CRE and signed with the transporters, in accordance with the provisions of the LIE (Article 18). CENACE establishes the interconnection requirements for new generating plants and is responsible for ensuring that generating companies have open access to the transmission and distribution networks on equal terms.<sup>93</sup> Following the reform, new interconnection criteria were issued to speed up the proceedings.<sup>94</sup>

4.88. The LIE established a new wholesale electricity market (MEM) which has been in operation since 2016 (Chart 4.2). The CENACE operates the MEM. During the first year of operation, SENER will oversee the operations of the MEM; thereafter they will be overseen by the CRE. In order to participate in the MEM, it is necessary to sign a participant's contract with CENACE and, moreover, to comply with the requirements for operating in the MEM.<sup>95</sup> For example, participants have to lodge security to support their operations in the event of non-payment.<sup>96</sup> In August 2016, eight generating companies (of which two were private), three SSCs and one SSB (the CFE) were operating in the MEM.<sup>97</sup>

<sup>88</sup> Power stations used for self-supply likewise do not require a permit (Articles 17 and 46 of the LIE and Articles 16 and 20 of the Regulations implementing the LIE).

<sup>89</sup> Article 8 of the LIE, and Raquel Bierzwinsky, David Jiménez and Javier Felix (2014), *Un nuevo mercado eléctrico en México*. Viewed at: [http://www.chadbourne.com/sites/default/files/publications/nuevo\\_mercado\\_electrico\\_mexico\\_0914.pdf](http://www.chadbourne.com/sites/default/files/publications/nuevo_mercado_electrico_mexico_0914.pdf).

<sup>90</sup> The establishing Decisions were published in the Official Journal of 29 March 2016.

<sup>91</sup> WTO document WT/TPR/S/279/Rev.1 of 10 July 2013, transitional Article 2 of the LIE, and online information from the CRE. Viewed at: <http://www.cre.gob.mx/documento/fag-regulacion-electricos.pdf>.

<sup>92</sup> In November 2016, the SE was in process of drafting the methodology for measuring the local content percentage. The local content requirement does not apply if there are trade agreements that otherwise require. Articles 4 and 30 of the LIE, and online information from the CRE. Viewed at: <http://www.cre.gob.mx/documento/fag-regulacion-electricos.pdf>.

<sup>93</sup> Articles 33 and 107-108 of the LIE.

<sup>94</sup> The criteria were published in the Official Journal of 2 June 2015; and SENER (2015), *Prospectiva del Sector Eléctrico 2015-2029*. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/44328/Prospectiva\\_del\\_Sector\\_Electrico.pdf](https://www.gob.mx/cms/uploads/attachment/file/44328/Prospectiva_del_Sector_Electrico.pdf).

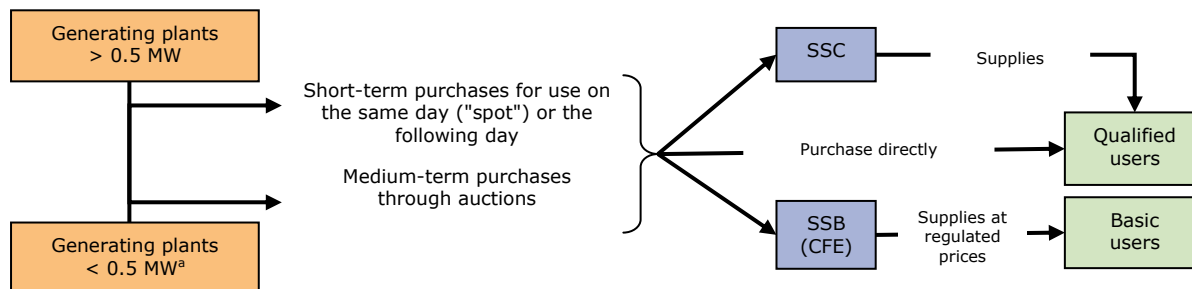
<sup>95</sup> According to the authorities, nine operating manuals constituting the Rules of Operation of the MEM have been published.

<sup>96</sup> The requirements are contained in the operating manuals.

<sup>97</sup> There were six generators, seven SSCs and three qualified users waiting to enter the MEM.

4.89. In the MEM, forward electricity contracts are concluded for the purchase and sale of electrical energy and associated products (for example, related services and financial transmission rights). The CFE is obliged to purchase electricity under electricity hedging contracts allocated by auction, to ensure the best prices for basic users. Qualified users (large users) may purchase electricity from an SSC or directly from the power stations, without an intermediary, that is, without requesting the services of the SSCs. SENER has reduced the threshold for classification as a qualified user to enable more users to purchase energy directly or through an SSC.<sup>98</sup>

**Chart 4.2 Energy transactions on the wholesale electricity market**



a Small generating plants participate through a supplier. They can also sell their output directly to qualified users, but require permission from the CRE.

Source: WTO Secretariat, on the basis of Articles 96 and 98 of the LIE, Article 16 of the Regulations implementing the LIE, and online information from the CRE, viewed at: <http://www.cre.gob.mx/documento/faq-regulacion-electricos.pdf>.

4.90. The CRE and the SHCP regulate the prices for transmission, distribution and basic supply and last resort services (Table 4.13).<sup>99</sup>

**Table 4.13 Tariff regulation in the electricity sector in 2016**

Tariffs	Entity	
Transmission	CRE	The tariff is fixed by voltage level and type of customer (generators, SSCs, SSBs, qualified users). The transmission tariffs established by the CRE for the period 2016-2018 are determined on the basis of the quantities injected or extracted by network users, weighted by the voltage level, depending on whether the users are generators or consumers (qualified users or SSCs and SSBs). The tariffs are divided into two blocks according to the voltage level (voltage greater than or equal to 220 kV and less than 220 kV); 30% of the tariff is charged to generators and 70% to consumers.
Distribution	CRE	The tariff is fixed by distribution area, voltage level and level of demand. In order to determine the tariffs, the "income required" (IR), which the CFE is authorized to receive for providing the service, is fixed. The IR is then allocated to the different types of user, generating tariffs which are adjusted annually in accordance with inflation, operating costs and economies of scale. <sup>a</sup>
Basic supply	CRE/SHCP	The tariff is fixed by group of customers (domestic, industrial, agricultural, commercial or industrial) and level of consumption. According to the LIE, the CRE is to issue and apply the methodology for determining the calculation and adjustment of the basic supply tariffs. <sup>b</sup> Until the CRE has fixed the tariffs, the tariff decisions issued by the SHCP will remain in force.
Supply of last resort	CRE	The CRE is working out the methodology for determining these tariffs (November 2016).

a This method is being used to determine the annual distribution tariffs during the period 2016-2018.

b The Federal Executive will be able to determine a tariff-fixing mechanism different from that established by the CRE, for specific groups of users.

Source: Calculation protocols for CRE tariffs, viewed at: <http://www.cre.gob.mx/documento/5846.pdf> and at: <https://www.gob.mx/cre/es>. Online information from the CFE, viewed at: <http://www.cfe.gob.mx/casa/Conocetutarifa/Paginas/Acuerdos-que-autorizan-o-modifican-tarifas.aspx>; and information provided by the authorities.

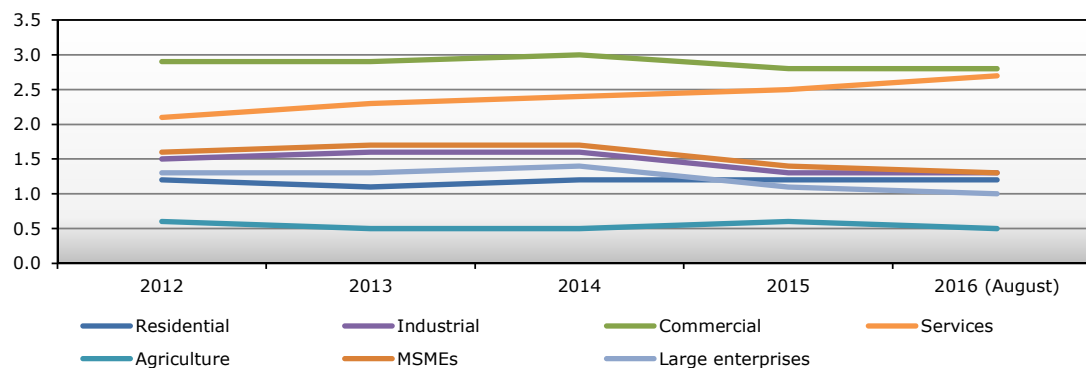
4.91. In 2015, the support granted for electricity consumption amounted to Mex\$91,433 million. Of this sum, 89.3% was destined for the residential consumer, 10.4% for the agricultural sector, and the rest for the industrial and services sectors. There were no major fluctuations in the average price of electricity between 2012 and 2016 (Chart 4.3).

<sup>98</sup> Articles 96 and 98 of the LIE, Article 16 of the Regulations implementing the LIE. Online information viewed at: <http://www.cre.gob.mx/documento/faq-regulacion-electricos.pdf>.

<sup>99</sup> Article 137 of the LIE, and online information from the CFE. Viewed at: <http://www.cfe.gob.mx/casa/Conocetutarifa/Paginas/Acuerdos-que-autorizan-o-modifican-tarifas.aspx>.

**Chart 4.3 Average price of electricity, 2012-2016**

Pesos/kWh at current prices



Source: Data from SENER, viewed at: <http://egob2.energia.gob.mx/portal/electricidad.html>; SENER Energy Information System, viewed at: <http://sie.energia.gob.mx>; and information provided by the authorities.

4.92. The price stability in the domestic and agricultural sectors is mainly attributable to the assistance granted, which made it possible to avoid major fluctuations in the average price of electricity between 2012 and 2014.<sup>100</sup> On the other hand, the downward trend in average electricity prices in the industrial and commercial sectors is due to the gradual replacement of fuels such as fuel oil by lower-cost and more environmentally friendly sources (natural gas and hydroelectric plants, for example).<sup>101</sup> According to the authorities, between September 2012 and September 2016, real reductions of between 8.6% and 20% in average electricity prices were observed.<sup>102</sup>

4.93. The LIE (Articles 113-116) made it obligatory for distributors and suppliers of basic services to provide services in rural communities and marginalized zones. They may resort to the Universal Electricity Service Fund, set up in 2014, to obtain financing for electrification projects in marginalized rural and urban areas selected by SENER.<sup>103</sup>

4.94. Since 2012 there have been initiatives to promote the use of clean or renewable energies in electricity production. These initiatives are governed by the LIE, the Law on Geothermal Energy (LEG) of 2014 and the Law on Energy Transition (LTE) of 2015. The LIE stipulated the introduction of clean energy certificates (CEL) for promoting the use of renewable sources in electricity generation. The Law provides for SENER to determine an annual minimum energy percentage that must come from renewable sources. The CRE will allot generating companies a CEL for every MWh generated from renewable sources. The certificates will be sold in the MEM to SSCs, SSBs and qualified users. The Law on Energy Transition (LTE) of 2015 establishes a four-year transition period, starting from 2018, during which a certain flexibility will be allowed in acquiring CELs.<sup>104</sup> The LTE stipulates that SENER is to set a target of 25% clean energy in electricity generation for 2018, 30% for 2021 and 35% in 2024.<sup>105</sup> It is hoped to increase the clean energy share to 40% of the total energy supply in 2035 and 50% in 2050.<sup>106</sup> The LTE also establishes the Transition

<sup>100</sup> The increase or decrease in subsidies depends on the trend in the prices of the fuels used for generating electricity; the domestic and agricultural tariffs are kept constant, while the subsidies vary in an inverse ratio to fuel prices.

<sup>101</sup> SENER (2015), *Prospectiva del Sector Eléctrico 2015-2029*. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/44328/Prospectiva\\_del\\_Sector\\_Electrico.pdf](https://www.gob.mx/cms/uploads/attachment/file/44328/Prospectiva_del_Sector_Electrico.pdf).

<sup>102</sup> Residential tariffs increased nominally by 4% during the period, which corresponds to a real reduction of 8.6%; commercial tariffs experienced a nominal increase of 0.1% and a real reduction of 12%, agricultural tariffs a nominal reduction of 9% and a real reduction of 20%, and industrial tariffs a nominal reduction of 4.8% and a real reduction of 16.3%.

<sup>103</sup> SHCP Press Release No. 073/2014 of 30 September 2014. Viewed at: [http://www.shcp.gob.mx/Biblioteca\\_noticias\\_home/comunicado\\_073\\_2014.pdf](http://www.shcp.gob.mx/Biblioteca_noticias_home/comunicado_073_2014.pdf).

<sup>104</sup> Articles 68-74 and transitional Article 22 of the Law on Energy Transition.

<sup>105</sup> Law on Energy Transition (published in the Official Journal of 24 December 2015), which repeals the Law for the development of renewable energies and the financing of the energy transition and the Law for the sustainable supply of energy.

<sup>106</sup> Online information from the CRE. Viewed at: <http://www.cre.gob.mx/documento/faq-regulacion-electricos.pdf>.

Strategy to Promote the Use of Cleaner Technologies and Fuels, the National Programme for a Sustainable Energy Supply and the Special Programme for Energy Transition as planning instruments of the national policy on energy transition. In these instruments the financial incentives that will be granted to promote energy efficiency will have to be defined.

4.95. The Law on Geothermal Energy (LEG) of 2014 regulates the activities of surveying, exploration and exploitation in areas with geothermal potential, which can be carried out by both the CFE and private companies. To commence surveying activities the only requirement is to register with SENER, whereas to engage in exploration activities it is necessary to obtain a permit from SENER, which is granted for a period of three years and a maximum area of 150 km<sup>2</sup>. SENER directly awarded the CFE concessions to exploit 13 geothermal areas. The CFE may enter into partnerships with the private sector to develop these projects. SENER has also granted the CFE exploration permits.<sup>107</sup>

4.96. There are two sectoral funds that support R&D in development projects for the diversification of energy sources, the use of renewable energy and energy efficiency. The CFE-CONACYT Sectoral Fund for Research and Technological Development in Energy is used to finance projects carried out by public, private and academic institutions, and the CONACYT-SENER Sectoral Fund for Energy Sustainability only assists public and private institutions.

#### 4.2.4.2 Market structure

4.97. At the end of 2015 there were 1,153 power stations in Mexico, with a total generating capacity of 68,044 MW (4% more than in 2012). The CFE accounted for 81% of capacity. Most of the electricity (73%) was generated in fossil-fuel burning stations.<sup>108</sup> However, it is possible to observe a certain decrease in the use of fuel oil, which is being replaced by natural gas and clean and renewable energies.<sup>109</sup>

4.98. Electricity consumption grew by 5% between 2012 and 2015 and by the end of the period had reached 228,232 GWh. After declining in 2013 and 2014, electricity generation recovered to 309,552 GWh in 2015. In the same year, the CFE produced 84% of the total electricity generated in Mexico. The number of users rose from 36.4 million to 39.7 million between 2012 and 2015; 89% are residential customers.<sup>110</sup> The CFE supplies electricity to all the basic users.

4.99. The CFE announced a series of improvements in the electricity service between 2012 and 2015, which resulted in a reduction in the percentage of energy losses from 16% to 13.1%, thereby cutting the CFE's losses from Mex\$52 million to Mex\$42 million. However, according to the CFE, losses remain high.<sup>111</sup>

4.100. The length of the transmission network has increased by 9,000 km since 2012 to reach 60,000 km.<sup>112</sup> In 2016, the first contract for private sector participation in the building and operation of transmission lines, in partnership with the CFE, was put out to tender.<sup>113</sup>

<sup>107</sup> Law on Geothermal Energy (published in the Official Journal of 11 August 2014) and its implementing Regulations (published in the Official Journal of 31 October 2014), CFE Press Bulletin of 26 July 2015.

<sup>108</sup> Data from SENER. Viewed at: <http://egob2.energia.gob.mx/portal/electricidad.html>.

<sup>109</sup> SENER (2015), *Prospectiva del Sector Eléctrico 2015-2029*. Viewed at: [https://www.gob.mx/cms/uploads/attachment/file/44328/Prospectiva\\_del\\_Sector\\_Electrico.pdf](https://www.gob.mx/cms/uploads/attachment/file/44328/Prospectiva_del_Sector_Electrico.pdf); and SENER Energy Information System. Viewed at: <http://sie.energia.gob.mx>.

<sup>110</sup> Data from SENER. Viewed at: <http://egob2.energia.gob.mx/portal/electricidad.html>; and information provided by the authorities.

<sup>111</sup> CFE (2016), *Informe Anual 2015*. Viewed at: <http://www.cfe.gob.mx/inversionistas/informacionareguladores/Documents/Informe%20Anual/Informe-Anual-2015-CFE-Acc.pdf>.

<sup>112</sup> SENER Energy Information System. Viewed at: <http://sie.energia.gob.mx>.

<sup>113</sup> SENER Press Bulletin No. 047 of 20 April 2016. Viewed at: <https://www.gob.mx/sener/prensa/mexico-prepara-las-primeras-licitaciones-de-lineas-de-transmision-con-participacion-de-capital-privado-en-asociacion-con-la-cfe>.

### 4.3 Manufacturing

#### 4.3.1 Main features

4.101. Manufacturing continues to be of great importance for the Mexican economy and the sector is highly diversified. In 2015, manufacturing industry accounted for 18.8% of gross value added at basic prices. Between 2011 and 2015, the sector grew at an average annual rate of 3.0% in real terms, higher than the rate for GDP (2.5%). Manufacturing exports accounted for almost 85% of all Mexico's exports in 2015 (in terms of the WTO classification of non-agricultural products). Between 2011 and 2015, Mexican exports of manufactured goods grew at an average rate of 5.1%. The manufacturing sector's productivity index was 106.3 in July 2016, some 6.3% above the 2008 level. Installed capacity utilization for July 2016 was 80.2%, lower than the 81.3% recorded for June 2012 and cited in the previous report.<sup>114</sup>

4.102. The Mexican manufacturing sector is characterized by its diversity. In 2015, in terms of value added, the main manufacturing subsector was that of transport equipment (30.6% of the total), followed by the food industry (16.7% of the total), the chemical industry (10.7%), the basic metal industries (7.3%) and petroleum products (6.4% of the total), as reflected in Table 4.14. Between 2011 and 2015 the average annual growth of value added in real terms was 6.8%. The most dynamic industries were transport equipment manufacturing and the computer and communication equipment industries. The chemical industry and the textile and clothing sector grew at below-average rates, while the petroleum products industry contracted.

**Table 4.14 Value of the products produced by the manufacturing industry, by subsector of economic activity**

(Mex\$ billion, at constant 2008 prices)

Year	Total	Food industry	Beverages and tobacco industry	Textile inputs and textile finishing	Textile products, other than clothing	Clothing
2010	4,151.3	728,304.3	228,678.0	42,357.0	9,546.4	32,312.5
2011	4,638.2	804,549.3	248,241.5	47,149.8	10,180.9	34,697.4
2012	5,125.3	885,316.3	264,507.9	50,032.3	10,687.5	36,925.5
2013	5,222.8	898,727.8	269,274.1	45,407.4	10,037.6	38,529.8
2014	5,525.7	913,132.8	286,984.0	44,787.7	11,117.4	38,698.0
2015 P/	5,771.6	964,072.1	314,976.2	49,724.1	11,849.2	41,070.1
Year	Leather and hide products and imitations	Wood industry	Paper industry	Printing and related industries	Petroleum and carbon products	Chemical industry
2010	27,614.7	8,339.6	126,288.9	15,781.9	425,757.9	586,326.5
2011	29,143.2	9,088.2	128,059.5	17,556.8	480,653.6	626,687.8
2012	31,789.1	10,327.3	138,219.5	17,737.9	556,625.1	639,689.8
2013	32,526.1	10,993.9	142,874.7	18,636.7	579,205.8	665,543.6
2014	33,238.7	10,684.0	148,148.1	19,160.1	558,261.8	680,755.8
2015 P/	37,721.6	11,867.8	162,769.4	21,012.9	368,280.9	626,337.2
Year	Plastics industry	Non-metallic mineral products	Basic metal industries	Metal products	Machinery and equipment	Computer and communication equipment
2010	140,322.0	140,403.7	350,066.5	142,962.1	83,431.8	38,806.2
2011	158,604.9	149,506.1	410,885.3	153,186.7	96,850.4	43,861.8
2012	177,634.6	160,125.2	432,115.1	167,744.6	107,234.9	43,426.3
2013	175,232.4	159,018.7	388,334.5	162,105.9	104,943.4	43,569.2
2014	188,692.0	169,575.0	420,183.9	177,017.4	105,006.0	51,896.2
2015 P/	212,561.6	191,190.8	418,656.4	191,810.6	114,133.7	60,228.3
Year	Electrical equipment	Transport equipment	Furniture manufacturing	Other manufacturing industries		
2010	126,540.4	855,260.2	18,374.9	23,804.3		
2011	129,335.1	1,016,003.9	18,663.1	25,308.9		
2012	133,131.7	1,214,534.5	20,831.5	26,655.7		
2013	129,844.1	1,300,955.9	20,001.8	27,081.9		
2014	136,597.8	1,484,145.3	19,392.6	28,217.2		
2015 P/	155,687.4	1,765,068.2	21,326.5	31,242.9		

Source: INEGI and Office of the President of the Republic (2016), *Anexo Estadístico al Cuarto Informe de Gobierno*, August, pp. 381 and 382. Viewed at: [https://framework-gb.cdn.gob.mx/cuartoinforme/4IG\\_Anexo\\_Estadistico\\_TGM\\_26\\_08\\_16\\_COMPLETO.pdf](https://framework-gb.cdn.gob.mx/cuartoinforme/4IG_Anexo_Estadistico_TGM_26_08_16_COMPLETO.pdf).

<sup>114</sup> Data from INEGI. Viewed at: <http://www.inegi.gob.mx>.

4.103. The main manufacturing exports are automotive industry products, which account for around one third of the total, office and telecommunications equipment, and electrical and non-electrical machinery (see Section 1.3). If food and beverages are included, manufacturing exports accounted for more than 90% of the total in 2015. Some 80% of manufacturing exports go to the United States.

