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**Trade Policy Review Body**

**TRADE POLICY REVIEW**

REPORT BY THE SECRETARIAT

MEXICO

This report, prepared for the fifth 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

### Overview

1. The Mexican economy has successfully overcome the global financial crisis of 2008-2009 through the implementation of countercyclical fiscal and monetary policies, and supported both by a recovery in domestic demand and exports.

2. Since its last review in 2008, Mexico has launched a unilateral liberalization programme, to be implemented between 2009 and 2013, lowering tariffs on a wide range of manufactured goods. This is most noteworthy as Mexico was one of the few countries to carry out substantial tariff reductions in the aftermath of the global financial crisis, which hit the Mexican economy relatively hard. The most important change took place in 2010, when tariffs were eliminated on 3,852 lines. During the same period, Mexico simplified its tariff structure by reducing the number of tariff levels from 88 to 28.

3. Mexico has also adopted measures to simplify customs procedures and reduce import costs. Such measures include the elimination in 2008 of certain import requirements and the creation of a single window for trade, which became fully operational in September 2012. However, and despite these efforts, there is scope to reduce the incidence of non-tariff border measures, particularly sanitary and phytosanitary measures. In the area of customs valuation, Mexico eliminated "estimated prices" for glass, iron, toys, textiles, but maintained those on used cars. Mexico continues to require import permits for certain products including oil products, used tyres, and used cars.

4. Mexico continues to be a user of anti-dumping measures, although recourse to them has diminished considerably in recent years. During the period under review Mexico has strengthened its competition law, but limited competition persists in key sectors. Reforms in 2010 increased penalties for violations of the competition law and made unfair competition practices a criminal offence. Nevertheless, there is still scope to enhance competition in sectors such as hydrocarbons, electricity and telecommunications.

5. Mexico promotes its exports through different types of programmes, in particular the Programme for Industry, Manufacturing, Maquila and Export Services (IMMEX). During the period 2007-2011, 66.2% of Mexico's exports and 47.2% of its imports were made by companies under the IMMEX programme.

### Economic Environment

6. The Mexican economy has successfully overcome the global financial crisis of 2008-2009, which led to a substantial contraction in GDP in 2009. Through the successful implementation of countercyclical fiscal and monetary policies, Mexico came out of recession in 2010 and since then has shown solid growth rates, of 5.6% in 2010, 3.9% in 2011, and 4.2% in the first three quarters of 2012. Per capita income declined as a result of the crisis, but it has been recovering since 2010, reaching a level of around US\$10,000 in September 2012. Economic growth has been supported both by domestic demand and by a recovery of exports.

7. Although output has returned to pre-crisis levels, the unemployment rate, at some 5% in end-2012 remains higher than before the crisis. Inflation has been kept under control, with consumer prices increasing by 4.8% in the 12 months to September 2012; this has allowed the central bank to maintain low interest rates to support growth.

8. The Mexican Federal Government's finances showed a slight deterioration in 2007-2011, closing the last two years of this period with deficits of 2.7% and 2.5% of GDP. This deterioration partly reflects the fiscal stimulus implemented in 2009 as a response to the global economic slowdown. However, more recently, Mexico has returned to the path of fiscal consolidation. Public finances continue to show a high dependence on oil revenues. In this sense, the fiscal situation continues to present challenges in the long term, particularly taking into account the possible decrease in oil revenues and an increase in expenses related to the ageing of the population.



9. The deficit of the current account showed important fluctuations during the period under review, although it remained moderate in terms of share of GDP. In 2011, it amounted US\$9.15 billion (0.8% of GDP), almost half its value in 2008.

10. Mexico's trade growth decelerated between 2007 and 2011. During this period, merchandise exports and imports, measured in US dollars, grew by 28.6% and by 24.4% respectively, while in 2002-2006 both imports and exports had expanded by over 50%. Manufactured products dominate Mexican exports (72.9% of the total) and imports (78.1% of the total). Mexico's export structure is highly concentrated in one market, namely the United States, on average 80.4% of Mexico's exports are destined to this market. Imports are relatively more diversified: on average 49% of its imports originate in the United States. Other important suppliers are China (13.1% of imports), and Japan (5.1% of imports). Trade with China has increased sharply in recent years.