4.104. The automotive industry accounted for 3.2% of GDP in 2015. Mexico is the world's seventh-ranking vehicle producer, with an output of 3.39 million vehicles in 2015, and was its fourth-ranking exporter, with 2.76 million units. In 2014, cumulative foreign direct investment in the sector totalled US\$4,400 million.<sup>115</sup> During the review period, the aeronautical sector continued to develop. The sector's exports tripled between 2009 and 2014, when they reached US\$6,366 million. In 2014, the country had 302 aerospace companies and supporting entities, located mainly in five states and providing employment for some 45,000 people.<sup>116</sup>

4.105. Tariff protection for manufacturing is relatively low, with an average MFN tariff of 4.6% in 2016 (WTO definition for non-agricultural products). Mexico maintains unilateral quotas for imports of certain manufactured products, including polyester filament, motor vehicles and toys (Table A3.3).

4.106. Despite its importance and successes, the Mexican manufacturing industry continues to face a series of challenges, such as achieving a greater diversification of goods and products. Although Mexico maintains a network of FTAs, the manufacturing sector still depends to a large extent on demand from the United States, the main consumer of Mexican manufactured goods. A recent study by the Bank of Mexico found evidence that synchronization between the two economies is being maintained and that the correlation between Mexico's manufacturing exports to the United States and that country's manufacturing production is high, and even increased between 2014 and 2015.<sup>117</sup> As far as products are concerned, despite their diversity, the sector's exports continue to depend in good measure on the automotive industry and related industries, although in recent years the aeronautical industry has undergone rapid development. In the previous report, it was noted that work on increasing the sector's productivity had been recommended as a partial remedy. However, although the overall productivity of the manufacturing industry grew between 2010 and 2012, it contracted in 2013 and 2014 (by 0.96% and 0.43%, respectively).<sup>118</sup> In addition, in a joint effort between industry, business organizations and government, a Catalogue of Industry Suppliers in Mexico (CAPIM) has been produced to provide a platform for recording supply requirements for the purpose of achieving an efficient business linkage between potential buyers and industry throughout the country. The compilation of the CAPIM was facilitated by the implementation in 2014 and 2015 of four initiatives, namely: the Automotive Industry Suppliers Development Programme (PDPA); the Evaluation of the Degree of Maturity of the Industry Supply Chain in Mexico (North and West Section); and the Comprehensive Project for Mapping Productive Capacities and the Articulation of the Industry Supply Chain in Mexico.

4.107. The manufacturing industry is an important beneficiary of National Foreign Trade Bank (Bancomext) programmes. Although companies from all economic sectors may apply for loans from Bancomext, the latter has adopted a business model that promotes sectors considered strategic by reason of their substantial contribution to export and foreign currency generation. These include various manufacturing industry sectors: transport and logistics, automotive, electrical-electronic components, and maquila. At 30 June 2016, the loan portfolio balances for these sectors were Mex\$8,948 million, Mex\$9,175 million, Mex\$4,781 million and Mex\$24,617 million, respectively. The portfolio balance for the cement industry sector was Mex\$5,549 million, that for metal products Mex\$5,186 million and that for food and beverages Mex\$3,323 million. In 2016, total Bancomext financing under manufacturing in the business portfolio was Mex\$100,999 million.

<sup>115</sup> ProMexico (2015), *Reporte sobre comercio e inversión*, April-June 2015. Viewed at: <http://www.promexico.mx/documentos/reportes-com-inv/reportes-comercio-inversion-abril-junio-2015.pdf>.

<sup>116</sup> Online information from ProMexico. Viewed at: <http://mim.promexico.gob.mx>.

<sup>117</sup> Bank of Mexico (2015), *Compilation of Quarterly Reports Released in 2015. Box 3: Synchronization of the Mexican and U.S. Manufacturing Production*. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/anual/%7B2E95603A-807F-5308-402E-1D0CD179C999%7D.pdf>.

<sup>118</sup> According to data from INEGI, total manufacturing industry productivity declined at an average annual rate of 0.32% between 1991 and 2014. Online information from INEGI. Viewed at: <http://www3.inegi.org.mx/sistemas/tabuladosbasicos/LeerArchivo.aspx?ct=46230&c=33687&s=est&f=4>.

### 4.3.2 IMMEX maquila and manufacturing sector

4.108. The maquila industry continues to play an important role in Mexico's manufacturing sector and economy. The Manufacturing, Maquila and Export Services Industry (IMMEX) programme provides for the temporary importation of goods required for use in an industrial or services process involving the manufacturing, processing or repair of products of foreign origin imported temporarily for export (Section 3.4.4).

4.109. In 2015, the manufacturers operating under the IMMEX programme reported US\$145,754 million of income from the foreign market; out of this total, 80.5% corresponded to sales of products manufactured with own raw materials, while 19.1% involved maquila, sub-maquila or re-manufacturing. On average, the enterprises included in the IMMEX programme provided employment for 2.14 million workers during the period 2011-January to May 2016 (Table 4.15). Income from the foreign market under the IMMEX programme grew by 1.4% year on year between 2011 and 2015, accounting on average for 58.8% of the total income received by the economic units with IMMEX programmes. The geographical distribution and the level of concentration in the manufacturing subsectors in which companies with IMMEX programmes operate remained stable during the review period. The total number of companies taking advantage of the IMMEX programme fell slightly, from 5,091 in 2011 to 5,021 in May 2016. During the review period, a greater use of imported inputs was also observed: the contribution of domestic inputs to the total went from a maximum of 29.8% in 2013 to 24.8% in the period up to May 2016, the decline being mainly attributable to the rise in inputs imported by the transport equipment manufacturing subsector.

**Table 4.15 Structural indicators of the manufacturing companies under the IMMEX regime, 2011-2016**

	2011	2012	2013	2014 <sup>a</sup>	2015 <sup>a</sup>	2016 <sup>a</sup>
Companies (number) <sup>b</sup>	5,091	5,118	5,135	5,034	5,022	5,021
Total income (US\$ million)	209,150	224,365	244,664	252,222	241,722	93,938
Income from the foreign market (%)	56.54	57.68	58.22	59.38	60.30	60.69
Income from the domestic market (%)	43.46	42.32	41.78	40.62	39.70	39.31
Total inputs (US\$ million)	189,103	208,274	199,915	242,102	245,545	97,925
Imported inputs (%)	71.10	69.59	70.12	72.21	73.53	75.16
Domestic inputs (%)	28.90	30.41	29.88	27.79	26.47	24.84
Wages and salaries (US\$ billion)	12,086	12,404	13,930	14,849	13,767	5,347
Persons employed (million) <sup>a</sup>	1.86	1.97	2.10	2.19	2.32	2.39

a Preliminary figures.

b Annual averages. The 2016 information corresponds to the average for January to May.

Source: INEGI. *Estadística de la Industria Manufacturera, Maquiladora y de Servicios de Exportación*.

## 4.4 Services

### 4.4.1 Financial services

4.110. Since the previous review in 2012 the Mexican financial system has performed well. Growth has been driven mainly by commercial (multiple) banking, pension fund management firms (AFORES), the insurance sector and investment funds. As of 30 September 2016, the Mexican financial system was composed of some 2,200 entities<sup>119</sup>: the Bank of Mexico; 47 multiple banks (5 in process of starting up); 6 development banks; 48 representative offices of foreign financial entities in operation; 93 credit unions in operation; 149 savings and loan cooperative societies (Socaps); 101 insurance companies (and 3 in process of authorization); 15 bonding companies; 36 brokerage firms in operation; and 686 investment funds, among others.<sup>120</sup>

<sup>119</sup> The number rises to about 5,000 if one includes the entities supervised only in connection with the prevention of money laundering and the financing of terrorism. Online information from the National Banking and Securities Commission (CNBV). Viewed at: <http://www.gob.mx/cnbv/acciones-y-programas/sectores-supervisados?idiom=es>.

<sup>120</sup> Among them, 25 leasing companies (converted into multipurpose financial companies (Sofomes)); 9 foreign exchange brokers in operation; 11 factoring companies (converted into Sofomes); 11 pension fund management firms; 19 general bonded warehouses; 14 stock-market intermediary service companies; 1 community finance company; 43 people's financial companies; 54 ancillary services companies; 13 rural



4.111. As of 30 June 2016, the total assets of the financial system, which stood at Mex\$19,732,734 million, had raised the participation of the financial sector to 103.3% of GDP (Table 4.16). The main financial system intermediary is the commercial or multiple banking system, whose assets represent more than 40% of GDP. The non-bank financial intermediaries (NBFIs) own 37.3% of the assets. The banks and the people's savings and loan institutions are the only financial intermediaries authorized to take deposits from the public.<sup>121</sup>

**Table 4.16 Financial system indicators, 2012-2016**

	2012	2013	2014	2015	2016 (June)
<b>Total assets (Mex\$ million)</b>	13,556,796	14,520,450	16,076,168	17,758,769	19,732,734
	(% of total)				
Commercial (multiple) banks	44.4	45.2	43.0	43.8	41.5
Development banks	8.0	8.6	9.0	8.8	8.3
NBFIs	41.4	39.9	41.5	40.9	44.2
Insurers	6.2	6.4	6.5	6.6	5.9
<b>Total lending (Mex\$ million)</b>	4,601,037	5,052,258	5,599,911	6,356,150	6,698,430
	(% of total)				
Commercial (multiple) banks	59.9	60.1	59.9	60.5	60.4
Development banks	10.0	10.7	11.6	11.7	11.7
NBFIs	30.0	29.2	28.5	27.8	27.9
<b>Total deposits (Mex\$ million)</b>	3,892,052	4,209,041	4,732,660	5,361,553	5,704,341
	(% of total)				
Commercial banks	82.8	81.9	81.2	81.1	81.2
Development banks	14.6	15.3	16.1	16.2	16.2
People's savings and loan institutions	2.6	2.9	2.8	2.7	2.6

Note: NBFIs include: general bonded warehouses, brokerage firms, foreign exchange brokers, savings and loan cooperative societies (Socaps), people's financial companies (Sofipos), regulated multipurpose financial companies (Sofomes), credit unions and debt and variable income investment funds, promotion funds, bonding companies and pension funds. For the year 2012 limited-scope financial companies (Sofoles), factoring companies and leasing companies are also included; in July 2013 these entities were converted into Sofomes. In the June 2016 period the data for insurers, bonding companies and pension funds correspond to December 2015.

Source: Information provided by the authorities.

4.112. The Bank of Mexico (Banxico) and the Ministry of Finance and Public Credit (SHCP) regulate and supervise the Mexican financial system. The SHCP supervises the financial system through three commissions: (a) the National Banking and Securities Commission (CNBV), which was given additional powers as a result of the financial reform and which regulates and supervises various financial institutions, including commercial (multiple) banks, national credit companies, development banks, people's savings and loan institutions<sup>122</sup>, brokerage firms, investment funds, credit unions, promotion entities (public promotion trusts and promotion agencies) and other auxiliary credit institutions and organizations;<sup>123</sup> (b) the National Insurance and Bonding Commission (CNSF), which regulates and supervises the insurance institutions, the bonding

financial integration bodies; 10 trust and promotion funds; 3 social service agencies; 16 bank property companies; 4 representative offices of foreign brokerage firms in Mexico; 1 national development bank; 23 financial group holding companies in operation; 2 savings and loan companies; 3 credit information companies; 79 investment companies specializing in pension funds in operation; 60 limited-scope financial companies (converted into Sofomes); 119 investment companies specializing in pension funds; 2 stock and derivative contracts markets; 52 regulated multipurpose financial companies; 96 investment fund management companies; 6 investment fund share distributors; 2 investment fund share valuers; derivatives market operators; 10 clearing partners; 17 market makers; 29 offshore financial subsidiaries of credit institutions; 20 offshore financial subsidiaries of brokerage firms; 554 issuers and 19 branches and agencies of domestic credit institutions abroad. Ministry of Finance and Public Credit (2016), *Catálogo del Sistema Financiero Mexicano*. Viewed at: <http://www.gob.mx/shcp/documentos/catalogo-del-sistema-financiero-mexicano>.

<sup>121</sup> Bank of Mexico (2015), *El sistema financiero mexicano, Cátedra Banco de México*, 6 November. Viewed at: [http://uae.uan.mx/d/f/album\\_uae/Sistema\\_Financiero\\_Mexicano.pdf](http://uae.uan.mx/d/f/album_uae/Sistema_Financiero_Mexicano.pdf).

<sup>122</sup> These are the savings and loan cooperative societies (Socaps), people's financial companies (Sofipos) and community financial companies (Sofincos).

<sup>123</sup> The other institutions are general bonded warehouses, factoring companies, financial leasing companies, foreign exchange brokers, financial group holding companies, credit information companies, multipurpose financial companies (Sofemes) and representative offices of foreign banks. Online information from the CNBV. Viewed at: <http://www.cnbv.gob.mx/Paginas/default.aspx>.

companies and the insurance, bonding and reinsurance intermediaries (Section 4.4.1.3); and (c) the National Pension Fund Commission (CONSAR), which regulates and supervises the pension fund managers and the investment companies that specialize in pension funds.

4.113. Other bodies that contribute to the sound performance of the financial system include: (a) the Financial System Stability Council (CESF), which monitors the financial system to identify risks to financial stability and formulate recommendations to prevent disruptions or minimize their impact on the functioning of the financial system; (b) the National Council for Financial Inclusion (CONAIF), which promotes access to and the use of financial products; (c) the National Commission for the Protection and Defence of Financial Services Users (CONDUSEF), which protects and defends users of financial services; (d) the Institute for the Protection of Bank Savings (IPAB); and (e) the Financial Education Committee (CEF), which promotes financial education in the responsible use of financial services. Since the financial reform of 2014 the functioning of the CESF, CONAIF and CEF has been governed by the Law Regulating Financial Groups. The reform also broadened the powers of CONDUSEF (see below).<sup>124</sup>

4.114. With respect to financial system assets, if development banking assets are disregarded, 46.3% are in intermediaries that form part of various financial groups and 53.7% in ungrouped financial intermediaries. The majority of commercial banks, brokerage firms and investment funds belong to a financial group, but not so the insurers and auxiliary credit organizations. Financial groups must consist of a holding company and at least two of the following financial entities: commercial banks, pension fund managers, investment funds, insurers, multipurpose financial companies, brokerage firms, bonding institutions, general bonded warehouses, foreign exchange brokers, investment fund management companies, investment fund share distributors and people's financial companies. The institutions may be of the same type, but a financial group cannot be formed with only two multipurpose financial companies. The law does not permit the holding company to be the direct owner of shares in a commercial or industrial entity; however, the Law Regulating Financial Groups allows the holding company to invest in property development companies and service providers. Holding companies must be owners of more than 50% of each of the members of the financial group. These companies may not acquire liabilities, unless authorized by the Bank of Mexico, and their sole function is to hold shares.

4.115. It is the SHCP that authorizes the formation and operation of financial groups. The authorizations are granted or refused at the discretion of the SHCP, after hearing the opinion of Banxico and, where appropriate, with reference to the members of the financial group it is intended to organize, the CNBV, the National Insurance and Bonding Commission (CNSF) or CONSAR. The financial group's holding company is supervised by the commission that regulates the group's preponderant financial entity, that is to say it may be regulated by the CNBV, by the CNSF or by CONSAR. To this end, the SHCP is empowered to determine, for each financial group, which is the Supervisory Commission, for which purpose it takes into account, among other factors, the net worth of the entities concerned.

#### 4.4.1.1 Financial reform

4.116. During the review period, Mexico carried out a reform of the financial sector with a view to enabling financial intermediation to make a greater contribution to economic growth. Estimates indicate that the levels of consumption and investment generated by the reform could raise GDP by half a percentage point between now and 2018.<sup>125</sup>

4.117. The premise of the reform is to ensure greater access to bank credit at a lower cost. When the reform was implemented in 2014, the level of lending by the Mexican banking system to the private sector (businesses, consumption and housing) was relatively low. This was reflected in the credit penetration index, which was 25.7% of GDP (at the end of 2012), this being "less than half the average of 55.2% for Latin America and (...) far below the average penetration of 147.1% in

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<sup>124</sup> National Council for Financial Inclusion (2014), *Reporte de Inclusión Financiera*. Viewed at: <http://www.cnbv.gob.mx/Inclusi%C3%B3n/Documents/Reportes%20de%20IF/Reporte%20de%20Inclusion%20Financiera%206.pdf>.

<sup>125</sup> Online information from the Ministry of Foreign Affairs. Viewed at: <http://consulmex.sre.gob.mx/montreal/images/Consulado/Comunicado/reforma%20financiera.pdf>.

the OECD".<sup>126</sup> The financial reform proposes to raise the credit penetration index for the private sector to 40% of GDP.<sup>127</sup> According to the authorities, private sector financing as a proportion of GDP rose from 25.7% to 32.3% between December 2012 and June 2016. At the same time, the rate of growth of the banking system's current private sector portfolio was 1.8 times the growth of GDP in December 2012, whereas it was 5.3 times in July 2016.

4.118. To achieve higher credit levels, the financial reform is focusing on: (1) increasing competition; (2) promoting credit granted by the development banks; (3) promoting expansion of the credit granted by commercial banking; (4) making the financial system sounder and more prudent; and (5) making the performance of the financial institutions more efficient (Table 4.17).<sup>128</sup> In order to introduce measures appropriate for achieving the objectives laid down, more than 30 pieces of legislation have been revised and two new laws regulating financial groups and insurance and bonding institutions have been enacted.<sup>129</sup>

**Table 4.17 The pillars of the financial reform of 2014**

	Some of the principal measures adopted
<b>Competition</b>	Tied sales have been prohibited (the purchase of one financial product cannot be made conditional on the purchase of another)
	Mortgages may be transferred without additional costs being incurred, for example, notarial or property registration costs
	Payroll and deposit accounts may be transferred (the receiving bank is responsible for processing the transfer)
	The terms and conditions on which the means of payment market operates have been regulated so as to increase the number of participants and reduce the commissions on the use of credit cards paid by businesses and customers
	People's savings and loan institutions are permitted to engage correspondents, that is, third parties that offer financial services to the institutions' customers, on their behalf and for their account, which makes it possible to increase the penetration of the services among the population (prior to 2014 only the engagement of banking correspondents was permitted)
	The powers of the National Commission for the Protection and Defence of Financial Services Users (CONDUSEF) have been strengthened and it can now order the removal of abusive clauses from contracts and sanction tied sales. Moreover, CONDUSEF has established a new information service (Financial Entities Bureau) and a new arbitration system
	The Federal Economic Competition Commission (COFECE) was entrusted with a study as result of which 36 recommendations for improving competition in the financial sector have been issued <sup>a</sup>
<b>Development banking</b>	The terms of reference of development banking are being redefined to target more lending at priority areas (for example, MSMEs, agriculture, infrastructure, innovation)
	Development banking is being given more regulatory flexibility and restrictions on its operations are being eliminated, for example, it is being authorized to operate with a deficit
<b>Commercial (multiple) banking</b>	The loan guarantee regime is being improved, insolvency procedures are being made more flexible and dispute settlement in specialized courts is being encouraged
	A mechanism for periodically evaluating the performance of commercial (multiple) banking is being established. The SHCP is being authorized to evaluate the level of lending by the commercial (multiple) banking system and to impose the relevant measures for more financing to be granted (for example, the CNBV can set limits on securities operations on own account)
<b>Sound and prudent financial system</b>	The Basel III prudential rules are being strengthened: the rules on the structure and quality of the capital of the institutions are being raised to the status of law; and the liquidity coverage ratio is being implemented
	A special judicial bank liquidation mechanism is being established for insolvent commercial banks, leaving them excluded from "concurso mercantil" (bankruptcy)
	In 2015 the Law on Insurance and Bonding Institutions entered into force <sup>b</sup>
	A self-correction programme is being implemented. Financial entities that detect irregularities in their operations may take corrective measures and avoid sanctions from the CNBV or Banxico
	The sanctions for violations of the legal provisions have been strengthened and transparency improved (sanctions are being published on the website of the CNBV)
	The National Council for Financial Inclusion (CONAIF), the Financial Education Committee and the Financial System Stability Council (CESF) are being given legal status

<sup>126</sup> Seminar on Economic Prospects for 2014 of 10 January 2014. Words of the Minister for Finance and Public Credit. Online information viewed at: [http://www.hacienda.gob.mx/SALAPRENSA/doc\\_discurso\\_funcionarios/secretarioSHCP/2014/lvc\\_itam\\_100120\\_14.pdf](http://www.hacienda.gob.mx/SALAPRENSA/doc_discurso_funcionarios/secretarioSHCP/2014/lvc_itam_100120_14.pdf).

<sup>127</sup> The credit penetration index is the bank credit granted to the private sector as a percentage of GDP.

<sup>128</sup> Reform Portal of the Government of Mexico. Online information viewed at: <http://reformas.gob.mx/reforma-financiera/que-es>.

<sup>129</sup> For further information see the Decree amending, supplementing, and repealing various financial provisions and issuing the Law Regulating Financial Groups (published in the Official Journal of 10 January 2014) and Financiera Nacional (2014), *La Reforma Financiera Comentada*. Viewed at: <http://www.cnbv.gob.mx/Inclusi%C3%B3n/Paginas/Reportes.aspx>.

Some of the principal measures adopted	
Performance of financial institutions	The period for which a stock-market investment promoting limited company (SAPIB) remains listed on the exchange before becoming a stock-market limited company (SAB) is being extended (from three to ten years)
	The investment fund corporate regime is being made more flexible
	The operation of the securities market is being made more efficient by establishing measures to protect investors
	In 2014, the new Law Regulating Financial Groups was enacted; among other changes with respect to the previous legislation the new Law improves the performance of financial group holding companies and creates the legal concept of a sub-holding company <sup>c</sup>
	The regulation of multipurpose financial companies (Sofomes) is being increased
	Financiera Rural is being converted into a new promotion entity, the National Agricultural, Rural, Forestry and Fisheries Development Bank (FND)

- a See the recommendations at: <https://www.cofece.mx/cofece/index.php/prensa/historico-de-noticias/trab-inv-recom-sec-fin>.
- b The General Law on Insurance Companies and Mutual Institutions of 1935 and the Federal Law on Bonding Institutions of 1950 were repealed.
- c The 1990 Law Regulating Financial Groups is being repealed.

Source: WTO Secretariat, on the basis of the Reform Portal of the Government of Mexico. Viewed at: <http://reformas.gob.mx/reforma-financiera/que-es>.

4.119. With regard to the credit financing of the business sector, in 2013 (latest data available) some 32% of enterprises, mainly in the medium-sized and large classes, had a bank loan. According to a COFECE study, in addition to being scarce, bank credit is also expensive.<sup>130</sup> Moreover, in the study COFECE found that, although efforts have been made to modernize the regulatory framework of the banking sector, there is still much catching up to be done in the area of competition, with the consumers being worst affected. The study points out that there is little mobility for users of the services and no incentives for financial intermediaries to attract customers through better conditions for their products and services. Some of the problems identified include: a high concentration of cash dispensers in the larger banks and high commissions for withdrawing cash; difficulties for the user wishing to transfer his credit products to another institution; little transparency and clarity in personal loans tied to commercial banks; and barriers to the entry of new competitors. In July 2014, COFECE announced 36 recommendations for improving competition in the sector.<sup>131</sup> These recommendations seek: (i) to prevent competitors from being forced out of the financial markets or their access impeded; (ii) to reduce the risks of coordinated anticompetitive action between competitors; (iii) to reduce barriers to competition; (iv) to eliminate restrictions on the efficient operation of the markets; and (v) to increase effectiveness in sanctioning possible violations of the law. The authorities have pointed out that, since the publication of COFECE's work, various regulatory bodies have implemented some of the recommendations made.

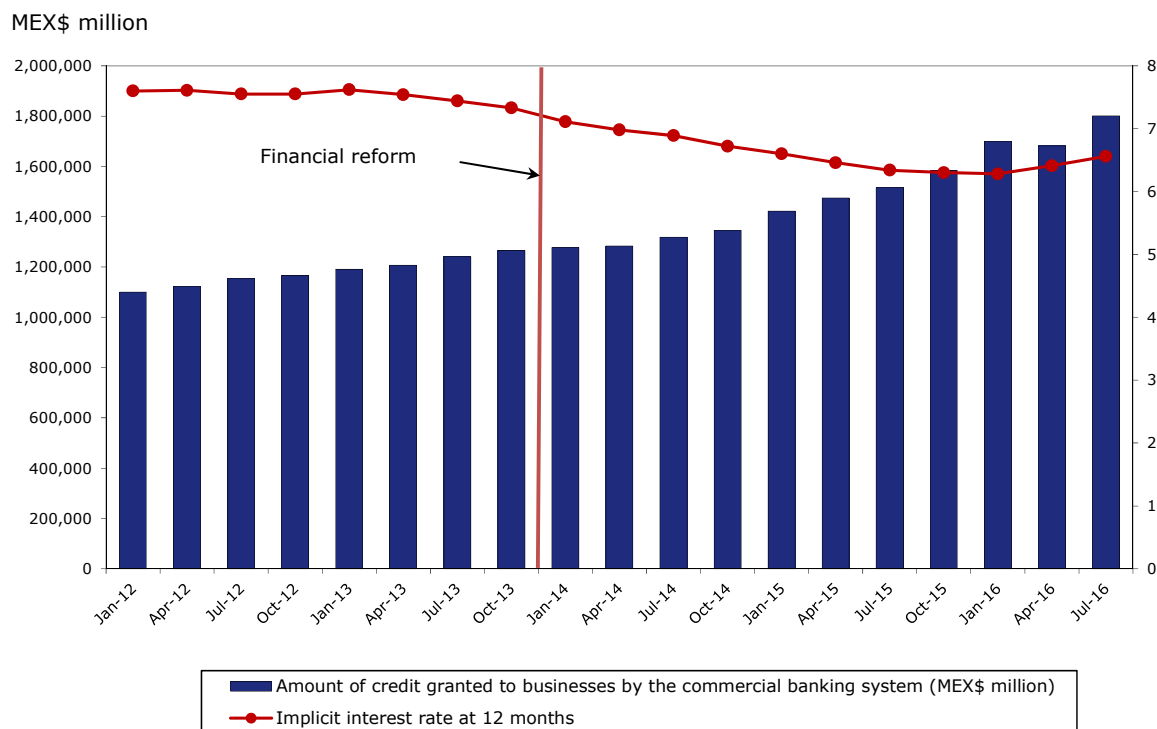
4.120. Financial reform is having a positive impact on the trends in credit for the business sector, which increased by some 63.7% in nominal terms between January 2012 and July 2016. It also appears to have had an impact on interest rates, which have fallen as a result (Chart 4.4). According to an official evaluation of the financial reform, these indicators confirm its positive effect.<sup>132</sup> However, a survey carried out by Banxico at the end of 2015 noted that although there had been an improvement in the conditions of access to bank lending for businesses, interest rates, still relatively high, continued to constitute the main obstacle to the use of credit. Somewhat over half of the businesses surveyed also acknowledged that both the conditions of access to and the cost of bank credit were limiting, or could limit, their operations.<sup>133</sup>

<sup>130</sup> COFECE (2014), *Trabajo de investigación y recomendaciones sobre las condiciones de competencia en el sector financiero y sus mercados*. Viewed at: [https://www.cofece.mx/cofece/images/Estudios/COFECE\\_trabajo\\_investigacion\\_prot.pdf](https://www.cofece.mx/cofece/images/Estudios/COFECE_trabajo_investigacion_prot.pdf).

<sup>131</sup> Statements during the progress report on financial reform of 11 March 2015. Viewed at: [http://www.gob.mx/cms/uploads/attachment/file/804/intervenciones\\_avance\\_reforma\\_financiera\\_11032015.pdf](http://www.gob.mx/cms/uploads/attachment/file/804/intervenciones_avance_reforma_financiera_11032015.pdf).

<sup>132</sup> Online information from the CNBV. Viewed at: <http://www.cnbv.gob.mx/Inclusión/Paginas/Indicadores.aspx>.

<sup>133</sup> Banxico, press release on the quarterly trend in business financing of 19 February 2016. Viewed at: <http://www.banxico.org.mx/informacion-para-la-prensa/comunicados/sector-financiero/financiamiento-empresas/indexpage.html>.

**Chart 4.4 Credit granted to businesses, 2012-2016**

Source: Data supplied by the authorities.

4.121. The analysis of other indicators also appears to show that the reform has had a positive impact. For example, relative to the situation in 2013, the reform was followed by: (a) a three percentage point increase in the penetration of private sector credit, bringing it to 28.7% of GDP, while domestic financial savings grew by 6.9 percentage points to reach 66% in June 2016; (b) an improvement in the financial inclusion indicators<sup>134</sup>; and (c) a 44.2% increase in the number of mortgage refinancings at the end of 2015.<sup>135</sup>

#### 4.4.1.2 Banks

4.122. The legal framework for the banking system is the Law on Credit Institutions (LIC) of 1990, the latest amendment of which was published in the Official Journal of 10 January 2014. The secondary regulations issued by the CNBV are the General Provisions Applicable to Credit Institutions (known as the Single Banks Circular (CUB)).<sup>136</sup> There are no restrictions on foreign investment in commercial (multiple) banking, but the same does not apply to development banking where foreign investment is not allowed (Article 6 of the Foreign Investment Law and Section 2.4).

4.123. Mexico authorizes the commercial presence of banks that are subsidiaries of foreign financial institutions, in accordance with the provisions of the free trade agreements signed by Mexico and the provisions of the LIC. A favourable opinion by Banxico is required for the CNBV to authorize the establishment of subsidiaries of foreign commercial banks. The latter must also comply with the Rules for the establishment of subsidiaries of foreign financial institutions.<sup>137</sup> As

<sup>134</sup> Online information from the CNBV. Viewed at:

<http://www.cnbv.gob.mx/Inclusión/Paginas/Indicadores.aspx>; and CONAIF (2016), *Reporte Nacional de Inclusión Financiera*. Viewed at: <http://www.cnbv.gob.mx/Inclusi%C3%B3n/Paginas/Reportes.aspx>.

<sup>135</sup> Statements during the progress report on financial reform of 11 March 2015. Viewed at: [http://www.gob.mx/cms/uploads/attachment/file/804/intervenciones\\_avance\\_reforma\\_financiera\\_11032015.pdf](http://www.gob.mx/cms/uploads/attachment/file/804/intervenciones_avance_reforma_financiera_11032015.pdf).

<sup>136</sup> The CUB is periodically revised and can be viewed at: <http://www.cnbv.gob.mx/SECTORES-SUPERVISADOS/BANCA-MULTIPLE/Paginas/Normatividad.aspx>.

<sup>137</sup> The new Rules published in 2014, which repealed those published in 1994, can be viewed at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5377897&fecha=31/12/2014](http://www.dof.gob.mx/nota_detalle.php?codigo=5377897&fecha=31/12/2014).

there are no restrictions on the operations of a subsidiary, it can offer the same services and products as a domestic multiple bank. Multiple banks that are subsidiaries of foreign financial institutions are subject to the same regulations as domestic multiple banks. Mexico also permits the establishment of representative offices of foreign banks.<sup>138</sup>

4.124. The requirements for setting up and operating as a multiple bank in Mexico remain substantially unchanged since the previous review in 2012. The authorization of the CNBV is required, together with a favourable opinion from Banxico. The authorization is non-transferable.

4.125. A commercial bank must take the form of a limited company with fixed capital. The minimum capital required is 90 million investment units (UDI).<sup>139</sup> However, a smaller amount of capital, from 36 to 54 million UDI, is required for banks that specialize in a niche market and therefore do not engage in all the operations permitted by the LIC (Box 4.5). There are three kinds of niche banks: those which specialize in savings and loan operations, those that provide corporate financial services, and those that specialize in issuing credit cards and other means of payment.<sup>140</sup>

#### Box 4.5 Niche banking

Niche banking enables segments that receive little attention from the other commercial banks, such as MSMEs, the agricultural sector and rural communities, to gain access to banking products and services that suit their needs. However, niche banking has only a small share of the market: it accounts for 1% of total assets, loans and deposits. Its expansion is being impeded by regulatory aspects. With the exception of minimum capital requirements, the niche banks are subject to the same regulations as other commercial banks. The CNBV is assessing the possibility of introducing a regulatory framework specifically for niche banking.

Source: CONAIF (2014), *Reporte de Inclusión Financiera*. Viewed at: <http://www.cnbv.gob.mx/Inclusión/Documents/Reportes%20de%20IF/Reporte%20de%20Inclusion%20Financiera%206.pdf>.

4.126. The CNBV authorizes mergers between commercial banks subject to a favourable opinion from Banxico. It must also consult with COFECE, whose opinion is necessary for authorizing the merger (Article 27 of the LIC). Mergers between commercial banks that belong to financial groups are subject to the provisions of the Law Regulating Financial Groups.

4.127. The Institute for the Protection of Bank Savings (IPAB) is responsible for bank liquidation. Likewise, it implements the judicial bank liquidation mechanism created by financial reform. In the event of any bank having financial problems, the IPAB serves to provide deposit insurance and is authorized to cover bank deposits up to a maximum of 400,000 UDI.<sup>141</sup>

4.128. The authorities point out that in 2016, there were 52 multiple banks in operation (there were also five banks not yet operating); 16 were subsidiaries of foreign banks and 22 belonged to a financial group. Five niche banks were also operating. Between 2012 and 2016, a total of 15 new banking sector participants were authorized.

4.129. The Mexican banking market is characterized by a high level of concentration. In July 2016, the five largest banks (CR5) accounted for 70.1% of assets, 71.8% of loans and 75.8% of public deposits and controlled 80% of cash dispensers and 85% of bank branches. According to the authorities, a decline in concentration has been observed since the reform of the sector was implemented. Between December 2013 and July 2016, concentration fell from 72.9% to 71.8% in terms of the total portfolio, from 71.4% to 68.6% in terms of the total business portfolio, and from 79.5% to 75.8% in terms of total deposits.

<sup>138</sup> Articles 7 and 45-A of the LIC.

<sup>139</sup> Investment Units (UDI) are units of value based on the increase in prices and are used to meet the obligations arising out of mortgage loans or any commercial act. Banxico publishes the value of the investment unit in the Official Journal, in national currency, for each day of the month. The value of a UDI can be viewed at: <http://www.banxico.org.mx>. On 30 September 2016, the value of a UDI was Mex\$5.46.

<sup>140</sup> Articles 19 and 46 of the LIC, Article 2 of the CUB, and National Council for Financial Inclusion (2014), *Reporte de Inclusión Financiera*. Viewed at: <http://www.cnbv.gob.mx/Inclusi%C3%B3n/Paginas/Reportes.aspx>.

<sup>141</sup> Online information from the IPAB. Viewed at: <http://www.ipab.org.mx/ipab>; and online information from the CNBV. Viewed at: <http://www.cnbv.gob.mx/SECTORES-SUPERVISADOS/BANCA-MULTIPLE/Paginas/Preguntas-Frecuentes.aspx>.

4.130. Multiple banking performance was positive between 2012 and 2015 (Table 4.18). Assets increased from Mex\$6.56 billion in 2013 to Mex\$8.07 billion in July 2016, a nominal increase of 23%.<sup>142</sup> Credit also grew during that period, rising from Mex\$3.04 billion in 2013 to Mex\$4.09 billion in July 2016, which is equivalent to an increase of 34.4% in nominal terms, sustained by the measures adopted within the framework of financial reform (see above).

**Table 4.18 Commercial banking activity indicators, 2012-2016**

(Mex\$ billion and %)

	Assets		Deposits		Loans	
	Total	Annual variation (%)	Total	Annual variation (%)	Total	Annual variation (%)
2012	6,026	3.8	3,224	8.7	2,758	12.0
2013	6,556	8.8	3,445	6.9	3,039	10.2
2014	6,913	5.4	3,841	11.5	3,352	10.3
2015	7,770	12.4	4,348	13.2	3,843	14.6
2016 (July)	8,066	6.6	4,567	12.8	4,085	15.0

Source: Data provided by the authorities.

4.131. As can be seen from Table 4.19, commercial banking has low rates of return and NPL ratios and a good level of solvency and liquidity.

**Table 4.19 Commercial banking financial indicators, 2012-2016**

(Mex\$ billion)

Financial indicators	Dec. 2012	Dec. 2013	Dec. 2014	Dec. 2015	July 2016
			(%)		
Coverage index	185.51	147.64	132.66	140.12	147.70
Liquidity coverage ratio (LCR)	n/a	n/a	n/a	325.26	145.17
Capital adequacy ratio (CAR)	16.0	15.5	15.8	15.0	14.8
Rates of return					
Return on assets (ROA)	1.46	1.66	1.34	1.32	1.28
Return on equity (ROE)	13.96	15.39	12.85	12.48	12.24
Delinquency rate (DR)	2.53	3.36	3.13	2.60	2.42

n/a Not applicable, since this indicator was introduced in December 2015.

Source: Data provided by the authorities.

4.132. Mexico applies the Basel III rules, in particular in terms of solvency and liquidity. The capital adequacy ratio (CAR), which measures solvency, has always remained above the required minimum of 10.5%. In July 2016, the average CAR was 14.8%. In 2015, Banxico and the CNBV adopted provisions designed to align the Mexican banking system on the Basel III liquidity requirements. This was how the liquidity coverage ratio (LCR) was introduced. The LCR ensures that the banks can meet their obligations over a period of 30 days.<sup>143</sup> The application of the LCR in Mexico has been a gradual process, depending on the size of the bank and the years it has been operating. In 2016, all the banks were required to comply with a minimum level of LCR, which depends on the size of the institution.<sup>144</sup> Moreover, in 2016, supplementary requirements concerning capital maintenance and countercyclical capital for multiple banks were implemented.

<sup>142</sup> Ministry of Finance and Public Credit (SHCP), *Boletín Estadístico Banca Múltiple*, July 2016. Viewed at: [http://portafolioinfo.cnbv.gob.mx/PortafolioInformacion/BE\\_BM\\_201607.pdf](http://portafolioinfo.cnbv.gob.mx/PortafolioInformacion/BE_BM_201607.pdf).

<sup>143</sup> In accordance with the liquidity coverage ratio (LCR) the banks are required to maintain sufficient high-quality liquid assets to cover net outflows of cash over a period of 30 days. The LCR must be greater than 100%, that is to say, the liquid assets at a financial institution's disposal must have a value greater than or equal to its potential cash outflows.

<sup>144</sup> Article 96 (*Bis* 1) of the LIC, added by publication in the Official Journal of 10 January 2014, General provisions on the liquidity requirements for multiple banking institutions (published in the Official Journal of 31 January 2014; latest amendment published in the Official Journal of 31 January 2015), and CNBV (2015), *Boletín Regulatorio N° 1, Primer trimestre 2015*, viewed respectively at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5377902&fecha=31/12/2014](http://www.dof.gob.mx/nota_detalle.php?codigo=5377902&fecha=31/12/2014), <http://www.cnbv.gob.mx/Resoluciones%20Modificatorias/1a.%20Resoluci%C3%B3n%20Modificatoria%20Requerimientos%20de%20Liquidez.pdf>, and at: [http://www.cnbv.gob.mx/CNBV/BoletinRegulacion/Boletin\\_Regulatorio\\_No%201.pdf](http://www.cnbv.gob.mx/CNBV/BoletinRegulacion/Boletin_Regulatorio_No%201.pdf).

4.133. During the review period, the distribution of the credit granted by commercial banking, by type, sector or enterprise, was maintained largely unchanged. A substantial part of the lending was destined for the business sector and, in particular, for large enterprises. In 2015, businesses received 44% of the credit extended by the financial institutions, of which 76.2% (33.5% of the total) was granted to large enterprises; the remaining 23.8% (10.5% of the total) was allocated to the MSMEs. However, out of the more than 316,000 businesses with bank loans, 96% were MSMEs.<sup>145</sup> Also in 2015, some 18% of the credit was allocated for other commercial purposes; 21% of the total was consumer credit and 17% consisted of housing loans.

4.134. In addition to the commercial banks, there are also development banks. These are public entities whose basic objective is to facilitate access to credit and financial services in specific sectors.<sup>146</sup> The organic laws of the development banking institutions themselves determine the sector served by each. Development banking is subject to the same prudential rules as commercial banking.<sup>147</sup> There are six development banks centred on: the business sector (MSMEs in particular), public works, foreign trade, housing, the military sector, and savings and loans.<sup>148</sup> In December 2015, development banking assets amounted to Mex\$1,547,177 million. The main development banks are the National Bank of Public Works and Services (Banobras) and the Nacional Financiera (NAFIN), which accounted for 69% of total assets in 2015.<sup>149</sup> Within the framework of the 2014 financial reform the development banking mandate was revised and its operations were made more flexible with a view to its providing a greater volume of lending (see above).<sup>150</sup> In 2015, the development banks granted loans worth a total of Mex\$768,615 million.

#### 4.4.1.3 Insurance

4.135. During the review period, the legal regime of the insurance and bonding market changed as a result of the publication of a new law in 2013. The Law on Insurance and Bonding Institutions (LISF) entered into force on 4 April 2015 after a two-year transition period following its publication in the Official Journal to allow for the enactment of the secondary regulations that enabled it to be applied in full.<sup>151</sup> The Single Circular on Insurance and Bonding, which constitutes the secondary regulations, was enacted in 2014.<sup>152</sup> The objective of the LISF is to strengthen the legal framework of the insurance and bonding sectors, especially in relation to solvency, stability and security, in order to align it on international standards and best practice. The General Law on Insurance Companies and Mutual Institutions of 1935 and the Federal Law on Bonding Institutions of 1950 were repealed.

4.136. The LISF seeks to improve the compulsory insurance regime, regulate competition in the area of liability insurance, and in general provide more certainty and transparency for policy holders. The LISF introduced reforms to promote more rigorous practices in the insurance sector. The three pillars strengthened are: (a) financial solvency: insurers must hold an optimum level of capital and reserves to meet their obligations; (b) supervision and corporate governance: the relations between shareholders, directors and the management of the company must be transparent in order to ensure that its activities are soundly and prudently managed; and

<sup>145</sup> Bank of Mexico (2015), *Reporte sobre las condiciones de competencia en el otorgamiento de crédito a las pequeñas y medianas empresas*, April. Viewed at: <http://www.banxico.org.mx/publicaciones-y-discursos/publicaciones/informes-periodicos/reportes-sobre-las-condiciones-de-competencia-en-lo/%7BB0D52028-C9F4-9410-0DA9-AA76BD9474AB%7D.pdf>.

<sup>146</sup> Article 4 of the LIC. Each development bank has its own organic law.

<sup>147</sup> Online information from the CNBV. Viewed at: <http://www.cnbv.gob.mx/SECTORES-SUPERVISADOS/BANCA-DE-DESARROLLO/Informacion-Estadistica/Paginas/Banca-de-Desarrollo.aspx>, and at: <http://www.cnbv.gob.mx/SECTORES-SUPERVISADOS/BANCA-DE-DESARROLLO/Preguntas-Frecuentes/Paginas/Banca-de-Desarrollo.aspx>.

<sup>148</sup> CNBV Press Release of 22 March 2016. Viewed at: <http://www.cnbv.gob.mx/SECTORES-SUPERVISADOS/BANCA-DE-DESARROLLO/Boletines-de-Prensa/Paginas/Banca-de-Desarrollo.aspx>.

<sup>149</sup> CONAIF (2016), *Reporte Nacional de Inclusión Financiera*. Viewed at: <http://www.cnbv.gob.mx/Inclusi%C3%B3n/Paginas/Reportes.aspx>.

<sup>150</sup> Article 30 of the LIC; and online information from the CNBV. Viewed at: <http://www.cnbv.gob.mx/SECTORES-SUPERVISADOS/BANCA-DE-DESARROLLO/Descripcion-del-Sector/Paginas/default.aspx>.

<sup>151</sup> Latest amendment published in the Official Journal of 10 January 2014.

<sup>152</sup> The Circular is periodically revised and is published online at: <http://www.cnsf.gob.mx/Normativa/Paginas/Circular-Unica-Seguros-Fianzas.aspx>.



(c) transparency: the financial accounts must be more widely circulated to permit closer monitoring by the regulator, consumers and the rating agencies.<sup>153</sup>

4.137. In addition to the above, the LISF introduced a series of changes in the Mexican insurance regulations, including: the introduction of a surety bond; the possibility for insurance and bonding institutions to have internal models for calculating their solvency capital requirement, with account for all the risks to which they are exposed, subject to authorization by the CNSF, but without the need for the latter to establish a single rule applicable to all the institutions; and the approval of the legal framework applicable to insurance and bonding, including the amendments made to the Law on Credit Institutions in 2008 and the Securities Market Law of 2005. The main effects were as follows: (a) the generation of an economic balance; (b) the marking to market of assets and liabilities; (c) the calculation of the risk-based solvency capital requirement (SCR); and (d) the adoption of new accounting standards, related with the release of technical reserves and the annualization of premiums in life insurance and some branches of casualty insurance, as well as with the appraisal surplus or deficit.