11. One of the challenges facing Mexico is to achieve an increase in labour productivity and in overall economic competitiveness and ensure sustained growth. Real GDP growth over 2007-2011 was just 1% on average per year, which translates into a stagnation of annual average GDP per capita over the period. Also, although Mexico is a medium-income country, with GDP per capita of just over US\$10,000, income distribution is skewed and poverty reduction remains a challenge. Overdue reforms are needed to accelerate growth. In response to this, the Government has introduced policies aimed at improving the business environment, mainly by cutting red tape and fostering competition. Also, measures have been introduced to address these issues, such as a significant reduction in applied tariffs on manufactured products, and the launching of a process of regulatory reform and improvements to competition policy regulations and implementation. However, further reforms, including changes in the petroleum industry in order to increase output, fiscal reform to widen the tax base, and changes in labour market legislation, are needed to enhance competitiveness and support sustained growth.

### **Trade and Investment Policy**

12. During the period under review, there was no substantial change to Mexico's trade policy or its underlying legal framework. The objective of Mexico's trade policy remains to strengthen and increase Mexico's participation in world trade through the multilateral trade system and preferential trade agreements.

13. As a WTO Member, Mexico grants MFN treatment to all its trading partners, including non-WTO Members. Mexico recognizes the importance of the conclusion of the Doha negotiations and of improving WTO disciplines to ensure the effectiveness of the multilateral trading system.

14. Mexico is one of the countries in Latin America with the largest number of trade agreements. During the period under review, Mexico continued to expand its network of preferential trade agreements by signing three new trade agreements. As of September 2012, it had 12 FTAs and eight partial scope agreements under the framework of the Latin American Integration Association (ALADI). The bulk of Mexico's trade is conducted with FTA partner countries and mainly with the United States, a member of the North American Free Trade Agreement (NAFTA).

15. Foreign investment is authorized up to 100% in the capital of Mexican companies, except for a list of activities which are reserved for the State, for Mexican nationals or subject to capital restrictions (10%, 25% and 49%) or approvals. Registration of foreign investment is still required. Since the last review, there were some changes in the legislation on foreign direct investment. As of 2008, Mexico authorized foreign investment up to 10% of the capital of a credit union.

16. In order to promote and increase FDI, Mexico has continued to sign agreements for the Promotion and Reciprocal Protection of Investments. As of June 2012, Mexico had 28 investment agreements in force.

### **Trade Policies by Measure**

17. During the period under review, Mexico undertook different actions to increase its competitiveness and reduce firm's trade costs. With this aim, Mexico implemented measures to streamline customs procedures and reduce import costs under the Trade Facilitation Decree

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of 2008 and the Custom Modernization Programme 2007-2012. In 2008, Mexico removed some import requirements and established a single window for foreign trade operations, which became fully operational in September 2012.

18. In 2009, Mexico implemented a unilateral liberalization programme, which covered manufactured goods only and is scheduled to be completed in 2013. As a result of this programme, by January 2012, 58.3% of Mexico's tariff lines were duty free and the average MFN tariff was 6.2%, down from 11.2% in 2007. The average tariff for manufactured goods (WTO definition) declined from 9.9% in 2007 to 4.6% in 2012, while the average tariff for agricultural products (WTO definition) fell only from 23% to 20.9%. Following these tariff reductions, the difference between MFN and preferential duties has also declined. In addition, Mexico simplified its tariff structure by reducing the number of tariff levels from 88 to 28. However, a few tariff peaks remain; tariff levels ranged between 3% and 254% in 2012.

19. Besides tariffs, imports are subject to: a customs processing fee (DTA), a storage fee, the value added tax (VAT) and a tax on production and services (IEPS). New vehicles are also subject to a tax (ISAN). The DTA rate remains at 8 per thousand of the customs value of the good.

20. Mexico applies tariff-rate quotas (TRQs) to agricultural products under the WTO framework, as well as unilateral and preferential TRQs to agricultural and industrial products.

21. In the area of customs valuation, Mexico no longer applies "estimated prices" (reference prices), except for used cars. Import authorizations are required for a limited number of products. During the review period, the list of products subject to this requirement changed: in 2008 rough diamonds were added to this list, while in 2009 certain types of used vehicles were removed from it.

22. Mexico has reduced the use of anti-dumping measures during the review period, but continues to be an active user of this type of measure. Between 2007 and 2012, 15 anti-dumping investigations were initiated (42 in 2002-2006) and five definitive anti-dumping measures implemented (31 in 2002-2006). By June 2012, Mexico had 38 anti-dumping measures in force, but no countervailing measure was in place.