4.138. During the review period there was a change in the regime governing foreign investment in the financial sector. Since 2014, it has been possible to have 100% foreign direct investment (FDI) in the insurance activity; the law previously limited foreign investment in the sector to 49%.<sup>154</sup> The authorities point out that this opening-up has facilitated the establishment of new insurance companies in the Mexican market.

4.139. As in the commercial (multiple) banking sector, Mexico authorizes the commercial presence of foreign insurance companies through subsidiaries and representative offices. Authorization from the CNSF is required to set up a subsidiary.<sup>155</sup> The CNSF is also responsible for authorizing mergers between insurance companies, but must consult with the COFECE, whose opinion is necessary for the merger to be authorized (Articles 271-272 of the LISF).

4.140. Insurance companies and mutuals can operate in one or more branches. However, one and the same insurance company or mutual cannot expect to receive authorization to carry out both life and casualty insurance operations (Article 26 of the LISF). Insurance companies currently operating in the two branches in Mexico have retained the right to do so under the previous legislation. The LISF stipulates that pension insurance derived from the social security laws forms part of life insurance operations.

4.141. Insurance services which cover risks that arise in Mexico must be contracted for with companies established in the country. The CNSF may give authorization for an insurance policy to be taken out with a company located abroad only if the risk cannot be covered in Mexico. Where reinsurance contracts concluded with reinsurers located abroad are concerned, the reinsurer must be enrolled in the corresponding CNSF register. Only those entities which, in the opinion of the CNSF, meet the requirements of solvency and stability are eligible for registration.

4.142. There has been no change in the requirements for establishment and operation in the Mexican insurance market since the last review in 2013. Insurance companies need to be authorized by the CNSF and must be established as limited companies with fixed or variable capital. The minimum capital requirement depends on the branch: 6,816.974 UDI for life<sup>156</sup>, 1,704.243 UDI for accident and sickness, and between 5,112.730 UDI and 33,200 UDI for casualty insurance.

4.143. The CNSF also regulates and supervises insurance brokers. The CNSF gives authorization to operate to those who pass the examination; the authorizations are non-transferable.<sup>157</sup>

<sup>153</sup> National Development Financing Programme 2013-2018. Viewed at: [http://hacienda.gob.mx/RDC/prog\\_plan\\_nacional/pronafide\\_2013\\_2018.pdf](http://hacienda.gob.mx/RDC/prog_plan_nacional/pronafide_2013_2018.pdf); and online information from the Government of Mexico. Viewed at: <http://www.gob.mx/shcp/articulos/palabras-del-secretario-de-hacienda-en-el-nombramiento-de-la-presidenta-de-la-comision-nacional-de-seguros-y-fianzas>.

<sup>154</sup> Article 7 of the Foreign Investment Law (amendment published in the Official Journal of 10 January 2014).

<sup>155</sup> Articles 74-85 and 108 of the LISF, and Articles 7 and 45-A of the LIC.

<sup>156</sup> The minimum capital requirement is 28 million UDI for pensions insurance.

<sup>157</sup> Articles 93-94 of the LISF, and online information from the CNSF. Viewed at: <http://www.cnsf.gob.mx/PreuntasFrecuentes/Paginas/Agentes.aspx>.

Foreigners can practise as insurance brokers in Mexico, but must demonstrate the equivalence of the studies they have completed abroad.<sup>158</sup>

4.144. In September 2016 there were 101 insurance companies operating in Mexico, of which 52 were subsidiaries of foreign enterprises and 49 were domestically owned. Only eight companies belonged to a financial group. On the same date, 24 companies were operating in three branches of insurance, 15 in two branches, and the rest in a single branch.<sup>159</sup>

4.145. Since 2012, premiums have increased in value by 25.5%, to Mex\$395,083 million (some US\$25.5 billion) in 2015. Direct premiums totalled Mex\$225,783 million at the end of June 2016. Of these, 43.6% corresponded to life insurance, 19.1% to motor vehicle insurance, and 37.1% to casualty insurance.<sup>160</sup> Despite the growth, the penetration rate for insurance remains low.<sup>161</sup> Insurance premiums accounted for 2.21% of GDP in 2015, below the average for Latin America and the Caribbean, which was 3.09% of GDP in the same year.<sup>162</sup> According to the COFECE, the low penetration of insurance in the Mexican economy can be attributed to the small number of households (4.5%) with an insurance policy and the low level of compulsory insurance in the country.<sup>163</sup> In 2015, per capita expenditure on insurance was US\$198.3.<sup>164</sup>

4.146. There is a high degree of concentration in the market. In September 2015 the top five insurers (CR5) held 44% of total premiums. Life, motor vehicle and health insurance are the products with the highest concentration indices, with the CR5 accounting for 69.5%, 64% and 69.1%, respectively.<sup>165</sup>

4.147. In 2014, following the financial reform, the COFECE carried out a study of competition in the financial sector. The report identified some problems in the insurance market and made various recommendations, including: (a) creating online platforms for promoting transparency and making it possible to compare product ranges, prices and policies; (b) generalizing the use of standardized policies for basic products; (c) improving the exchange of insured claims records; and (d) introducing measures that oblige companies to offer cheaper insurance policies, in particular when the insurance is linked to some form of loan (motor vehicle or mortgage, for example).<sup>166</sup> According to the authorities, some recommendations had already been implemented as of November 2016.

#### 4.4.2 Telecommunications

4.148. During the review period, Mexico undertook a reform of telecommunications services so as to enable the sector to make a bigger contribution to growth and economic development. The OECD estimates that the telecommunications reform will have a positive effect on the Mexican economy and could raise GDP by 0.06% between 2016 and 2018.<sup>167</sup> Between July 2013 and June 2016, the telecommunications sector grew at an average annual rate of 8.4%, or three times more than GDP. Moreover, in 2016, telecommunications contributed 3.4% of GDP, 0.5 percentage

<sup>158</sup> Article 10 of the Regulations on insurance and bond brokers of 2001.

<sup>159</sup> Online information from the CNSF. Viewed at:

[http://www.cnsf.gob.mx/Difusion/SintesisCoyuntura/Paginas/Sector\\_Asegurador.aspx](http://www.cnsf.gob.mx/Difusion/SintesisCoyuntura/Paginas/Sector_Asegurador.aspx).

<sup>160</sup> Online information viewed at:

[http://www.cnsf.gob.mx/Difusion/SintesisCoyuntura/Paginas/Sector\\_Asegurador.aspx](http://www.cnsf.gob.mx/Difusion/SintesisCoyuntura/Paginas/Sector_Asegurador.aspx).

<sup>161</sup> The penetration rate is premiums as a percentage of GDP (National Council for Financial Inclusion (2014), *Reporte de Inclusión Financiera*. Viewed at:

<http://www.cnbv.gob.mx/Inclusi%C3%B3n/Paginas/Reportes.aspx>.

<sup>162</sup> Swiss Re (2016), *World Insurance in 2015: Steady Growth Amid Regional Disparities*, Sigma No. 3/2016. Viewed at: [http://media.swissre.com/documents/sigma\\_3\\_2016\\_en.pdf](http://media.swissre.com/documents/sigma_3_2016_en.pdf).

<sup>163</sup> COFECE (2014), *Trabajo de investigación y recomendaciones sobre las condiciones de competencia en el sector financiero y sus mercados*. Viewed at:

[https://www.cofece.mx/cofece/images/Estudios/COFECE\\_trabajo\\_investigacion\\_prot.pdf](https://www.cofece.mx/cofece/images/Estudios/COFECE_trabajo_investigacion_prot.pdf).

<sup>164</sup> Swiss Re (2016), *World Insurance in 2015: Steady Growth Amid Regional Disparities*, Sigma No. 3/2016. Viewed at: [http://media.swissre.com/documents/sigma\\_3\\_2016\\_en.pdf](http://media.swissre.com/documents/sigma_3_2016_en.pdf).

<sup>165</sup> CNSF (2015), *Boletín de Análisis Sectorial Seguros y Fianzas: cifras de septiembre de 2015*, December. Viewed at: <http://www.cnsf.gob.mx/Difusion/Paginas/BoletinSectorial.aspx>.

<sup>166</sup> Online information from the COFECE. Viewed at:

<https://www.cofece.mx/cofece/index.php/prensa/historico-de-noticias/trab-inv-recom-sec-fin>.

<sup>167</sup> OECD (2015), *OECD Economic Studies: Mexico*, January. Viewed at: <http://www.oecd.org/economy/surveys/Mexico-Overview-2015%20Spanish.pdf>.

points above its 2012 contribution and 0.4 percentage points more than in 2013, the year in which the constitutional reform of telecommunications and broadcasting was published.

4.149. According to the Mexican authorities, in 2013 Mexico's telecommunications sector was characterized by a lack of investment, low levels of penetration, poor quality and coverage, and high costs.<sup>168</sup> In the same year, to promote competition and improve access to services (cost, quality and coverage), Mexico began the reform of the sector.<sup>169</sup> To this end, in 2013 the Constitution was amended in order to: (a) guarantee the right of access to telecommunications services, recognize their public interest and guarantee the rights of users; (b) create the Federal Telecommunications Institute (IFT) as the sector's autonomous regulatory and supervisory body and authority in the area of economic competition; (c) establish courts that specialize in telecommunications; and (d) expand the fibre-optic backbone network, create a shared wholesale network, and narrow the digital gap.<sup>170</sup>

4.150. As part of the reforms, in 2014, the Federal Telecommunications and Broadcasting Law (LFTR) was enacted; this repealed the Federal Telecommunications Law of 1995.<sup>171</sup> According to the authorities, the IFT is empowered to regulate the law and therefore the Executive Branch has not issued any regulations for the LFTR. So far, the Institute has regulated certain aspects of the LFT by means of guidelines. Since its enactment, the LFTR has been amended twice, most recently on 1 June 2016.

4.151. The LFTR regulates the use, development and exploitation of the radio-frequency spectrum; the public telecommunications networks; access to the infrastructure; orbital resources and satellite communications; the provision of public telecommunications and broadcasting services of general interest; convergence of services<sup>172</sup>; the rights of users and audiences; and the competition process and free competition, which before the reform was regulated by the Federal Law on Economic Competition. The Law introduces a single concession regime for the provision of services.

4.152. Another of the measures adopted to implement the reform was the amendment of the Foreign Investment Law. Since the reform, in 2014, FDI in the telecommunications sector has been allowed to reach 100%; previously there was a ceiling of 49% for fixed telecommunications services and satellite communications services (Section 2.4).<sup>173</sup> Foreign companies must be established in Mexico in order to operate in the telecommunications market. The opening-up to foreign investment has resulted in the entry of new operators into the market and the implementation of several investment projects.<sup>174</sup> The authorities note that, in the second quarter of 2016, US\$90 million of FDI in the telecommunications sector was recorded.

4.153. The main objective of telecommunications policy is to guarantee quality services at the lowest possible cost. The policy also emphasizes the expansion of broadband Internet services

<sup>168</sup> National Infrastructure Programme 2014-2018. Viewed at: <http://cdn.presidencia.gob.mx/pni/programa-nacional-de-infraestructura-2014-2018.pdf?v=1>.

<sup>169</sup> Reform Portal of the Government of Mexico. Viewed at: <http://reformas.gob.mx/reforma-en-materia-de-telecomunicaciones/que-es>.

<sup>170</sup> Articles 6-7, 27-28, 73, 78, 94 and 105 of the Constitution (amendment published in the Official Journal of 11 June 2013) and transitional articles of the Decree amending and supplementing various provisions of Articles 6, 7, 27, 28, 73, 78, 94 and 105 of the Political Constitution of the United Mexican States in the area of telecommunications.

<sup>171</sup> Federal Telecommunications and Broadcasting Law of 2014 (published in the Official Journal of 14 July 2014; latest amendment published in the Official Journal of 1 June 2016). The LFTR also repealed the Federal Radio and Television Law.

<sup>172</sup> The provision of convergent services is the possibility of offering different services (voice, data, video) over the same network (fixed or mobile).

<sup>173</sup> The foreign direct investment regime relating to broadcasting was also amended for the purpose of authorizing foreign investment up to 49%; however, authorization is subject to the principle of reciprocity. Prior to 2014 broadcasting was an activity reserved exclusively for Mexican enterprises. Articles 6-7 of the Foreign Investment Law (amendment published in the Official Journal of 14 July 2014).

<sup>174</sup> Online information from the SCT. Viewed at: <http://www.sct.gob.mx/despliega-noticias/articulo/la-reforma-de-telecomunicaciones-atrae-inversion-extranjera-directa-sin-precedentes-al-sector>; and online information from the Government of Mexico. Viewed at: <http://www.gob.mx/sct/articulos/el-impacto-economico-de-la-reforma-de-telecomunicaciones>.

through the development of the fibre-optic network, in order to offer higher-quality data transmission, and the establishment of a shared wholesale network.<sup>175</sup>

4.154. The institutions operating in the sector are the Ministry of Communications and Transport (SCT), which formulates and implements telecommunications policy, and the Federal Telecommunications Institute (IFT), which regulates the sector. The IFT replaced the Federal Telecommunications Commission (COFETEL) as the sector's regulatory body in 2013. The IFT is also responsible for seeing to it that there is competition in the sector, thus performing the same functions as performed by the Federal Economic Competition Commission (COFECE) in the rest of the economy (Section 3.3.2).<sup>176</sup> The IFT is also responsible for establishing the technical provisions for the sector (Section 3.1.8).

4.155. As the entity charged with enforcing the provisions of the competition law in the sector and under the powers conferred on it by the Constitution, the IFT can impose asymmetrical regulatory measures on operators with a market share of more than 50% in the telecommunications and broadcasting segments in which they operate. Among other things, the IFT can limit the frequency concentration, regulate the concession process and cross ownership, and order the divestiture of assets. If the Institute considers that the operator is engaging in a monopolistic practice as a result of its behaviour, it may initiate an investigation under its Investigating Authority.

4.156. The IFT is also authorized to determine the existence of dominant economic operators (DEOs), that is, operators with a more than a 50% share in the provision of telecommunications or broadcasting services. The market share is measured by means of different variables, for example, the number of users or the network traffic. If the IFT finds that a DEO exists, it is empowered to impose specific requirements in order to guarantee competition in the market, such as the regulation of interconnection tariffs and/or the obligation to share its passive infrastructure with all operators.<sup>177</sup> The IFT is also authorized to determine whether, in some segment of the telecommunications market, economic operators with substantial market power are operating and impose on them measures calculated to ensure competition, for example, in the area of tariffs or product range.<sup>178</sup>

4.157. Once a year, the operators are required to submit their shareholding structure to the IFT. The Institute must approve any purchase of shares that involves the control of more than 10% of the equity. To promote competition, if a DEO is operating in the sector, the other operators are not required to obtain authorization from the IFT to purchase shares or transfer concessions, even if this means a change in control. However, they do have to notify the IFT of the transaction.

4.158. IFT resolutions may be challenged only by means of indirect *amparo* proceedings and will not be subject to suspension. The constitutional reform of 2013 led to the creation and establishment of courts that specialize in telecommunications and broadcasting.<sup>179</sup>

4.159. In addition to increased competition, another of the objectives of the reform is to increase coverage of the services. It is also intended to extend access to the Internet, for which purpose several programmes have been implemented or are in process of implementation: (a) México Conectado (Connected Mexico), which offers free Internet access in public places; (b) the Universal Digital Inclusion Policy; and (c) the National Digital Strategy. It is also planned to carry out telecommunications services expansion projects in the wholesale market, for example: the development of a fibre-optic backbone network and the creation of a shared wholesale network for mobile telecommunications services, to be used by the operators. Prior to the reform, the Federal Electricity Commission (CFE) was responsible for the development of the backbone network. As

<sup>175</sup> National Development Plan 2013-2018 and Sectoral Communications and Transport Programme 2013-2018. Viewed at: <http://pnd.gob.mx>.

<sup>176</sup> Article 28 of the Constitution (amendment published in the Official Journal of 11 June 2013) and Article 7 of the LFTR.

<sup>177</sup> Transitional Article 8 of the Decree amending and supplementing various provisions of Articles 6, 7, 27, 28, 73, 78, 94 and 105 of the Political Constitution of the United Mexican States in the area of telecommunications, and Articles 262, 267 and 269 of the LFTR.

<sup>178</sup> Articles 279-280 and 282 of the LFTR.

<sup>179</sup> Articles 28 and 94 of the Constitution, and Reform Portal of the Government of Mexico. Viewed at: <http://reformas.gob.mx/reforma-en-materia-de-telecomunicaciones/que-es>.

from 2016, this network has been administered and operated by Telecomm, a public entity.<sup>180</sup> At present, each operator has its own network, which it has to maintain, and can sell capacity to other operators; however, these networks do not cover the entire country. It is considered that having a shared wholesale network would reduce investment costs and improve coverage. The authorities note that DEOs will have to meet requirements in order to gain access to the shared wholesale network. This network will be administered by a single company, which will be selected by open tender and charged with operating and administering the radio-frequency spectrum and offering services to operators which sell services to the end consumers. This company was to have been selected in 2014 and be in operation by 2018.<sup>181</sup> However, the SCT began the international tender process in 2016, with a decision expected in November 2016.

4.160. Consumers have already noticed the benefits of the reform, insofar as telephone tariffs have decreased. This is mainly owing to the elimination of the charges for domestic long-distance calls and the fall in interconnection tariffs (Articles 118 and 131 of the LFTR). Likewise, certain additional costs have been reduced or eliminated; thus, a DEO cannot impose roaming charges.<sup>182</sup> According to the authorities, it has been calculated that the elimination of the charges for domestic long-distance calls has saved consumers Mex\$24,600 million a year. According to the IFT, tariffs fell by 24.3% between the third quarter of 2013 and the second quarter of 2016. The biggest fall was in international long-distance tariffs (-40.3%), due to the fact that the call packages being offered by the operators include a specific number of free minutes for calling abroad plus the fact that the charges per minute have been reduced. Mobile telephone tariffs also fell (by 36.5%) over the same period.<sup>183</sup> However, not all telecommunications services saw their prices reduced; for example, the prices of Internet services increased by 0.8%, which can be attributed to improvements in connection speed.

4.161. Consumer rights have also been strengthened thanks to the reform. For example, consumers can now switch operator (fixed or mobile) within a maximum of 24 hours; receive rebates or discounts for service breakdowns; and maintain the balance on their prepayment cards for a year (instead of two months), as well as consult it without cost. Users are entitled to have their mobiles unblocked for use with other operators once their contract has ended.<sup>184</sup> Likewise, an operator cannot amend a contract without the consent of the user, and if the service provider does not fulfil its service obligations, then the user is entitled to cancel the contract. Number portability continues to exist for both mobile and fixed telephony.

4.162. A concession from the IFT is required to provide public telecommunications services. As a result of the reform, the concession system has been simplified. Previously, a concession was required for each type of service it was wished to offer and operators were obliged to obtain a concession for each new type of service. Since 2014, a concession for commercial use confers the right to provide the public with any type of telecommunications services and to build and operate the corresponding networks. Commercial concessions last for up to 30 years and can be renewed. Operators can transfer concessions for commercial use with the permission of the IFT.<sup>185</sup> Concessions that were already in existence when the LFTR entered into force will remain in force until they expire, on the terms and conditions granted.

4.163. The IFT grants concessions to use bands in the radio-frequency spectrum by public tender. Concessions are granted for a period of 20 years and are renewable. The IFT can authorize the

<sup>180</sup> Transitional Article 15 of the Decree amending and supplementing various provisions of Articles 6, 7, 27, 28, 73, 78, 94 and 105 of the Constitution in the area of telecommunications, and online information viewed at: <http://www.ift.org.mx/comunicacion-y-medios/comunicados-ift/es/el-ift-otorga-telecomm-un-titulo-de-concesion-de-uso-comercial-con-caracter-de-red-compartida>.

<sup>181</sup> Article 140 of the LFTR, transitional Article 16 of the Constitution, and Reform Portal of the Government of Mexico. Viewed at: <http://reformas.gob.mx/reforma-en-materia-de-telecomunicaciones/que-es>.

<sup>182</sup> Fiftieth Measure, Annex 1 (Mobile Services) of the Resolution determining the DEO in telecommunications. Viewed at: [http://www.ift.org.mx/sites/default/files/anexo\\_1\\_moviles.pdf](http://www.ift.org.mx/sites/default/files/anexo_1_moviles.pdf).

<sup>183</sup> IFT (2015), *Las Telecomunicaciones a 3 años de la Reforma Constitucional*. Viewed at: <http://www.ift.org.mx/sites/default/files/contenidogeneral/unidad-de-competencia-economica/a3anosdelareforma-espanol.pdf>; and IFT (2016), *Segundo Informe Trimestral Estadístico 2016*. Viewed at: <http://www.ift.org.mx/sites/default/files/contenidogeneral/estadisticas/2ite16-vf-acc.pdf>.

<sup>184</sup> Article 191 of the LFTR, and online information from the Government of Mexico. Viewed at: <https://www.gob.mx>.

<sup>185</sup> Articles 66-67, 72 and 110 of the LFTR.

exchange of frequency bands for commercial use between operators. The IFT also encourages the acquisition of frequency bands in the secondary market (whether by leasing or transfer).<sup>186</sup>

4.164. To operate in Mexico, virtual mobile network operators (MVNOs) must obtain an authorization from the IFT to be able to provide the service and a concession to operate a network. MVNOs purchase services or capacity from a concession-holding operator for the purpose of offering services to end users. An MVNO does not have its own network but uses that of the concession-holding operator.<sup>187</sup> In 2016, the IFT issued guidelines on the marketing of mobile services by MVNOs.

4.165. All telephone tariffs have to be registered with the IFT, but in general are not regulated and do not have to be approved. The IFT only regulates and approves the tariffs of the DEOs or operators with substantial market power. Operators freely negotiate the terms and tariffs for interconnection to the networks; in the event of disagreement, the IFT intervenes and fixes the tariffs. DEOs are not authorized to charge interconnection tariffs for calls that other operators terminate in their network. According to the authorities, the IFT decides whether or not operators with substantial market power can charge termination tariffs.

4.166. The number of companies offering fixed and mobile telephony services decreased between 2012 and 2015. In 2012, there were 25 companies offering fixed telephone services, whereas in 2015 there were only 13. The number of mobile telephony companies fell as a consequence of a merger that took place in 2014, so that in 2015 there remained only three of the four there had been in 2012. Moreover, there were five MVNOs offering mobile telephony services in 2015, whereas in 2012 there were no MVNOs operating in the market. Despite the number of companies in operation, concentration in the telephony market has been very high. In 2012, the group América Móvil, composed of Telmex and Telcel, was controlling two thirds of both the fixed and the mobile telephony market. The market is still highly concentrated today. In September 2016, the two largest operators in each segment of the market (fixed and mobile telephony) were still absorbing more than 70% (Chart 4.5). The authorities point out that this concentration, as measured by the Herfindahl Hirschman Index (HHI), although it continues to be high, has been decreasing since 2012, which is attributable to the measures adopted by the IFT to improve competition the market.

4.167. Following the reform of the sector, in 2014, a new mobile telephony operator (apart from the five MVNOs already mentioned), namely AT&T, entered the Mexican market.<sup>188</sup> With the authorization of the IFT, AT&T bought up two operators, to become the third largest operator in the mobile telephony market, even though it only supplies 9% of the market.<sup>189</sup>

4.168. In 2014, the IFT determined that, on the basis of its market share, the group América Móvil, to which Telmex-Telnor and Telcel belong and which operates in both segments of the market, was the DEO in the telecommunications sector and imposed specific measures on it to ensure competitive conditions for the rest of the operators.<sup>190</sup> According to the corresponding resolution, every two years the IFT must analyse the effect of the measures it imposes on the markets in which the DEO operates. In 2016, the IFT held a public consultation to assess the impact of the measures, in addition to analysing the quarterly compliance reports submitted by the DEO.<sup>191</sup> As a result of its assessment, the IFT decided, as a preliminary step, to impose new measures or modify the existing ones. According to the authorities, the final outcome will become known in 2017.

<sup>186</sup> Articles 75, 104 and 106 of the LFTR and Article 28 of the Constitution (amendment published in the Official Journal of 11 June 2013).

<sup>187</sup> Article 170 of the LFTR; and online information from the Federal Consumer Protection Agency (PROFECO). Viewed at: [http://www.profeco.gob.mx/encuesta/brujula/bruj\\_2015/bol308\\_telefonia\\_movil.asp](http://www.profeco.gob.mx/encuesta/brujula/bruj_2015/bol308_telefonia_movil.asp).

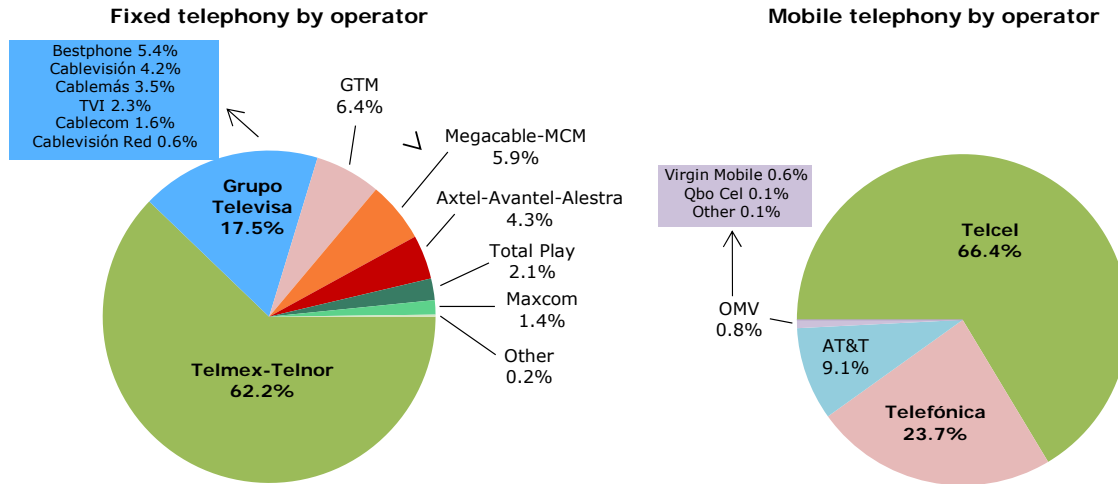
<sup>188</sup> IFT (2014), *Cuarto Informe Trimestral Estadístico 2014*. Viewed at: <http://www.ift.org.mx/sites/default/files/comunicacion-y-medios/informes/4ite14-acc-vf.pdf>.

<sup>189</sup> IFT (2016), *Segundo Informe Trimestral Estadístico 2016*. Viewed at: <http://www.ift.org.mx/sites/default/files/contenidogeneral/estadisticas/2ite16-vf-acc.pdf>.

<sup>190</sup> For further information about the regulations imposed on the DEO, see online information from PROFECO. Viewed at: [http://www.profeco.gob.mx/encuesta/brujula/bruj\\_2015/bol308\\_telefonia\\_movil.asp](http://www.profeco.gob.mx/encuesta/brujula/bruj_2015/bol308_telefonia_movil.asp).

<sup>191</sup> Online information from the IFT. Viewed at: <http://www.ift.org.mx/industria/consultas-publicas/consulta-publica-de-la-efectividad-en-terminos-de-competencia-de-las-medidas-impuestas-al-agente-3>, and at: <http://www.ift.org.mx/registro-publico-de-concesiones/informes-trimestrales-de-cumplimiento-de-agentes-economicos-preponderantes>.

Chart 4.5 Telephony market, 2015



Source: IFT (2016), *Segundo Informe Trimestral Estadístico 2016*. Viewed at: <http://www.ift.org.mx/sites/default/files/contenidogeneral/estadisticas/2ite16-vf-acc.pdf>.

4.169. In 2015, the income of the telecommunications companies amounted to Mex\$443 billion and investments to Mex\$66 billion (Table 4.20). The amount of investment increased in 2015 as compared with the previous year, owing to investment in fixed infrastructure (network expansion projects) and new technologies. Starting in 2013, there was a decline in investment in mobile telephony infrastructure. Nonetheless, investment is expected to increase as a result of the entry of a new operator (AT&T) in 2014 and the expanding use of mobile broadband, which will encourage investment in 4G technology.<sup>192</sup>

4.170. The number of telephony and Internet users has increased since 2012 (Table 4.20). The number of fixed lines, which had reached 19.4 million, remained relatively stable between 2012 and 2015, fixed telephony services having been replaced by mobile telephony. The number of mobile telephone users reached almost 108 million in 2015, an increase over 2012. According to the IFT, the decrease in subscriptions observed between 2013 and 2014 was due to a methodological correction.<sup>193</sup>

Table 4.20 Telecommunications services indicators, 2012-2016 (Q2)

	2012	2013	2014 <sup>a</sup>	2015 <sup>a</sup>	2016 (Q2) <sup>a</sup>
Income (Mex\$ billion) <sup>b</sup>	..	397	435	443	216
Investment (Mex\$ billion) <sup>b</sup>	..	61	49	66	..
Fixed telephony	..	27	32	48	..
Mobile telephony	..	34	17	18	..
<b>Fixed telecommunications services</b>					
Number of fixed lines (million) <sup>c</sup>	19.1	19.1	19.2	19.4	19.7
Penetration (subscriptions/100 inhabitants) <sup>c</sup>	62	61	60	60	60
Number of subscriptions for fixed broadband Internet services (million) <sup>c</sup>	13.1	12.4	13.0	14.8	15.4
Penetration (subscriptions/100 inhabitants) <sup>c</sup>	43	40	41	45	47
Fixed telephony traffic (billion minutes) <sup>d</sup>	100	119	123	123	60
<b>Mobile telecommunications services</b>					
Number of mobile lines (million) <sup>c</sup>	100.2	106.7	104.9	107.7	109.5
Penetration (subscriptions/100 inhabitants) <sup>c</sup>	86	90	87	89	90
Number of subscriptions for mobile broadband Internet services (million) <sup>c</sup>	24.5	34.6	51.5	63.9	69.0
Penetration (subscriptions/100 inhabitants) <sup>c</sup>	21	29	43	53	56

<sup>192</sup> IFT (2016), *Segundo Informe Trimestral Estadístico 2016*. Viewed at: <http://www.ift.org.mx/sites/default/files/contenidogeneral/estadisticas/2ite16-vf-acc.pdf>.

<sup>193</sup> IFT (2015), *Cuarto Informe Trimestral Estadístico 2015*. Viewed at: [http://www.ift.org.mx/sites/default/files/informe\\_trimestral\\_4q\\_2015\\_version\\_habilitada\\_para\\_lector\\_de\\_pantalla\\_v2\\_0.pdf](http://www.ift.org.mx/sites/default/files/informe_trimestral_4q_2015_version_habilitada_para_lector_de_pantalla_v2_0.pdf); and IFT (2014), *Cuarto Informe Trimestral Estadístico 2014*. Viewed at: <http://www.ift.org.mx/sites/default/files/comunicacion-y-medios/informes/4ite14-acc-vf.pdf>.

	2012	2013	2014 <sup>a</sup>	2015 <sup>a</sup>	2016 (Q2) <sup>a</sup>
Mobile telephony traffic (billion minutes) <sup>d</sup>	135	142	145	142	104
Mobile broadband traffic (million megabytes) <sup>d</sup>	..	..	..	266	272

.. Not available.

a Preliminary data.

b Income and investment data for 2013, 2014 and 2015 are annual cumulative, whereas the income data for 2016 are the cumulative data for the first half of the year.

c The data on the number of lines, subscriptions and penetrations for 2013, 2014 and 2015 correspond to the figures at the end of the fourth quarter, while those for 2016 correspond to the end of the second quarter.

d The traffic data for 2013, 2014 and 2015 correspond to the cumulative traffic for the last quarter of the year, while the data for 2016 correspond to the cumulative traffic for the second quarter.

Source: Information provided by the authorities.

4.171. The number of fixed broadband Internet users rose from 13.1 million in 2012 to 15.4 million in the second quarter of 2016, which corresponds to an increase in penetration from 43 subscriptions per 100 inhabitants to 47 subscriptions per 100 inhabitants. Where technology is concerned, connections are made mainly by DSL (copper pair cable), cable modem (coaxial cable) and optical fibre; this latter type accounted for six subscriptions per 100 inhabitants in the second quarter of 2016. The use of mobile broadband Internet services increased substantially between 2012 and 2015. The number of users rose from 24.5 million in 2012 to 69 million in the second quarter of 2016, with a penetration rate of 56 subscriptions per 100 inhabitants. In 2016 the use of mobile data was 63% greater than in 2015.

#### 4.4.3 Transport

##### 4.4.3.1 Institutional framework

4.172. The Ministry of Communications and Transport (SCT) formulates and implements the transport policy laid down in the National Development Plan (PND) 2013-2018 and in the Sectoral Communications and Transport Programme (PSCT) 2013-2018. Moreover, the National Infrastructure Programme (PNI) 2014-2018 lists the projects required to implement transport policy.<sup>194</sup>

4.173. The objectives of Mexican transport policy are to create a transport system that promotes the productivity and competitiveness of the rest of the economy and to develop a multimodal transport system for promoting foreign trade. To achieve these objectives more investment is needed to provide a suitable infrastructure that makes it possible to guarantee quality services throughout the country at reasonable cost.

##### 4.4.3.2 Air transport and airports

###### 4.4.3.2.1 Air transport

4.174. Air transport is regulated by the Civil Aviation Law of 1995, the Airports Law of 1995 and their respective implementing Regulations of 1998 and 2000.<sup>195</sup> The Directorate-General of Civil Aviation (DGAC) continues to act as the sector's regulatory body.

4.175. During the review period there were no changes in the FDI regime for the air transport sector. Foreign investment is permitted but is subject to certain limits. Foreigners may invest a maximum of 25% in airline companies and 49% in airports and the supply of aviation fuel. The National Foreign Investment Commission (CNIE) is empowered to authorize investment in airports

<sup>194</sup> For further details refer to: the National Development Plan; the Sectoral Communications and Transport Programme 2013-2018 and the National Infrastructure Programme 2014-2018. Viewed at: <http://www.gob.mx/sct>.

<sup>195</sup> Latest amendments to the Civil Aviation Law published in the Official Journal of 21 May 2013 and 26 January 2015. Latest amendments to the Airports Law published in the Official Journal of 26 January 2015.



in excess of 49%; according to the authorities, foreign investments that exceed 49% have been authorized.<sup>196</sup>

4.176. Cabotage is prohibited. However, the authorities indicate that the operation of private flights in Mexican territory is authorized under the multiple entry procedure; these flights, being private and non-commercial, are not treated as cabotage. Only a Mexican permit holder who provides an international air transport service under the air taxi or charter procedure may transport passengers, cargo, mail or a combination thereof embarked at a point abroad between two or more points in the national territory. During the review period, there were no changes in the requirements for operating in the Mexican air transport market. Permission from the DGAC is required to operate international flights. To build, manage and operate airports a concession, awarded for 50 years (renewable), is required.<sup>197</sup>

4.177. All tariffs for air transport services must be registered with the DGAC. International transport tariffs must be approved by the DGAC before being registered.<sup>198</sup>

4.178. Mexico has 48 bilateral air transport agreements. Since 2012, some of them have been revised. A revised agreement with the United States entered into force in 2016 (Table A4.2).

#### 4.4.3.2.2 Airports

4.179. In Mexico, some airports are operated by the State and others by private consortia; however, they are owned by the State. Mexico has 76 airports, of which 35 have been put out on concession. Concessions have been granted to four airport groups. Three of the groups are private and operate 34 airports. The fourth group is the Grupo Aeroportuario de la Ciudad de México (GACM), a State-owned enterprise set up to operate Mexico City International Airport (AICM). The rest of the airports are managed by a State agency, Airports and Auxiliary Services (ASA), and by state and municipal governments. The concession-holder is required to provide directly or, if necessary, to contract for airport and related services. Contracts signed with service providers must be approved by the DGAC.<sup>199</sup>

4.180. The main international airports are AICM and Cancún. In 2015, some 37.5 million international passengers arrived in Mexico, 31.4% more than in 2012.<sup>200</sup> Since 2012 international air traffic has increased and diversified; although most of the passengers continue to arrive from the United States, the number of passengers from other regions (Central and South America and Asia) has increased.<sup>201</sup> Both the increase in the number of passengers and the diversification of their origin are due to the adoption of a more flexible air policy, which has made it possible to open up new routes. The period from December 2012 to August 2016 saw the opening of 602 new routes to give a total of 1,702 (of which 1,069 are international); in addition, ten airlines (two Mexican and eight foreign) began to operate; and the number of seats (places) intended for the Mexican market increased from 17 million to 23.3 million. Between 2012 and 2015 the number of weekly flights grew by 16.1%.<sup>202</sup>

<sup>196</sup> Articles 7-8 of the Foreign Investment Law.

<sup>197</sup> Article 11 of the Civil Aviation Law and Article 10 of the Airports Law.

<sup>198</sup> Article 42 of the LAC and Article 69 of the Airports Law.

<sup>199</sup> Articles 54, 56 and 72 of the Airports Law and Article 67 of the Regulations implementing the Airports Law.

<sup>200</sup> DGAC (2016), *Estadística Mensual por Aerolínea / Statistics Monthly by air carrier*. Viewed at: <http://www.sct.gob.mx/transporte-y-medicina-preventiva/aeronautica-civil/5-estadisticas/53-estadistica-operacional-de-aerolineas-air-carrier-operational-statistics/estadistica-historica-1992-2015-historical-statistics-1992-2015/estadistica-mensual-por-aerolinea-statistics-monthly-by-air-carrier>.

<sup>201</sup> DGAC (2015), *Aviación Mexicana en Cifras 2014*. Viewed at: [https://www.google.ch/?gfe\\_rd=cr&ei=IPSaWKyVIobH8Aeb57b4Cg#q=Aviaci%C3%B3n%20Mexicana%20en%20Cifras%202014](https://www.google.ch/?gfe_rd=cr&ei=IPSaWKyVIobH8Aeb57b4Cg#q=Aviaci%C3%B3n%20Mexicana%20en%20Cifras%202014).

<sup>202</sup> SECTUR (2015), *Reporte Semestral de Conectividad Aérea en México, segundo semestre*. Viewed at: [http://www.datatur.sectur.gob.mx/ConectividadAerea/2015-Rpt-2\\_Conectividad.pdf](http://www.datatur.sectur.gob.mx/ConectividadAerea/2015-Rpt-2_Conectividad.pdf); and information provided by the authorities.

4.181. During 2012 and 2015, investment (public and private) in the airport sector increased, rising from Mex\$3,419 million to Mex\$13,381 million.<sup>203</sup> This was mainly due to the construction of the new international airport in Mexico City, which will be inaugurated in 2020 and constitutes the largest public investment project in the sector since 2012. The new airport should help to reduce saturation at the existing airport.<sup>204</sup> According to the National Infrastructure Programme 2014-2018, other airports are or could be operating at the limit of their capacity.

4.182. Mexican Air Space Navigation Services (SENEAM), an agency of the SCT, is still the exclusive provider of air control and navigation services. Likewise, despite the reform of 2014, ASA continues to be the sole supplier of aviation fuel and is also responsible for fuel storage, distribution and marketing. In 2014, following the reform of the energy sector, ASA's monopoly was dismantled. Since then, both domestic and foreign companies have been allowed to supply fuel; however, as of October 2016, no company had entered the market. Although some companies have requested information from the Regulatory Commission for Energy (CRE) in order to apply for authorization, at that time ASA was still the only supplier.<sup>205</sup>

4.183. The SCT continues to regulate the tariffs for airport and related services charged by the airports on concession to the private sector. The regulated tariffs are: (a) the charge for the use of the airport (TUA) paid by the passengers; (b) the charges for airport services and for renting space (for example, counters) paid by the airline companies; and (c) the access charge paid by outside service providers.<sup>206</sup> The Ministry of Finance and Public Credit (SHCP) sets the tariffs for airport and related services in public airports.<sup>207</sup>

4.184. The concession-holders allocate landing and/or take-off times according to historic rights or by auction.<sup>208</sup> The airlines are not allowed to sell landing or take-off slots to each other, but these may be exchanged or transferred.<sup>209</sup> In 2015, the Federal Economic Competition Commission (COFECE), at its own initiative, began an investigation into possible anticompetitive practices in the market for the provision of air transport services that uses Mexico City International Airport for its landing and/or take-off procedures.<sup>210</sup> In 2016, the COFECE issued recommendations and preliminary corrective measures for eliminating the restrictions. In November 2016, the COFECE investigation was still ongoing.

4.185. Airlines may not acquire more than 5% of the capital of an airport operator and vice versa.<sup>211</sup> At present, there is no airline that holds a stake in the capital of an airport operator.

4.186. There are no incentive programmes in the air transport sector.

#### 4.4.3.3 Maritime transport and ports

##### 4.4.3.3.1 Maritime transport

4.187. Maritime transport is governed by the Shipping and Maritime Freight Law (LNCM) of 2006, the Ports Law of 1993 and their respective implementing Regulations of 2015 and 1994.<sup>212</sup> The

<sup>203</sup> SCT (2016), *Principales Estadísticas del sector comunicaciones y transportes 2015*. Viewed at: <http://www.sct.gob.mx/fileadmin/DireccionesGrales/DGP/estadistica/Principales-Estadisticas/Principales-Estadisticas-2015.pdf>.

<sup>204</sup> Online information from the new AICM. Viewed at: <http://www.aeropuerto.gob.mx/index.php>; and online information from the Mexican Institute for Competitiveness (IMCO). Viewed at: <http://imco.org.mx/wp-content/uploads/2014/08/BOLET%C3%8DN-DE-PRENSA-Aeropuerto.pdf>.

<sup>205</sup> Online information from ASA. Viewed at: <http://www.asa.gob.mx/es/ASA/Noticias/1745/sintesis-informativa>.

<sup>206</sup> Articles 141-142 of the Regulations implementing the Airports Law, and online information from the SCT. Viewed at: <http://www.sct.gob.mx/transporte-y-medicina-preventiva/aeronautica-civil/otros/politica-aeronautica/ponencias-tema-regulacion-economica-de-aeropuertos-esquema-de-tarifas-maximas-competencia-e-infraestructura>.

<sup>207</sup> Higher Audit Office of the Federation, Chamber of Deputies (2013), *Evaluación número 1205 "Política pública de regulación y supervisión del sistema aeroportuario"*. Viewed at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5343513&fecha=07/05/2014](http://dof.gob.mx/nota_detalle.php?codigo=5343513&fecha=07/05/2014).

<sup>208</sup> The historic right consists in giving priority to the airline that occupied the slot in the previous period.

<sup>209</sup> Articles 93-103 of the Regulations implementing the Airports Law.

<sup>210</sup> See: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5382063&fecha=16/02/2015](http://www.dof.gob.mx/nota_detalle.php?codigo=5382063&fecha=16/02/2015).

<sup>211</sup> Article 29 of the Airports Law.

main legislative change during the review period was the entry into force, in 2015, of the Regulations implementing the LNCM, which repealed its former Regulations.<sup>213</sup>

4.188. The General Coordinating Office for Ports and the Merchant Marine (CGPMM) is the sector's regulatory body. The CGPMM is composed of three Directorates-General: Ports; Merchant Marine and Development; and Port Administration.

4.189. The regime for foreign direct investment in the maritime transport sector remained unchanged during the review period. Foreign investment is permitted but is limited to 49% in some services, such as: (a) port operators (Integrated Port Administrations (API)), (b) shipping companies engaged in maritime transport in territorial waters and cabotage (except for cruise ships, dredgers and port construction/maintenance), (c) port services (towing, mooring and lighterage) and related services (supply of fuel). The CNIE may authorize investment in excess of 49% in shipping companies operating in territorial waters and port services companies; the authorities note that foreign investment in excess of 49% has been authorized in the activities mentioned. Harbour pilots must be Mexican nationals.<sup>214</sup>

4.190. Cabotage is reserved for Mexican shipping companies with Mexican vessels. However, if the Mexican shipping companies do not have suitable Mexican-registered vessels or cannot provide the cabotage services, foreign vessels will be given temporary permission to provide them.<sup>215</sup> A permit is required to provide these services if the shipping company is foreign or if it is a Mexican company using foreign vessels. The permit is valid for three months and can be renewed for a maximum of two years.<sup>216</sup> At the end of the two years, the Mexican shipping company must register the foreign vessels. If it is found that the foreign vessel has unusually specialized technical characteristics, the Mexican shipping company will be able to continue using it beyond the end of the two-year period (until there is a Mexican vessel with similar technical characteristics). According to the authorities, there are foreign shipping companies currently providing cabotage services in Mexico.