23. Procedures for the adoption of technical regulations are clearly established. Technical regulations are subject to a sunset review after five years; if the review is not conducted, the measures automatically expire. In 2008, Mexico gradually eliminated the "establishment" requirement to obtain the health registration, needed to import drugs. Since then, foreign manufacturers can obtain the health registration if they have a document certifying that the company has a licence to manufacture drugs, issued by the competent authority of their country of origin. In January 2011, Mexico also amended the information required on labels of food and soft drinks.

24. In the area of sanitary and phytosanitary measures, obtaining a certificate and inquiring about the import requirements varies by product and measure. In order to ease the diffusion of information, in 2010 and 2012, Mexico implemented online databases containing the phytosanitary, animal health and aquaculture requirements.

25. Mexico strongly promotes its manufacturing export sector through financial support programmes, tax incentives and training programmes. The main programmes offering tax benefits are: the programme of import tax refund (drawback) and the Programme for Industry, Manufacturing, Maquila and Export Services (IMMEX), amended in 2010. During the period 2007-2011, 66.2% of Mexico's exports and 47.2% of its imports were made by companies under the IMMEX programme.

26. To support national production, Mexico operates since 2002 several sectoral promotion programmes (PROSEC). During the period under review, Mexico included two more programmes (food and fertilizers), thus totalling 24 programmes in 2012. In addition to these programmes, Mexico runs other programmes at the firm and sector level, offering financial support, tax incentives or technical assistance.

27. Exports are subject to a customs processing fee (DTA), except when goods are exported under certain trade agreements. This rate is fixed and applies for each transaction. Some products are subject to export taxes, while others require registration. Rough diamonds, iron minerals and some petroleum products are subject to export permits. Of these products, only petroleum products required a permit at the time of last review.

28. In the area of competition policy, Mexico has strengthened the role of the Federal Competition Commission and its system of penalties and fines during the review period. Despite this progress, some sectors are still characterized by limited competition, such as the hydrocarbon sector, telecommunications and electricity. Mexico continues to apply price controls on several products such as gasoline, electricity, and patented drugs.

29. During the review period, Mexico made some changes in its legislation regarding the process of obtaining a patent, as well as regarding trademark registration and licensing.

### **Trade Policies by Sector**

30. Mexico maintains several incentives programmes for agriculture and fisheries. The rules of operation of these programmes are determined annually. Further reforms in the agricultural sector are required to achieve greater productivity and improve resource allocation. Although there has been a reduction in the most distorting interventions, market-price support and output-based payments still account for over half the support given to producers.

31. Mexico continues to be one of the main petroleum producers in the world; however the production of crude petroleum declined by 17% between 2007 and 2011, despite an increase in investment in the sector. Also, Mexico is currently a net importer of refined petroleum products.

32. In 2008, Mexico launched a new petroleum law, which confirmed the State-owned Petróleos Mexicanos (PEMEX) exclusive role in certain strategic areas. The State retains ownership and control over hydrocarbons, but PEMEX may enter into contracts with the private sector for the provision of services related to the activities of exploration and production of hydrocarbons. The supply of electricity is also a State quasi-monopoly; the whole transmission network and most generating plants are operated by the State-owned Comisión Federal de Electricidad (CFE).

33. Services have undergone substantial liberalization but this has not always been consolidated in GATS. Mexican market access is in practice much more favourable than Mexico's GATS commitments, which currently comprise 77 subsectors. Increased competition and foreign participation have led to major market structure adjustments in some sectors. However, more needs to be done to enhance competition, including foreign participation, in key areas such as telecommunications and air transport.

34. The provision of financial services requires establishment in Mexico and the existence of a trade agreement on financial services with the institution's originating country. Once established, financial institutions are granted national treatment and foreign investors may own up to 100% of the capital.

35. The telecommunications sector remains highly concentrated; the main operator controls 80% of the market for fixed telephony and 70% of the cell phone market. Mexican legislation does not oblige operators to unbundle services, and costs are still relatively high in international terms.

36. The provision of regular air transport services requires a concession that is reserved to companies with at least 75% Mexican capital.