4.191. Maritime transport in territorial waters is, in principle, subject to the same limitations, except where there is reciprocity of treatment on the part of the other country. That is to say, foreign shipping companies (with foreign vessels) whose country of origin applies the principle of reciprocity are permitted to transport passengers in territorial waters and to dredge and build/maintain ports. To be able to operate in territorial waters foreign shipping companies require a navigation permit valid for six years (with one possible extension).

4.192. In general, in Mexico, and with the exception of cabotage, maritime transport is governed by the principle of reciprocity; accordingly, if this treatment is accorded to the Mexican State, shipping companies do not require any kind of authorization to provide transport services in Mexico. However, foreign shipping companies must have a shipping agent in each port in which they operate.

4.193. In the first half of 2016 the total volume of maritime freight transported reached 144 million tonnes, of which 46% was liquid cargo, 31% bulk cargo, 15% containerized cargo and 8% loose general cargo. During the same period, 38 million tonnes of freight were transported in cabotage operations. In 2015, 91 foreign shipping companies were operating in Mexican ports.

4.194. According to the Sectoral Communications and Transport Programme 2013-2018, the use of cabotage should be increased by employing it as an alternative to road transport, since that would speed up the movement of goods and reduce costs.<sup>217</sup> However, the Programme points out

<sup>212</sup> Latest amendments to the laws published in the Official Journal of 26 December 2013 and 23 January 2014. Latest amendments to the Regulations implementing the Ports Law published in the Official Journal of 2 April 2014.

<sup>213</sup> The Regulations repeal seven regulations (transitional Articles 2 to 6). Online information viewed at: <http://www.sct.gob.mx/despliega-noticias/articulo/sct-publico-reglamento-de-la-ley-de-navegacion-y-comercio-maritimos-en-el-dof>.

<sup>214</sup> Article 57 of the LNCM.

<sup>215</sup> Articles 40-41 of the LNCM.

<sup>216</sup> Articles 36, 40 and 42 of the LNCM and Articles 226 and 238-239 of the Regulations implementing the LNCM.

<sup>217</sup> Statistics viewed at: <http://www.sct.gob.mx/puertos-y-marina/puertos/estadisticas/anuarios-puertos>.

that to develop cabotage, among other things, the port infrastructure would have to be improved by providing spaces equipped for this mode of transport.

#### 4.4.3.3.2 Ports

4.195. Mexico's main ports are Altamira and Veracruz on the Gulf of Mexico and Lázaro Cárdenas and Manzanillo on the Pacific. In the first half of 2016, some 95% of containerized cargo, 62% of bulk agricultural cargo, 32% of bulk mineral cargo and 37% of loose general cargo was transported through these four ports.

4.196. According to the National Infrastructure Programme 2014-2018, owing to increased international trade, Mexican ports, in particular the four most important ones, are operating at the limit of their capacity. The congestion is most apparent in the container terminals, since this is the mode of transport that has recorded the biggest increase. Therefore, the National Infrastructure Programme includes various investment projects for expanding the capacity of Mexico's ports between now and 2018.

4.197. Mexico's ports are owned by the State but may be managed on concession. A concession is also required to build and operate ports. Concessions are valid for 50 years and can be renewed.<sup>218</sup> The Integrated Port Administrations (API) that build, operate and administer the ports may be public or private enterprises. An API can administer and operate one or more ports. In 2016, there were 26 APIs administering and operating 74 Mexican ports; 25 of them were public entities. The only private API is that which operates in the Port of Acapulco.<sup>219</sup>

4.198. Each API is responsible for building and operating the terminals within the port precincts and providing port services or contracting them out to private operators. The contracts must be approved by the Directorate-General of Ports.<sup>220</sup> Harbour pilots, who can only be Mexican nationals, are appointed by the Directorate-General of the Merchant Marine.

4.199. The Directorate-General of Ports establishes maximum tariffs for the use of the port infrastructure and the provision of port services (for example, mooring, lighterage, pilotage and towing) if there are no port options or other modes of transport conducive to "reasonable competition" (Article 60 of the Ports Law).<sup>221</sup> The maximum tariffs are determined on the basis of an analysis that takes into account the operating costs and annual administrative expenses, the capital costs within the traffic observed in the same year and the prevailing tariffs in the domestic and international markets. The COFECE may decide that tariff regulation is inappropriate given the conditions of competition; since 2012, the COFECE has not made any ruling on tariff regulation.

#### 4.4.3.3.3 Shipbuilding

4.200. The National Merchant Marine Development Fund (FONDEMAR), a State institution, was established in 2006, to guarantee the loans obtained by shipyards and shipping companies to build and modernize their facilities and to buy vessels. The Fund guarantees up to 50% of the amount of the loan (or a maximum of US\$5 million). These limits may be exceeded subject to the prior authorization of the Directorate-General of the Merchant Marine.<sup>222</sup> During the review period, only one shipping company benefited from the guarantees offered by the Fund; the amount granted was Mex\$113.4 million. The purpose of setting up FONDEMAR was to renew, update and grow the Mexican merchant fleet, thereby promoting competitiveness and the development of the ship and floating structure building and repair industry.

4.201. Likewise, for the purpose of stimulating the activities of the merchant marine and the Mexican shipbuilding industry and thus promoting the use of Mexican vessels, a draft Federal Law on strengthening the merchant marine and the Mexican shipbuilding industry is being debated.

<sup>218</sup> Articles 20-21, 23 and 38 and transitional Article 7 of the Ports Law.

<sup>219</sup> See: [http://www.sct.gob.mx/fileadmin/CGPMM/U\\_DGP/Sistema\\_portuario/SPN.pdf](http://www.sct.gob.mx/fileadmin/CGPMM/U_DGP/Sistema_portuario/SPN.pdf).

<sup>220</sup> Articles 20, 40 and 51 of the Ports Law.

<sup>221</sup> Reasonable competition is considered to exist when there are two or more providers of the same port service.

<sup>222</sup> Rules of Operation of the National Merchant Marine Development Fund. Viewed at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5269853&fecha=24/09/2012](http://dof.gob.mx/nota_detalle.php?codigo=5269853&fecha=24/09/2012); and online information viewed at: <http://www.sct.gob.mx/despliega-noticias/articulo/fondo-de-desarrollo-de-la-marina-mercante-mexicana>.

#### 4.4.4 Tourism

4.202. In 2014, according to the Tourism Satellite Account (TSA), the tourism sector contributed 8.5% to GDP (latest data available). The activities that generated most value were real estate and rental, transport, and restaurant and leisure services. The authorities point out that tourism is currently generating nine million direct and indirect jobs.

4.203. According to the barometer of the World Tourism Organization (UNWTO), Mexico was among the world's top ten tourist destinations in 2015.<sup>223</sup> Between 2012 and 2015 the number of international visitors (tourists and short-stay) arriving in Mexico rose from 76.7 million to 87.1 million (Table 4.21). This growth can be partly attributed to the air transport policy adopted by Mexico, which resulted in an increase in the number of flights bound for Mexico (Section 4.4.3.2.1), and to the promotion strategy and the efforts made to diversify and strengthen the tourism offer throughout the country. Most of the tourists come from the United States, but the number arriving from other regions has also increased.<sup>224</sup> In 2015, income from tourism amounted to US\$17.7 million. Mexico allows 100% foreign direct investment in the tourism sector.

**Table 4.21 International tourism indicators, 2012-2016 (Q3)**

	2012	2013	2014	2015	2016 (Q3)
Income (US\$ million)	12,739	13,949	16,208	17,457	14,474
Visitors (million)	76.7	78.1	81.0	87.1	69.4
Tourists	23.4	24.2	29.3	32.1	25.3
Short-stay	53.3	53.9	51.7	55.0	44.1
Average spend (US\$)	166.0	178.6	200.0	203.5	208.5

Source: Information provided by the authorities.

4.204. The General Law on Tourism (LGT) of 2009 and its implementing Regulations of 2015 regulate tourism activities in Mexico. The Ministry of Tourism (SECTUR) formulates and manages policy in the sector. SECTUR is assisted in its work by: (a) the National Tourism Conference, whose aim is to harmonize public policy between the different tiers of government (federal, state and municipal); (b) the Executive Commission for Tourism, which settles matters that fall within the authority of its various dependent bodies such as the Mexican Tourism Promotion Board, the Ángeles Verdes (Green Angels) Tourist Services Corporation and the Tourism Competitiveness Institute; and (c) the Tourism Advisory Board, which formulates proposals for promoting tourism. The Executive Commission and the Advisory Board are intersectoral bodies; representatives of the private sector can participate in these forums, but do not have the right to vote.

4.205. The objectives of tourism policy, as listed in the Sectoral Programme for Tourism 2013-2018, are to strengthen the range of tourism products and promote new products and non-traditional tourism. To achieve these objectives, investment in the sector has been increased. For example, according to the authorities, the accommodation available rose from 661,000 rooms in 2012 to 737,000 in 2015. Progress has also been made in providing vocational training for the sector, to improve the quality of the services offered, and more than 30,000 certificates and accreditations have been issued to providers of tourism services. In addition, tourism products have been developed by destination. The Programme reflects the fact that sustainable development and social inclusion are important factors that must be taken into account in developing any policy for the tourism sector.

4.206. The National Tourism Development Fund (FONATUR) was established for the purpose of contributing to the planning, programming, promotion and development of tourism and tourism resources, as well as for promoting the financing of private investment. According to the authorities, financing is promoted through agreements with development banking, by means of which the Fund encourages investment in the sector and offers advice to companies. FONATUR is regulated by the Organic Law of the Federal Government, the Federal Law on Parastatal Bodies and the Federal Law on Tourism. FONATUR forms part of the parastatal public sector and has a Technical Committee, which studies and approves the programmes of the Trust. The Fund is

<sup>223</sup> SECTUR statistics. Viewed at: <http://www.datatur.sectur.gob.mx/SitePages/RankingOMT.aspx>.

<sup>224</sup> SECTUR statistics. Viewed at: <http://www.datatur.sectur.gob.mx>.

attached to SECTUR and operates in conformity with the National Development Plan and the National Programme for Tourism.<sup>225</sup>

4.207. Operators in the tourism sector can obtain financing for tourism projects from Bancomext. Bancomext has three programmes for this purpose: (i) the Mejora tu Hotel (Improve Your Hotel) Programme (loans for between Mex\$60 million and 100,000 million at market rates, with a flexible term); (ii) the Financing Programme for Tourism SMEs (loans for between Mex\$35,000 and the equivalent of 4 million UDI<sup>226</sup>, with a term of up to five years, at prime interest rates); (iii) the Tourism Sector Financing Programme for augmenting tourism products and services (loans of Mex\$3 million at market rates).

4.208. Providers of tourism services must be enrolled in SECTUR's National Tourism Register.

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<sup>225</sup> Online information from FONATUR. Viewed at: <http://www.fonatur.gob.mx/es/index.asp>.

<sup>226</sup> The value of a UDI can be viewed at: <http://www.banxico.org.mx>.

## 5 APPENDIX TABLES

Table A1. 1 Total merchandise exports by HS section, 2012-2015

(US\$ million and %)

	2012	2013	2014	2015
	(US\$ million)			
<b>Total exports</b>	<b>370,847</b>	<b>380,015</b>	<b>397,129</b>	<b>380,772</b>
IMMEX	243,793	257,375	281,302	283,905
Non-IMMEX	127,054	122,640	115,827	96,867
	(% of exports)			
1 - Live animals; animal products	0.8	0.7	0.9	1.0
2 - Vegetable products	2.8	2.9	3.1	3.4
08 - Edible fruit and nuts; peel of citrus fruit or melons	1.0	1.1	1.3	1.5
07 - Edible vegetables and certain roots and tubers	1.3	1.4	1.4	1.5
3 - Animal or vegetable fats and oils	0.1	0.1	0.1	0.1
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	2.5	2.8	2.7	2.8
22 - Beverages, spirits and vinegar	0.9	1.0	1.0	1.1
5 - Mineral products	15.5	14.1	11.9	7.2
27 - Mineral fuels, mineral oils and products of their distillation	14.1	12.9	10.6	6.0
26 - Ores	1.1	1.1	1.1	1.0
6 - Products of the chemical or allied industries	3.1	3.0	2.8	2.8
7 - Plastics and articles thereof	2.7	2.8	2.8	2.9
39 - Plastics and articles thereof	2.0	2.1	2.2	2.2
8 - Raw hides and skins, leather, furskins and articles thereof; saddlery and harness	0.2	0.2	0.2	0.2
9 - Wood and articles of wood; wood charcoal	0.1	0.1	0.1	0.1
10 - Pulp of wood or of other fibrous cellulosic material; paper and paperboard and articles thereof	0.5	0.5	0.5	0.5
11 - Textiles and textile articles	1.8	1.8	1.8	1.8
12 - Footwear, headgear, umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof; prepared feathers and articles made therewith	0.2	0.2	0.2	0.2
13 - Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	0.9	0.9	0.9	1.0
14 - Natural or cultured pearls, precious or semi-precious stones, precious metals	3.6	2.6	2.0	1.9
71 - Natural or cultured pearls, precious or semi-precious stones	3.6	2.6	2.0	1.9
15 - Base metals and articles of base metal	4.5	4.4	4.4	4.1
73 - Articles of iron or steel	1.4	1.5	1.5	1.5
83 - Miscellaneous articles of base metal	0.5	0.5	0.5	0.6
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	34.7	34.7	35.3	36.8
84 - Nuclear reactors, boilers, machinery and mechanical appliances	14.5	14.2	15.2	15.5
85 - Electrical machinery and equipment and parts thereof	20.2	20.5	20.2	21.3
17 - Vehicles, aircraft, vessels and associated transport equipment	19.7	21.2	22.9	25.0
87 - Vehicles other than railway or tramway rolling-stock	18.9	20.3	21.6	23.7
18 - Optical, photographic, cinematographic, measuring, checking or precision instruments and apparatus	3.2	3.4	3.7	4.0
90 - Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	3.2	3.4	3.6	4.0
19 - Arms and ammunition; parts and accessories thereof	0.0	0.0	0.0	0.0
20 - Miscellaneous manufactured articles	2.6	2.8	3.1	3.4
94 - Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings	2.0	2.2	2.4	2.6
21 - Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0
<b>Other</b>	<b>0.6</b>	<b>0.6</b>	<b>0.7</b>	<b>0.9</b>

Source: WTO Secretariat estimates, based on data provided by the authorities.

**Table A1. 2 IMMEX merchandise exports by HS section, 2012-2015**

(US\$ million and %)

	2012	2013	2014	2015
	(US\$ million)			
<b>IMMEX exports</b>	<b>243,793</b>	<b>257,375</b>	<b>281,302</b>	<b>283,905</b>
	(% of IMMEX exports)			
1 - Live animals; animal products	0.0	0.0	0.0	0.0
2 - Vegetable products	0.1	0.1	0.1	0.2
3 - Animal or vegetable fats and oils	0.0	0.0	0.0	0.0
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	1.1	1.3	1.1	1.2
5 - Mineral products	0.2	0.2	0.3	0.1
6 - Products of the chemical or allied industries	1.5	1.5	1.4	1.3
7 - Plastics and articles thereof	2.6	2.8	2.6	2.5
39 - Plastics and articles thereof	2.1	2.2	2.1	2.0
8 - Raw hides and skins, leather, furskins and articles thereof; saddlery and harness	0.2	0.2	0.2	0.2
9 - Wood and articles of wood; wood charcoal	0.1	0.1	0.1	0.1
10 - Pulp of wood or of other fibrous cellulosic material; paper and paperboard and articles thereof	0.4	0.4	0.4	0.4
11 - Textiles and textile articles	2.3	2.2	2.1	2.0
62 - Articles of apparel and clothing accessories, not knitted or crocheted	1.1	1.0	0.9	0.9
61 - Articles of apparel and clothing accessories, knitted or crocheted	0.6	0.6	0.5	0.5
12 - Footwear, headgear, umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof; prepared feathers and articles made therewith	0.1	0.1	0.1	0.1
13 - Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	0.7	0.8	0.7	0.7
14 - Natural or cultured pearls, precious or semi-precious stones, precious metals	1.3	0.9	0.9	0.4
15 - Base metals and articles of base metal	3.5	3.3	3.3	3.0
73 - Articles of iron or steel	1.3	1.1	1.3	1.2
83 - Miscellaneous articles of base metal	0.6	0.6	0.6	0.6
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	48.2	46.9	45.9	45.4
85 - Electrical machinery and equipment and parts thereof	28.9	28.6	27.0	27.2
84 - Nuclear reactors, boilers, machinery and mechanical appliances	19.3	18.3	18.9	18.3
17 - Vehicles, aircraft, vessels and associated transport equipment	28.7	30.1	31.1	32.2
87 - Vehicles other than railway or tramway rolling-stock	27.6	28.9	29.4	30.5
86 - Railway or tramway locomotives, rolling-stock and parts thereof	0.9	1.0	1.3	1.3
18 - Optical, photographic, cinematographic, measuring, checking or precision instruments and apparatus	4.7	4.9	5.0	5.2
90 - Optical, photographic, cinematographic, measuring, checking or precision instruments and apparatus	4.6	4.8	4.9	5.2
19 - Arms and ammunition; parts and accessories thereof	0.0	0.0	0.0	0.0
20 - Miscellaneous manufactured articles	3.6	3.7	4.0	4.0
94 - Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings	2.8	2.9	3.2	3.2
21 - Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0
<b>Other</b>	<b>0.6</b>	<b>0.6</b>	<b>0.7</b>	<b>0.8</b>

Source: WTO Secretariat estimates, based on data provided by the authorities.



**Table A1. 3 Total merchandise imports by HS section, 2012-2015**

(US\$ million and %)

	2012	2013	2014	2015
		(US\$ million)		
<b>Total imports</b>	<b>370,752</b>	<b>381,210</b>	<b>399,977</b>	<b>395,232</b>
IMMEX	183,818	191,940	204,141	202,177
Non-IMMEX	186,934	189,271	195,836	193,055
		(% of imports)		
1 - Live animals; animal products	1.6	1.8	2.0	1.6
02 - Meat and edible meat offal	1.0	1.0	1.1	1.0
2 - Vegetable products	3.1	2.7	2.6	2.4
10 - Cereals	1.5	1.1	1.1	1.0
12 - Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	1.0	0.9	0.9	0.7
3 - Animal or vegetable fats and oils	0.5	0.4	0.3	0.3
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	1.9	1.9	1.8	1.8
5 - Mineral products	9.4	9.0	8.6	7.0
27 - Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	9.0	8.6	8.3	6.7
6 - Products of the chemical or allied industries	7.8	7.7	7.7	7.1
29 - Organic chemicals	2.6	2.6	2.6	2.0
30 - Pharmaceutical products	1.3	1.3	1.2	1.2
38 - Miscellaneous chemical products	1.1	1.2	1.2	1.1
7 - Plastics and articles thereof	7.1	7.1	7.3	7.3
39 - Plastics and articles thereof	5.4	5.5	5.6	5.6
40 - Rubber and articles thereof	1.7	1.6	1.7	1.7
8 - Raw hides and skins, leather, furskins and articles thereof; saddlery and harness	0.4	0.5	0.5	0.5
9 - Wood and articles of wood; wood charcoal	0.4	0.4	0.4	0.4
10 - Pulp of wood or of other fibrous cellulosic material; paper and paperboard and articles thereof	1.9	1.8	1.8	1.8
48 - Paper and paperboard; articles of paper pulp, of paper or of paperboard	1.4	1.4	1.4	1.4
11 - Textiles and textile articles	2.5	2.6	2.6	2.7
12 - Footwear, headgear, umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof; prepared feathers and articles made therewith	0.3	0.3	0.3	0.3
13 - Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	0.7	0.7	0.7	0.7
14 - Natural or cultured pearls, precious or semi-precious stones, precious metals	0.3	0.3	0.3	0.3
15 - Base metals and articles of base metal	8.7	8.0	8.2	8.3
72 - Iron and steel	2.7	2.3	2.4	2.4
73 - Articles of iron or steel	2.3	2.3	2.3	2.4
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	37.3	38.3	37.7	38.7
85 - Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles	20.9	22.0	21.3	21.6
84 - Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	16.4	16.4	16.4	17.1
17 - Vehicles, aircraft, vessels and associated transport equipment	9.2	9.2	9.4	9.9
87 - Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	8.7	8.8	8.9	9.4
18 - Optical, photographic, cinematographic, measuring, checking or precision instruments and apparatus	3.3	3.4	3.4	3.9
90 - Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof	3.2	3.3	3.3	3.8
19 - Arms and ammunition; parts and accessories thereof	0.0	0.0	0.0	0.0
20 - Miscellaneous manufactured articles	1.6	1.6	1.7	1.7
21 - Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0
<b>Other</b>	<b>1.9</b>	<b>2.3</b>	<b>2.7</b>	<b>3.0</b>

Source: WTO Secretariat estimates, based on data provided by the authorities.

**Table A1. 4 IMMEX merchandise imports by HS section, 2012-2015**

(US\$ million and %)

	2012	2013	2014	2015
<b>IMMEX imports</b>	<b>183,818</b>	<b>191,940</b>	<b>204,141</b>	<b>202,177</b>
	(US\$ million)			
	(% of IMMEX imports)			
1 - Live animals; animal products	0.0	0.1	0.1	0.0
2 - Vegetable products	0.1	0.1	0.1	0.1
3 - Animal or vegetable fats and oils	0.0	0.0	0.0	0.0
4 - Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	0.2	0.2	0.2	0.2
5 - Mineral products	0.8	0.7	0.7	0.5
6 - Products of the chemical or allied industries	4.0	4.1	3.9	2.6
29 - Organic chemicals	2.1	2.2	2.1	0.9
38 - Miscellaneous chemical products	0.4	0.5	0.6	0.6
7 - Plastics and articles thereof	7.2	7.3	7.3	7.3
39 - Plastics and articles thereof	5.7	5.7	5.7	5.7
40 - Rubber and articles thereof	1.5	1.5	1.5	1.6
8 - Raw hides and skins, leather, furskins and articles thereof; saddlery and harness	0.5	0.5	0.5	0.5
9 - Wood and articles of wood; wood charcoal	0.2	0.2	0.2	0.2
10 - Pulp of wood or of other fibrous cellulosic material; paper and paperboard and articles thereof	1.4	1.5	1.4	1.4
48 - Paper and paperboard; articles of paper pulp, of paper or of paperboard	1.2	1.3	1.3	1.2
11 - Textiles and textile articles	2.3	2.3	2.2	2.1
12 - Footwear, headgear, umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof; prepared feathers and articles made therewith	0.0	0.0	0.0	0.0
13 - Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	0.5	0.5	0.5	0.5
14 - Natural or cultured pearls, precious or semi-precious stones, precious metals	0.4	0.4	0.4	0.4
15 - Base metals and articles of base metal	10.4	9.2	9.5	9.2
73 - Articles of iron or steel	2.8	2.7	2.7	2.8
72 - Iron and steel	2.9	2.3	2.6	2.4
76 - Aluminium and articles thereof	2.2	1.6	1.6	1.6
74 - Copper and articles thereof	1.3	1.2	1.2	1.1
83 - Miscellaneous articles of base metal	0.8	0.8	0.8	0.8
16 - Machinery and mechanical appliances; electrical equipment; parts thereof	50.1	50.8	49.5	49.7
85 - Electrical machinery and equipment and parts thereof	32.7	33.7	32.2	31.7
84 - Nuclear reactors, boilers, machinery and mechanical appliances	17.4	17.1	17.3	18.0
17 - Vehicles, aircraft, vessels and associated transport equipment	13.6	13.2	13.7	14.1
87 - Vehicles other than railway or tramway rolling-stock	13.1	12.7	13.2	13.5
18 - Optical, photographic, cinematographic, measuring, checking or precision instruments and apparatus	4.2	4.2	4.3	5.2
90 - Optical, photographic, cinematographic, measuring, checking or precision instruments and apparatus	4.2	4.2	4.3	5.2
19 - Arms and ammunition; parts and accessories thereof	0.0	0.0	0.0	0.0
20 - Miscellaneous manufactured articles	1.1	1.2	1.3	1.4
21 - Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0
<b>Other</b>	<b>2.9</b>	<b>3.4</b>	<b>4.1</b>	<b>4.5</b>

Source: WTO Secretariat estimates, based on data provided by the authorities.

**Table A1. 5 Total merchandise exports by trading partner, 2012-2015**

(US\$ million and %)

Description	2012	2013	2014	2015
	(US\$ million)			
<b>Exports</b>	<b>370,847</b>	<b>380,015</b>	<b>397,129</b>	<b>380,772</b>
	(% of exports)			
<b>America</b>	<b>88.3</b>	<b>88.6</b>	<b>89.3</b>	<b>89.8</b>
United States	77.7	78.9	80.3	81.2
Other America	10.6	9.7	9.1	8.6
Canada	2.9	2.7	2.7	2.8
Brazil	1.5	1.4	1.2	1.0
Colombia	1.5	1.2	1.2	1.0
Chile	0.6	0.5	0.5	0.5
Guatemala	0.5	0.5	0.5	0.5
Peru	0.4	0.5	0.4	0.4
Argentina	0.5	0.5	0.3	0.4
Venezuela, Bolivarian Republic of	0.6	0.6	0.4	0.3
Panama	0.3	0.3	0.2	0.3
Costa Rica	0.3	0.3	0.3	0.3
<b>Europe</b>	<b>6.3</b>	<b>5.6</b>	<b>5.6</b>	<b>5.4</b>
EU(28)	5.9	5.2	5.1	4.8
Spain	1.9	1.8	1.5	0.9
Germany	1.2	1.0	0.9	0.9
France	0.3	0.3	0.4	0.6
United Kingdom	0.7	0.4	0.5	0.5
Netherlands	0.5	0.4	0.6	0.5
EFTA	0.2	0.3	0.4	0.5
Switzerland	0.2	0.3	0.4	0.5
Other Europe	0.1	0.1	0.1	0.1
Turkey	0.1	0.1	0.1	0.1
Russian Federation	0.1	0.1	0.1	0.1
<b>Africa</b>	<b>0.2</b>	<b>0.2</b>	<b>0.2</b>	<b>0.2</b>
Middle East	0.3	0.4	0.3	0.3
Saudi Arabia, Kingdom of	0.0	0.1	0.2	0.1
United Arab Emirates	0.1	0.1	0.1	0.1
<b>Asia</b>	<b>4.7</b>	<b>4.8</b>	<b>4.4</b>	<b>4.2</b>
China	1.5	1.7	1.5	1.3
Japan	0.7	0.6	0.7	0.8
Other Asia	2.5	2.5	2.2	2.2
Korea, Republic of	0.5	0.4	0.5	0.7
India	0.9	1.0	0.7	0.5
Australia	0.3	0.3	0.3	0.3
Hong Kong, China	0.2	0.3	0.3	0.2
Singapore	0.2	0.2	0.1	0.1
Thailand	0.1	0.1	0.1	0.1
Chinese Taipei	0.1	0.1	0.1	0.1
<b>Other</b>	<b>0.1</b>	<b>0.3</b>	<b>0.0</b>	<b>0.0</b>

Source: WTO Secretariat estimates, based on data from the authorities.

**Table A1. 6 Total merchandise imports by trading partner, 2012-2015**

(US\$ million and %)

Description	2012	2013	2014	2015
	(US\$ million)			
<b>Imports</b>	<b>370,752</b>	<b>381,210</b>	<b>399,977</b>	<b>395,232</b>
	(% of imports)			
<b>America</b>	<b>56.6</b>	<b>55.7</b>	<b>55.2</b>	<b>53.0</b>
United States	50.1	49.3	49.0	47.4
Other America	6.5	6.4	6.2	5.7
Canada	2.7	2.6	2.5	2.5
Brazil	1.2	1.2	1.1	1.2
Chile	0.4	0.4	0.3	0.4
Argentina	0.3	0.3	0.3	0.3
Colombia	0.2	0.2	0.2	0.2
Peru	0.1	0.2	0.3	0.2
Costa Rica	0.9	0.8	0.6	0.1
Nicaragua	0.0	0.2	0.2	0.1
Guatemala	0.2	0.1	0.1	0.1
Honduras	0.1	0.1	0.1	0.1
Uruguay	0.1	0.1	0.1	0.1
Trinidad and Tobago	0.0	0.1	0.1	0.1
<b>Europe</b>	<b>11.6</b>	<b>12.0</b>	<b>11.9</b>	<b>11.7</b>
EU(28)	11.0	11.3	11.1	11.1
Germany	3.6	3.5	3.4	3.5
Italy	1.5	1.5	1.3	1.3
Spain	1.1	1.1	1.2	1.2
France	0.9	1.0	0.9	0.9
Netherlands	1.0	1.1	0.9	0.8
EFTA	0.5	0.5	0.5	0.5
Switzerland	0.4	0.5	0.5	0.4
Other Europe	0.1	0.2	0.2	0.2
Turkey	0.1	0.1	0.2	0.2
Commonwealth of Independent States (CIS) <sup>a</sup>	0.4	0.4	0.4	0.4
Russian Federation	0.3	0.3	0.4	0.4
<b>Africa</b>	<b>0.4</b>	<b>0.3</b>	<b>0.3</b>	<b>0.2</b>
Nigeria	0.0	0.1	0.1	0.1
Morocco	0.1	0.1	0.1	0.1
South Africa	0.2	0.1	0.1	0.0
<b>Middle East</b>	<b>0.5</b>	<b>0.4</b>	<b>0.4</b>	<b>0.3</b>
Israel	0.2	0.2	0.2	0.2
<b>Asia</b>	<b>30.5</b>	<b>31.1</b>	<b>31.8</b>	<b>34.3</b>
China	15.4	16.1	16.6	17.7
Japan	4.8	4.5	4.4	4.4
Other Asia	10.4	10.6	10.8	12.2
Korea, Republic of	3.6	3.5	3.4	3.7
Malaysia	1.3	1.4	1.6	1.9
Chinese Taipei	1.7	1.8	1.6	1.7
Thailand	1.0	1.1	1.1	1.3
India	0.8	0.8	0.9	1.0

Source: WTO Secretariat estimates, based on data from the authorities.

Table A2. 1 Notifications to the WTO, 1 January 2012 to 30 September 2016

Agreement and Article	Requirement	Frequency	Document (most recent if submitted regularly)	Date
<b>Agreement on Agriculture</b>				
Article 18.2, ES:1 and ES:2	Export subsidies	On an annual basis	G/AG/N/MEX/32	1/09/2016
Article 18.2, ES:1 and ES:2	Export subsidies	On an annual basis	G/AG/N/MEX/27 G/AG/N/MEX/27/Corr.1	21/07/2014 05/11/2014
Article 18.2, DS:1	Domestic support	On an annual basis	G/AG/N/MEX/31	31/08/2016
Article 18.2, DS:1	Domestic support	On an annual basis	G/AG/N/MEX/28	15/09/2015
Article 18.2, MA:2	Tariff quotas	On an annual basis	G/AG/N/MEX/30	30/08/2016
Article 18.2, MA:2	Tariff quotas	On an annual basis	G/AG/N/MEX/25	21/07/2014
			G/AG/N/MEX/23	28/09/2012
Article 18.2, MA:5	Special safeguard	On an annual basis	G/AG/N/MEX/29	29/08/2016
Article 18.2, MA:5	Special safeguard	On an annual basis	G/AG/N/MEX/26	21/07/2014
			G/AG/N/MEX/24	28/09/2012
<b>Agreement on Rules of Origin</b>				
Article 5 and Annex II, paragraph 4	Modifications to preferential rules of origin; new preferential rules of origin	Ad hoc	G/RO/N/114 G/RO/N/108	02/04/2014 19/09/2013
<b>Agreement on Import Licensing Procedures</b>				
Articles 5.1, 5.2 and 5.3	Import licensing procedures or changes thereto	Ad hoc	G/LIC/N/2/MEX/6 G/LIC/N/2/MEX/5 G/LIC/N/2/MEX/4 G/LIC/N/2/MEX/3 G/LIC/N/2/MEX/2	11/03/2015 10/03/2015 23/10/2014 15/04/2014 15/04/2014
Article 7.3	Replies to the questionnaire on import licensing procedures	On an annual basis	G/LIC/N/3/MEX/4	10/10/2013
Article 1.4(a)	Publications	Ad hoc	G/LIC/N/1/MEX/5 G/LIC/N/1/MEX/4	15/04/2014 15/04/2014
Article 8.2(b)	Legislation	Once only/ Ad hoc	G/LIC/N/1/MEX/7 G/LIC/N/1/MEX/6 G/LIC/N/1/MEX/5 G/LIC/N/1/MEX/4	10/03/2015 10/03/2015 15/04/2014 15/04/2014
<b>Quantitative restrictions</b>				
G/L/59	List of restrictions	Biennial	G/MA/QR/N/MEX/1/Rev.1 G/MA/QR/N/MEX/1	04/08/2016 27/07/2016
<b>Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (antidumping)</b>				
Article 16.4	Anti-dumping actions (preliminary and final)	Ad hoc	G/ADP/N/290 G/ADP/N/289 G/ADP/N/288 G/ADP/N/287 G/ADP/N/285 G/ADP/N/284 G/ADP/N/283 G/ADP/N/282 G/ADP/N/279	22/09/2016 24/08/2016 28/07/2016 23/06/2016 31/05/2016 19/04/2016 24/03/2016 23/02/2016 18/01/2016
Article 16.4	Anti-dumping actions (taken within the preceding six months)	On a semi-annual basis	G/ADP/N/290	22/09/2016
Article 16.5	Competent authorities	Ad hoc	G/ADP/N/14/Add.34; G/SCM/N/18/Add.34	12/10/2012
Article 18.5	Legal texts and changes thereto	Ad hoc	G/ADP/N/1/MEX/1/Suppl.5; G/SCM/N/1/MEX/1/Suppl.4; G/SG/N/1/MEX/1/Suppl.4	13/06/2014

Agreement and Article	Requirement	Frequency	Document (most recent if submitted regularly)	Date
<b>Agreement on Subsidies and Countervailing Measures</b>				
Article 25.11	Countervailing measures	Ad hoc	G/SCM/N/278	18/09/2014
Article 25.11	Countervailing measures (taken within the preceding six months)	On a semi-annual basis	G/SCM/N/305/MEX G/SCM/N/298/MEX G/SCM/N/298/MEX/Corr.1	02/09/2016 25/02/2016 16/06/2016
Article 25.12	Competent authorities	Ad hoc	G/ADP/N/14/Add.34; G/SCM/N/18/Add.34	12/10/2012
Article 25.1	Subsidy programmes	On a yearly basis	G/SCM/N/284/MEX/Suppl.1	11/11/2015
			G/SCM/N/284/MEX	09/07/2015
			G/SCM/N/253/MEX	03/07/2013
<b>Agreement on Safeguards</b>				
Withdrawal	Investigation	Once only, when terminating an investigation with no measure imposed	G/SG/N/9/MEX/1	12/04/2012
<b>Agreement on the Application of Sanitary and Phytosanitary Measures</b>				
Article 7, Annex B	Sanitary/phytosanitary regulations	Ad hoc	G/SPS/N/MEX/304- G/SPS/N/MEX/43/Add.1	05/09/2016- 11/01/2013
<b>Agreement on Technical Barriers to Trade</b>				
Article 2.9	Technical regulations	Ad hoc	G/TBT/N/MEX/326- G/TBT/N/MEX/4/Add.1	26/09/2016-26/01/2012
<b>GATT 1994</b>				
Article XXIV:7(a)	Regional agreement	Ad hoc	S/CN/864; WT/REG374/N/1	07/06/2016
			S/CN/717/Rev.1; WT/REG349/N/1/Rev.1	28/01/2014
			S/CN/717; WT/REG349/N/1	21/01/2014
			WT/REG345/N/1/Add.1	31/07/2014
			WT/REG345/N/1	01/07/2013
			WT/REG198/N/1/Add.4	19/12/2012
			WT/REG198/N/1/Add.3	19/12/2012
			WT/REG198/N/1/Add.2	17/12/2012
			WT/REG126/N/1/Add.6	18/09/2013
			WT/REG126/N/1/Add.5	18/09/2013
			WT/REG126/N/1/Add.4	18/09/2013
WT/REG126/N/1/Add.3	18/09/2013			
WT/REG126/N/1/Add.2	18/09/2013			
<b>General Agreement on Trade in Services</b>				
Article III:3	Laws/regulations (transparency; new, or changes to, laws, regulations or administrative guidelines which significantly affect trade in services)	Ad hoc	S/C/N/804	26/03/2015
Articles III:4 and/or IV:2	Enquiry points and contact points	Ad hoc	S/ENQ/78/Rev.16	22/04/2016
			S/ENQ/78/Rev.13	04/12/2012
Article V:7(a)	Economic integration agreement	Ad hoc	S/C/N/864; WT/REG374/N/1	07/06/2016
			S/C/N/717/Rev.1; WT/REG/349/N/1/Rev.1	28/01/2014
			S/C/N/717; WT/REG/349/N/1	21/01/2014
			S/C/N/701	02/07/2013
LDC services waiver (WT/L/847)		Once only	S/C/N/821	21/08/2015

Agreement and Article	Requirement	Frequency	Document (most recent if submitted regularly)	Date
<b>Intellectual property</b>				
TRIPS Article 63.2	Legislation	Once only/ <i>Ad hoc</i>	IP/C/W/615 IP/N/1/MEX/13; IP/N/1/MEX/G/6 IP/N/1/MEX/12 IP/N/1/MEX/I/11 IP/N/1/MEX/11; IP/N/1/MEX/O/1 IP/N/1/MEX/10; IP/N/1/MEX/C/7 IP/N/1/MEX/9; IP/N/1/MEX/C/6 IP/N/1/MEX/8; IP/N/1/MEX/C/5 IP/N/1/MEX/7; IP/N/1/MEX/C/4  IP/N/1/MEX/6; IP/N/1/MEX/G/5 IP/N/1/MEX/5; IP/N/1/MEX/G/4 IP/N/1/MEX/4 IP/N/1/MEX/3	22/09/2016 13/09/2016 15/06/2016 – 08/04/2016 08/04/2016 08/04/2016 08/04/2016 08/04/2016 08/04/2016 08/04/2016 07/04/2016 07/04/2016 26/02/2013 19/12/2012
<b>Agreement on Trade Facilitation</b>				
Article 15, Section II	Commitments designated under Category A	Once only	WT/PCTF/N/MEX/1	14/05/2014

Source: WTO Secretariat.

Table A3. 1 Summary of MFN tariffs, 2016

Description of product	MFN				Average bound tariff <sup>a</sup> (%)
	No. of lines	Average (%)	Range (%)	Coefficient of variation (CV)	
<b>Total</b>	<b>12,275</b>	<b>5.5</b>	<b>0 - 100</b>	<b>1.6</b>	<b>0 - 254</b>
HS 01-24	1,387	15.9	0 - 100	0.9	0 - 254
HS 25-97	10,888	4.3	0 - 50	1.6	0 - 156
<b>By WTO category</b>					
Agricultural products	1,275	14.3	0 - 100	1.1	0 - 254
- Animals and animal products	169	24.8	0 - 100	1.1	9 - 254
- Dairy products	39	23.6	0 - 50	0.7	18 - 156
- Fruit, vegetables and garden produce	370	14.5	0 - 100	0.6	5 - 245
- Coffee and tea	31	23.7	0 - 50	0.8	25 - 156
- Cereals and cereal preparations	144	10.2	0 - 45	0.8	9 - 194
- Oilseeds, fats and oils and their products	120	8.4	0 - 45	1.2	0 - 254
- Sugar and confectionery	29	40.9	7.5 - 100	0.8	45 - 210.4
- Beverages, alcohol and tobacco	90	23.1	0 - 67	0.6	36 - 67.5
- Cotton	8	0.0	0 - 0	n.a.	37 - 45
- Other agricultural products n.e.s.	275	5.3	0 - 36	1.4	0 - 45
Non-agricultural products (including petroleum)	11,000	4.6	0 - 50	1.5	0 - 156
- Non-agricultural products (excluding petroleum)	10,978	4.6	0 - 50	1.5	0 - 156
- - Fish and fish products	251	15.5	0 - 20	0.4	30 - 45
- - Mineral products and metals	1,824	3.6	0 - 15	1.7	0 - 50
- - Chemicals and photographic products	3,098	1.6	0 - 20	2.1	0 - 156
- - Wood, wood pulp, paper and furniture	533	4.6	0 - 20	1.2	0 - 50
- - Textiles	924	9.2	0 - 25	0.6	10 - 50
- - Clothing	354	21.0	20 - 25	0.1	35 - 50
- - Leather, rubber, footwear and travel articles	352	6.2	0 - 30	1.4	20 - 50
- - Non-electrical machinery	1,485	3.1	0 - 20	1.9	20 - 50
- - Electrical machinery	967	2.5	0 - 20	2.1	10 - 50
- - Transport equipment	385	7.8	0 - 50	1.5	10 - 50
- - Non-agricultural products n.e.s.	805	5.1	0 - 20	1.2	10 - 50
- Petroleum	22	0.2	0 - 4	4.6	35 - 50
<b>By ISIC sector<sup>b</sup></b>					
Agriculture and fishing	608	10.5	0 - 100	0.9	0 - 245
Mining	126	0.3	0 - 10	5.1	0 - 50
Manufacturing	11,540	5.3	0 - 100	1.6	0 - 254
<b>By HS section</b>					
01 Live animals; animal products	439	18.8	0 - 100	1.0	0 - 254
02 Vegetable products	519	11.8	0 - 100	0.8	0 - 245
03 Fats and oils	72	10.2	0 - 45	1.0	18 - 254
04 Prepared foodstuffs, etc.	357	19.5	0 - 100	0.8	18 - 210.4
05 Mineral products	212	0.3	0 - 10	5.3	0 - 50
06 Products of the chemical or allied industries	2,864	1.4	0 - 20	2.2	0 - 156
07 Plastics and rubber	567	3.8	0 - 15	1.4	10 - 50
08 Raw hides and skins, and leather	124	4.8	0 - 20	1.8	9 - 35
09 Wood and articles of wood	187	6.7	0 - 15	0.9	10 - 35
10 Pulp of wood, paper, etc.	311	2.8	0 - 15	1.5	0 - 50
11 Textiles and textile articles	1,251	12.2	0 - 25	0.6	9 - 50
12 Footwear and headgear	102	14.8	0 - 30	0.6	35 - 35
13 Articles of stone	310	5.7	0 - 15	1.2	10 - 50



Description of product	MFN				Average bound tariff <sup>a</sup> (%)
	No. of lines	Average (%)	Range (%)	Coefficient of variation (CV)	
14 Precious stones, etc.	65	3.3	0 - 15	1.8	35 - 35
15 Base metals and articles of base metal	1,268	3.8	0 - 15	1.6	0 - 50
16 Machinery and mechanical appliances	2,485	2.8	0 - 20	2.0	10 - 50
17 Vehicles, aircraft, vessels and associated transport equipment	402	7.6	0 - 50	1.5	10 - 50
18 Precision instruments	449	2.7	0 - 15	1.8	10 - 50
19 Arms and ammunition	33	11.2	0 - 15	0.5	35 - 35
20 Miscellaneous manufactured articles	244	9.4	0 - 20	0.7	25 - 35
21 Works of art, etc.	14	0.0	0 - 0	n.a.	35 - 35
<b>By stage of processing</b>					
First stage of processing	1,115	8.4	0 - 100	1.1	0 - 245
Semi-processed products	4,313	3.1	0 - 100	1.9	0 - 210.4
Fully processed products	6,847	6.6	0 - 100	1.5	0 - 254

n.a. Not applicable.

a The bindings are given in HS 07 and the applied rates in HS 12; consequently, there may be differences in the number of lines included in the summary.

b ISIC (Rev.2), excluding electricity (one line).

Note: In 2012, the simple average was calculated taking into account the *ad valorem* equivalents (AVEs) for lines subject to both specific tariffs and compound tariffs. In 2016, the simple average was calculated only taking into account the AVEs for lines subject to specific tariffs; compound tariffs (44 tariff lines) were not taken into account.