## **1 ECONOMIC ENVIRONMENT**

### **1.1 Overview**

1.1. The Mexican economy has successfully overcome the 2008-2009 global financial crisis, which caused gross domestic product (GDP) to contract sharply in the latter year. By successfully implementing counter-cyclical fiscal and monetary policies, Mexico managed to exit the recession in 2010 and since then has posted solid growth rates, driven by stronger demand domestically and a recovery of demand in the United States.

1.2. Having slipped back as a result of the crisis, per capita income has been recovering since, and reached a level of around US\$10,000 in September 2012. Although Mexico has successfully withstood the global crisis, and the lost output has been recovered, unemployment has not yet returned to pre-crisis levels: the jobless rate was 5% in early 2012, compared to 4% before the crisis. One of the challenges facing Mexico is to increase labour productivity and improve the economy's general competitiveness. During the period under review, policy measures introduced for this purpose included a substantial cut in tariffs on manufactured products, together with regulatory improvements and reforms to competition policy. Nonetheless, levels of competition remain low in some sectors, such as hydrocarbons, telephony and telecommunications and television. Greater openness in these sectors would enhance the overall competitiveness of the Mexican economy.

1.3. Federal government finances worsened slightly in the period 2006-2011, and the last two years of that period ended with deficits of 2.7% and 2.5% of GDP. Although moderate, the deterioration in public finances over the last few years reflects the fiscal stimulus implemented in 2009 in response to the global economic slowdown. Nonetheless, more recently, Mexico has resumed fiscal consolidation. The fact that the country's public finances remain heavily dependent on oil revenues poses long-term fiscal challenges, particularly in view of the possible future reduction in oil revenues combined with expenditure growth driven by population ageing.

1.4. Mexico has been successfully operating an inflation-targeting regime since 2001, holding inflation in a range of 3% plus or minus one percentage point for most of the review period, except 2008. Its flexible exchange-rate policy involves interventions in the foreign-exchange market to avoid excessive fluctuations; and this regime has made it possible to partially absorb the external shocks impacting the Mexican economy.

1.5. The current account deficit fluctuated widely during the review period. Having almost tripled in size to US\$17,952 million between 2006 and 2008, it then narrowed in subsequent years, partly because of a steep fall in imports of goods and services caused by the global economic crisis. The deficit widened again to US\$9,153 million in 2011 (0.8% of GDP), chiefly owing to larger deficits on the services and income accounts, compounded by smaller migrant remittances. In that year, total merchandise trade (imports plus exports) represented 60.6% of GDP, virtually the same proportion as in 2006 (60.3%). The pace of Mexico's trade activities slackened during the review period: between 2007 and 2011, goods exports measured in US dollars grew by 28.6%, half of the rate recorded in the period 2002-2006, while imports expanded by 24.4% between 2007 and 2011, compared to 51.8% growth between 2002 and 2006. Manufactured products continue to comfortably dominate Mexico's trade, accounting for 72.9% of total exports and 78.1% of its imports. The United States remain Mexico's leading trade and investment partner by a wide margin, although imports from Asia, particularly China, have increased considerably.

### **1.2 Macroeconomic Trends**

#### **1.2.1 Structure, growth and employment**

1.6. The 2008-2009 global financial crisis caused a substantial contraction in Mexico's GDP in 2009; but the successful implementation of countercyclical fiscal and monetary policies enabled the country to exit the recession in 2010 and post solid growth thereafter. Between 2007 and 2011, GDP growth averaged 1.4% per year in real terms, down from the 2.8% average recorded in the six previous years. In 2006 and 2007 the economy expanded by 5.2% and 3.3%, respectively, before entering a slowdown phase, with 1.2% growth in 2008 followed by recession involving a sharp contraction of real GDP on the order of 6% in 2009. The Mexican economy was

severely affected by the recession in the United States, its main trading partner, and by the consequent reduction in remittances from abroad. The financial crisis also hit Mexico even though its banks were highly capitalized and displayed no signs of systemic risk. Real GDP expanded by 5.3% in 2010, and this was followed by 3.9% growth the following year (Table 1.1). As a result, the output lost during the global crisis was recovered, and the Government was even able to embark upon a fiscal-consolidation process (see below).