Source: WTO Secretariat estimates, based on data provided by the authorities.

Table A3. 2 Multilateral tariff quotas and import volume, 2016

(US\$)

Description (HS)	Applied tariff		Bound MFN quota volume (tonnes)	Import volume under quota 2015 (tonnes) <sup>a</sup>
	In-quota	Out-of-quota		
<b>Milk in powder</b>			<b>80,000</b>	<b>45,475</b>
04021001	0%	50%		
04022101	0%	50%		
<b>Cheese, hard and semi-hard</b>			<b>2,405</b>	<b>728</b>
04061001	50%	45%		
04063001	50%	45%		
04063099	50%	45%		
04069003	50%	45%		
04069005	50%	45%		
04069099	50%	45%		
<b>Coffee; coffee extracts, essences and concentrates</b>			<b>20,800</b>	<b>114</b>
09012101	50%	50%	(60 kg sacks)	
09012201	50%	50%		
09019001	50%	50%		
09019099	50%	50%		
21011101	50%	45%		n.a. <sup>b</sup>
21011102	50%	45%		n.a. <sup>b</sup>
21011199	50%	45%		n.a. <sup>b</sup>
21011201	50%	45%		n.a. <sup>b</sup>
<b>Meat and edible offal</b>			<b>1,000</b>	<b>n.a.<sup>c</sup></b>
02071403	50%	100%		
02071404	50%	100%		
02071499	50%	100%		
02072601	50%	100%		
02072602	50%	100%		
02072699	50%	100%		
02072703	50%	100%		
02072799	50%	100%		
02074401	50%	45%		
02074599	50%	45%		
02075401	50%	45%		
02075599	50%	45%		
02076099	50%	45%		
<b>Animal fats</b>			<b>2,111</b>	<b>n.a.<sup>c</sup></b>
02091001	50%	45%		
02099001	50%	20%		
02099099	50%	45%		
15011001	50%	45%		
15012001	50%	45%		
15019099	50%	45%		
15161001	50%	45%		
<b>Potatoes, fresh or chilled</b>			<b>1,000</b>	<b>n.a.<sup>c</sup></b>
07019099	50%	100%		
<b>Beans, except for seed</b>			<b>5,000</b>	<b>n.a.<sup>b</sup></b>
07133302	50%	45%		
07133303	50%	45%		
07133399	50%	45%		
<b>Wheat</b>			<b>98,076</b>	
10011101	50%	15%		n.a. <sup>c</sup>
10011999	50%	15%		n.a. <sup>c</sup>
10019199	50%	15%		n.a. <sup>c</sup>
10019999	50%	15%		n.a. <sup>c</sup>
10019101	50%	0%		n.a. <sup>b</sup>
10019901	50%	0%		n.a. <sup>b</sup>
<b>Barley</b>			<b>1,200</b>	<b>n.a.<sup>b</sup></b>
10039001	50%	15%		
10039099	50%	15%		
<b>Maize</b>			<b>10,000</b>	<b>n.a.<sup>d</sup></b>
1005.9003	0%	0%		
1005.9004	0%	20%		
1005.9099	0%	0%		

Description (HS)	Applied tariff		Bound MFN quota volume (tonnes)	Import volume under quota 2015 (tonnes) <sup>a</sup>
	In-quota	Out-of-quota		
<b>Sugar and products with a high sugar content</b>			<b>183,800</b>	n.a. <sup>c</sup>
17022001	50%	15%		
17023001	50%	15%		
04029901	50%	15% + US\$0.36/kg of sugar		
04029999	50%	20% + US\$0.36/kg of sugar		
18062001	50%	20% + US\$0.36/kg of sugar		
18063201	50%	20% + US\$0.36/kg of sugar		
18069001	50%	20% + US\$0.36/kg of sugar		
18069002	50%	20% + US\$0.36/kg of sugar		
18069099	50%	20% + US\$0.36/kg of sugar		
19019003	50%	10%		
19019004	50%	10%		
19019005	50%	45%		
19019099	50%	10% + US\$0.36/kg of sugar		
21039099	50%	20%		
21069001	50%	15%		
21069002	50%	15% + US\$0.36/kg of sugar		
22029001	50%	10%		
22029002	50%	20%		
22029003	50%	20%		
22029004	50%	20%		
22029099	50%	20% + US\$0.36/kg of sugar		

a The import volume includes, where applicable, imports under unilateral quotas.

b Mexico's imports on preferential terms exceed the amount of the WTO-bound quota.

c Quota not used. Better market access conditions (with respect to the quota) on unilateral terms.

d Quota not used. Better market access conditions on most-favoured-nation terms.

Source: Compiled by the WTO on the basis of information provided by the Ministry of the Economy and Schedule LXXVII-Mexico.

Table A3. 3 Unilateral tariff quotas applied by Mexico, 2016

Tariff line	In-quota tariff	Out-of-quota tariff	Quota volume (tonnes/year)	Volume imported 2015 (tonnes)
<b>Chicken and turkey cuts</b> 0207.13.01; 0207.14.01 0207.26.01 <sup>a</sup> ; 0207.26.99 <sup>a</sup> 0207.27.01 <sup>a</sup> ; 0207.27.99 <sup>a</sup>	0	100	100,000	954
<b>Poultry meat</b> 0207.11.01; 0207.12.01 0207.13.03; 0207.13.99 0207.14.04 <sup>a</sup> ; 0207.14.99 <sup>a</sup>	0	100	300,000 (t/2013-2017)	26,934
<b>Duck, goose or guinea fowl</b> 0207.42.01 0207.52.01 0207.60.02	10	45	200	-
<b>Egmont cheese</b> 0406.90.06	20	45	1,600	-
<b>Coffee extracts</b> 2101.11.01 <sup>a</sup> ; 2101.11.99 <sup>a</sup> ; 2101.12.01 <sup>a</sup> 2101.11.02 <sup>a</sup>	20	45	372	139  10,637 (litres)
<b>Fish fillets</b> 0304.31.01; 0304.32.01; 0304.61.01; 0304.62.01	0	17	55,000	45,782
<b>White, black and other beans</b> 0713.33.02 <sup>a</sup> ; 0713.33.03 <sup>a</sup> ; 0713.33.99 <sup>a</sup>	0	45	100,000 MT/year (except for 2016, when the maximum amount was 150,000 MT)	1,055
<b>Roasted and ground coffee</b> 0901.21.01 <sup>a</sup> ; 0901.22.01 <sup>a</sup> ; 0901.90.99 <sup>a</sup>	0	50	100,000	1,336
<b>Barley</b> 1003.90.01 <sup>a</sup> ; 1003.90.99 <sup>a</sup>	0	15	9,000	6,525
<b>Oats (other)</b> 1004.90.99	0	0	140,000	-
<b>Malt, whether or not roasted</b> 1107.10.01; 1107.20.01	0	15	9,000	7,229
<b>Carnauba wax</b> 1521.10.01	10	0	250	-
<b>Dairy preparations</b> 1901.90.05 <sup>a</sup>	0	45	44,200	6,281
<b>Oil-cake and other solid residues resulting from the extraction of soya bean oil</b> 2304.00.01	0	0	700,000	-
<b>Textured yarn of polyester textile</b> 5402.33.01	0	5	n.a. <sup>b</sup>	857
<b>Motor vehicles</b> 8702.10.01; 8702.10.02 8702.90.02; 8702.90.03 8703.21.99; 8703.22.01 8703.23.01; 8703.24.01 8703.31.01; 8703.32.01 8703.33.01; 8704.21.02 8704.21.03; 8704.21.99 8704.31.03; 8704.31.99	0	20	n.a. <sup>c</sup>	67,593 (units)

Tariff line	In-quota tariff	Out-of-quota tariff	Quota volume (tonnes/year)	Volume imported 2015 (tonnes)
<b>Toys</b>				
3924.90.99	0	15	n.a. <sup>d</sup>	64
8715.00.01	0	10		559,104 (units)
9401.80.01	0	10		381
9503.00.01; 9503.00.02	0	15		17,916,973 (units)
9503.00.03; 9503.00.04 9503.00.05; 9503.00.06				
9503.00.12; 9503.00.14; 9503.00.15; 9503.00.16; 9503.00.20; 9503.00.24; 9503.00.36; 9503.00.99; 9504.90.99; 9506.62.01	0	15		9,304

- a Products subject to both a unilateral quota and a WTO quota. The in-quota tariff is lower for the unilateral quota than for the WTO quota.
- b There is no specific annual amount. The amount is determined in accordance with criteria established in an agreement (Official Journal of 24 April 2008).
- c There is no specific annual amount. The amount is determined in accordance with criteria established in an agreement (Official Journals of 23 March 2015 and 15 January 2016).
- d There is no specific annual amount. The amount is determined in accordance with criteria established in an agreement (Official Journals of 23 March 2015 and 15 January 2016).

Source: Data provided by the authorities.

Table A3. 4 Summary of preferential tariffs, 2016

	Total		Agricultural products (WTO definition)		Non-agricultural products (WTO definition)	
	Average	Duty-free lines (%)	Average	Duty-free lines (%)	Average	Duty-free lines (%)
<b>MFN</b>	<b>5.5</b>	<b>58.1</b>	<b>14.3</b>	<b>24.0</b>	<b>4.6</b>	<b>62.1</b>
<b>FTA</b>						
United States	0.0	99.8	0.0	99.5	0.0	99.9
Canada	0.3	99.0	2.7	91.5	0.0	99.9
European Union	0.6	97.1	6.2	73.6	0.0	99.8
Uruguay	0.9	95.4	4.3	80.3	0.5	97.2
Colombia	0.7	96.6	6.1	71.8	0.1	99.5
Costa Rica	0.5	98.5	4.4	87.3	0.0	99.8
Guatemala	0.5	98.0	4.5	85.7	0.1	99.5
El Salvador	0.6	97.5	4.8	84.9	0.1	99.0
Honduras	0.6	97.7	4.4	86.2	0.1	99.0
Chile	0.1	99.2	1.3	94.6	0.0	99.8
Nicaragua	0.1	99.6	1.0	96.9	0.0	99.9
Peru	1.2	91.0	7.2	56.2	0.5	95.1
Panama	3.3	70.1	8.0	52.9	2.8	72.1
Japan	1.0	94.6	8.0	58.9	0.2	98.8
Switzerland	1.3	92.8	13.0	32.5	0.0	99.7
Norway	1.4	92.0	14.1	25.5	0.0	99.7
Iceland	1.4	92.3	13.7	28.5	0.0	99.7
Israel	1.7	90.8	13.4	30.7	0.4	97.8
<b>Partial scope agreements</b>						
Plurinational State of Bolivia ACE 66	0.3	98.3	3.2	85.2	0.0	99.8
Argentina ACE 55	5.5	58.7	14.3	24.0	4.5	62.7
Brazil ACE 55	5.4	59.1	14.3	24.0	4.5	63.1
Uruguay ACE 55	5.4	59.2	14.3	24.0	4.4	63.3
Argentina ACE 6	4.8	64.7	13.5	27.1	3.8	69.1
Brazil ACE 53	5.3	59.6	12.9	30.6	4.4	63.0
Cuba ACE 51 (domestic market)	5.5	58.1	14.3	24.0	4.5	62.1
Cuba ACE 51 (border region)	5.5	58.1	14.3	24.0	4.6	62.1
Cuba ACE 51 (national territory)	4.5	65.1	11.3	33.8	3.8	68.8
Ecuador APR 29	5.4	58.6	14.1	24.6	4.4	62.6
<b>Other agreements</b>						
Argentina PAR 4	4.8	58.1	12.4	24.0	3.9	62.1
Brazil PAR 4	4.8	58.1	12.4	24.0	3.9	62.1
Cuba PAR 4	4.5	58.1	11.7	24.0	3.7	62.1
Ecuador PAR 4	4.0	58.1	10.6	24.0	3.3	62.1
Panama PAR 4	4.5	58.1	11.7	24.0	3.7	62.1
Paraguay PAR 4	3.7	58.1	9.9	24.0	3.0	62.1
Ecuador ARAM 2	5.4	58.8	13.9	25.8	4.5	62.6
Paraguay ARAM 3	5.4	58.9	13.9	26.6	4.5	62.6
ALADI ACE 7	5.5	58.2	14.3	24.0	4.6	62.1

Note: The average takes into account the *ad valorem* equivalents (AVEs) for lines subject to specific tariffs. The AVEs were estimated on the basis of the unit values of total imports in 2015, provided by the Mexican authorities. Compound tariffs (44 lines) were excluded from the calculations.

Source: WTO Secretariat, based on data from the Mexican authorities.

Table A3. 5 General provisions on intellectual property rights

Field	Term of protection	Exemptions
<b>Copyright and related rights</b>		
Originally-created works that may be disclosed or reproduced in any form or medium.	<p>Life of the author plus 100 years.</p> <p>The term of protection for performers is 75 years from the first fixation of the performance on a phonogram; the first performance of works not recorded on phonograms; or the first transmission by radio, television or another medium.</p> <p>The term of protection for producers of phonograms is 75 years from the first fixation of the sounds on the phonogram.</p> <p>The term of protection for producers of videograms is 50 years from the first fixation of the images on the videogram.</p> <p>Broadcasting organizations are granted protection for 50 years from the first original broadcasting or transmission of the programme.</p>	<p>Limitations on economic rights provide that disclosed literary and artistic works may be used without the consent of the right holder and without remuneration in certain cases only (e.g. reproduction for personal use).</p> <p>The following may also be used without authorization: literary and artistic works in establishments open to the public that sell copies of the said works, and ephemeral recordings.</p> <p>The use of performances, phonograms, videograms or broadcasts does not constitute a violation of rights where no direct economic benefit is sought, only short fragments are used in news on current events, and the use is for educational or research purposes.</p>
<b>Patents</b>		
New inventions involving an inventive step that are industrially applicable.	Non-renewable term of 20 years from the filing date.	The following are not patentable: (a) essentially biological processes for obtaining, reproducing and propagating plants and animals; (b) biological and genetic material as found in nature; (c) animal breeds; (d) the human body and the living matter constituting it; and (e) plant varieties.
<b>Utility models</b>		
New and industrially applicable utility models.	Non-renewable term of 10 years from the filing date.	..
<b>Industrial designs</b>		
New and industrially applicable industrial designs.	Non-renewable term of 15 years from the filing date.	Industrial designs are not protected where their appearance is dictated solely by technical considerations.
<b>Undisclosed information</b>		
Must relate to the nature, characteristics, or purpose of goods, to production processes, or to the methods of distributing or marketing goods or supplying services.	For as long as the confidentiality requirements remain in place.	Information that is public property, that is obvious to a person skilled in the art on the basis of previously available information, or that has to be disclosed by legal provision or court order, shall not be considered an industrial secret.
<b>Trademarks</b>		
Any visible sign that distinguishes products or services from others of the same type or category in the market.	Term of 10 years from the filing date, which may be renewed for periods of the same duration.	The Law establishes a list of 18 elements that cannot be registered as a trademark, including names or three-dimensional shapes in common use and geographical indications (for further information, see Article 90 of the LPI).
<b>Appellations of origin</b>		
Name of a geographical region that is used to designate a product originating therein, the qualities or characteristics of which are due exclusively to the geographical environment, including both natural and human factors.	For as long as the conditions that justified the protection continue to exist.	No limitations

Field	Term of protection	Exemptions
<b>Layout-designs (topographies) of integrated circuits</b>		
Original layout-designs, whether or not incorporated in an integrated circuit, that have not been commercially used anywhere in the world. They may also be registered, even if commercially used in Mexico or abroad, provided that the application for registration is filed with IMPI in the two years following their first commercial use.	Non-renewable term of 10 years from the date on which the application for registration is filed.	Layout-designs consisting of a combination of elements and interconnections that are customary or commonplace among creators of layout-designs or manufacturers of integrated circuits at the time of their creation, may only be registered if the combination, taken as a whole, is considered original.
<b>Plant varieties</b>		
Plant varieties that are new, distinct, stable and homogeneous.	18 years for perennial species; 15 years for other species.	The consent of the breeder of a plant variety is not required for it to be used as a source or an input for research into the genetic improvement of other plant varieties; for the multiplication of propagation material, provided that it is for personal use as grain for consumption or sowing; or for human or animal consumption, benefitting only the person who harvests it.

.. Not available.

Source: WTO Secretariat.



**Table A4. 1 Rounds of bidding for hydrocarbon exploration and extraction contracts**

Round One	Calls for bids			
	First	Second	Third	Fourth
Number of areas subject to tender	14	5	25	10
Type of tender process	International			
Type of contract	Shared production		Licence	
Method of awarding contract	Sealed-bid first price auctions			
Contracts awarded	2	3	25	8
Contracts with mandatory State participation	None			1
Winning enterprises	3	5	29	13

Round Two	Calls for bids		
	First	Second	Third
Number of areas subject to tender	15	12	14
Type of tender process	International		
Type of contract	Shared production	Licence	
Method of awarding contract	Sealed-bid first price auctions		
Contracts awarded	Tender process under way (November 2016)		
Contracts with mandatory State participation			
Winning enterprises			

Source: Online information from the CNH, viewed at: <http://ronda1.gob.mx> and <http://rondasmexico.gob.mx>; CNH quarterly journals, viewed at: [https://www.gob.mx/cms/uploads/attachment/file/65929/004\\_JUL-SEP\\_2015.pdf](https://www.gob.mx/cms/uploads/attachment/file/65929/004_JUL-SEP_2015.pdf) and [https://www.gob.mx/cms/uploads/attachment/file/65930/005\\_OCT-DIC\\_2015.pdf](https://www.gob.mx/cms/uploads/attachment/file/65930/005_OCT-DIC_2015.pdf); and information provided by the authorities.

Table A4. 2 Main provisions of bilateral air transport agreements

Partner	Signature	Entry into force	Fifth freedom	Seventh freedom	Cabotage <sup>a</sup>	Cooperation clauses <sup>b</sup>	Airline designation clause	Withholding clause				Pricing clause			Capacity clause		
								Substantial ownership and effective control	Principal place of business	Community of interest	Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Pre-determination	Bermuda I
Argentina	2004	1984	No	No	No	Yes	Multiple	√			√						√
Australia	2005	2005	Yes	No	No	Yes	Multiple	√			√						√
Austria	1995	1996	No	No	No	No	Dual	√			√						√
Belgium	1999	2003	Yes	No	No	Yes	Dual	√			√						√
Bolivia, Plurinational State of	1993	1996	Yes	No	No	No	Multiple				√						√
Brazil	1995	1996	Yes	No	No	No	Multiple	√			√						√
Canada	2014	2015	No	No	No	Yes	Multiple	√						√			√
Chile	1997	1999	Yes	No	No	Yes	Multiple	√			√						√
China	2004	2005	No	No	No	No	Multiple	√			√						√
Colombia	1975	1975	No	No	No	Yes	Multiple				√						√
Costa Rica	1991	1995	Yes	No	No	Yes	Multiple	√			√						√
Cuba	1991	1992	No	No	No	No	Multiple	√			√						√
Czech Republic	1990	1991	Yes	No	No	No	Single	√			√						√
Dominican Republic	1994	1996	Yes	No	No	Yes	Multiple	√			√						√
Ecuador	1995	1996	Yes	No	No	No	Dual	√			√						√
El Salvador	2006	2007	No	No	No	No	Single	√			√						√
France	1993	1993	Yes	No	No	No	Multiple	√			√						√
Germany	1967	1969	Yes	No	No	No	Dual	√			√						√
Guatemala	1993	1993	Yes	No	No	Yes	Multiple	√			√						√
Hong Kong, China	2006	2008	No	No	No	Yes	Dual		√				√				√
India	2008	2009	No	No	No	Yes	Multiple	√			√						√
Indonesia	2013		No	No	No	Yes	Multiple		√				√				√
Italy	1955	1993	No	No	No	Yes	Dual	√			√						√
Jamaica	2009	2014	No	No	No	Yes	Multiple		√		√						√
Japan	1972	1973	No	No	No	Yes	Multiple	√			√						√
Korea, Republic of	1988	1989	Yes	No	No	Yes	Multiple	√			√						√
Luxembourg	1996	1999	Yes	No	No	No	Dual	√			√						√
Malaysia	1992	1993	Yes	No	No	No	Multiple	√			√						√
Netherlands	1971	1973	Yes	No	No	No	Multiple	√			√						√
New Zealand	1999	2000	No	No	No	Yes	Multiple		√		√						√
Panama	1996	1996	Yes	No	No	Yes	Multiple	√			√						√
Paraguay	2007	2012	No	No	No	Yes	Dual	√			√						√
Peru	1989	1990	Yes	No	No	No	Multiple	√			√						√
Philippines	1952	1952	Yes	No	No	No	Multiple	√					√				√
Poland	1990	1991	Yes	No	No	No	Single	√			√						√

Partner	Signature	Entry into force	Fifth freedom	Seventh freedom	Cabotage <sup>a</sup>	Cooperation clauses <sup>b</sup>	Airline designation clause	Withholding clause				Pricing clause			Capacity clause		
								Substantial ownership and effective control	Principal place of business	Community of interest	Dual approval	Dual disapproval	Country of origin	Zone pricing	Free pricing	Pre-determination	Bermuda I
Portugal	1948	1948	No	No	No	No	Multiple	√			√						√
Russian Federation	1976	1977	No	No	No	No	Multiple				√						√
Singapore	1990	1991	Yes	No	No	No	Multiple	√			√						√
Slovak Republic	1990	1991	Yes	No	No	No	Single	√			√						√
Spain	1978	1979	No	No	No	No	Multiple	√			√						√
Switzerland	1966	1967	Yes	No	No	No	Multiple	√			√						√
Thailand	1991	1992	No	No	No	No	Single	√			√						√
Turkey	2013	2015	No	No	No	Yes	Multiple	√			√						√
United Arab Emirates	2012	2015	Yes	No	No	Yes	Multiple		√				√				√
United Kingdom	1988	1989	No	No	No	Yes	Multiple	√			√					√	√
United States	2015	2016	Yes	Yes	No	Yes	Multiple	√						√			√
Uruguay	2009		Yes	No	No	Yes	Multiple	√			√						√
Venezuela, Bolivarian Republic of	1987	1988	No	No	No	Yes	Multiple	√			√						√

a Where cabotage rights are subject to approval by the aeronautical authorities, they appear as not granted.

b For example, code-share agreements.

Source: WTO Secretariat and information provided by the authorities.