**Table 1.1 Main economic indicators, 2006-2012**

	2006	2007	2008	2009	2010	2011	2012 Sept.
<b>I. Gross domestic product (GDP)</b>							
GDP at current prices (Mex\$ billion)	10,379	11,321	12,181	11,937	13,072	14,396	15,330
GDP at current prices (US\$ billion)	952	1,036	1,094	883	1,035	1,159	1,157
Real GDP, growth rate (%)	5.2	3.3	1.2	-6.0	5.3	3.9	4.2
Per capita GDP (current Mex\$)	98,943	107,002	114,164	110,939	116,402	126,614	133,304
Per capita GDP (US\$)	9,077	9,790	10,257	8,202	9,212	10,192	10,064
<b>By branch of economic activity (percentage of current GDP)</b>							
Agriculture, forestry, fishing and hunting	3.5	3.5	3.6	3.8	3.8	3.6	3.8
Mining	8.2	8.6	9.8	7.5	8.3	10.0	10.1
Electricity, water, and gas supplied by pipeline to the final consumer	1.4	1.5	1.5	1.2	1.2	1.2	1.2
Construction	6.8	6.8	7.1	6.8	6.4	6.5	6.7
Manufacturing industries	18.0	17.7	17.3	17.1	17.4	17.6	17.9
Trade	14.9	14.9	15.1	14.5	15.3	15.8	16.0
Transportation, postal, and warehousing services	6.7	6.5	6.4	6.5	6.8	6.7	6.8
Information in mass media	2.9	3.1	3.0	3.2	3.0	2.8	2.8
Financial and insurance services	3.1	3.4	3.4	3.6	3.5	3.4	3.5
Real estate, rental and leasing of movable and intangible property	10.1	9.9	9.9	10.2	9.7	9.3	8.9
Professional, scientific and technical services	3.2	3.2	3.2	3.2	3.0	2.9	2.7
Corporate and business management	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Business support and waste management and remediation services	2.4	2.4	2.3	2.4	2.3	2.3	2.2
Educational services	4.6	4.5	4.6	5.0	4.8	4.7	4.6
Health and social assistance services	2.7	2.7	2.7	3.0	2.9	2.8	2.8
Leisure, cultural, sporting and other recreational services	0.4	0.4	0.3	0.4	0.4	0.4	0.4
Hotel and restaurant services	2.4	2.3	2.2	2.2	2.2	2.1	2.1
Other services except public administration	2.4	2.4	2.3	2.4	2.3	2.3	2.3
Public administration	3.7	3.7	3.8	4.2	4.2	4.1	4.0
Financial intermediation services indirectly measured (SIFMI)	-1.7	-1.8	-1.8	-1.7	-1.9	-2.1	-2.2
Net product taxes (-)	3.9	3.9	2.6	4.2	4.2	3.5	3.2
<b>II. Other economic indicators (percentage of current GDP)</b>							
Gross national saving	25.9	26.3	26.8	23.6	23.7	24.8	24.8
Domestic saving	25.5	25.4	25.4	22.9	23.4	24.1	25.1
<b>III. Employment</b>							
Unemployment rate (%) <sup>a, b</sup>	3.6	3.7	4.0	5.5	5.4	5.2	5.0
Employment rate (%) <sup>a, b</sup>	96.4	96.3	96.0	94.5	94.6	94.8	95.0

	2006	2007	2008	2009	2010	2011	2012 Sept.
<b>IV. Memorandum item</b>							
Economically active population (%) <sup>b, c</sup>	58.8	58.8	58.8	58.7	58.5	58.7	59.2
Total population (million)	104.9	105.8	106.7	107.6	112.3	113.7	115.0

a Rate calculated with respect to the total population aged 14 years or older.

b Figures obtained for 2012.

c Projections by the National Population Council (CONAPO). The population figures for 2010 and 2011 used INEGI data.

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

1.7. Economic growth faltered slightly in 2011, especially in the second half of the year, partly because of a worsening of the international economic situation and weaker demand from the United States in particular. Nonetheless, the Mexican economy stayed on course to regain its pre-2008-2009 crisis levels. For example, installed capacity utilization in the automotive sector climbed to relatively high levels, although capacity utilization in the rest of the manufacturing sector remained below pre-crisis rates.<sup>1</sup> Domestic demand strengthened throughout most of the year, driven to some extent by an expansion of consumer credit. Its rate of increase slackened in the fourth quarter, however, owing to a fall in workers' average real income in 2011 and an incomplete recovery by family remittances, which failed to regain pre-crisis levels.<sup>2</sup>

1.8. Economic growth in 2012 was fuelled by stronger demand both domestically and from the United States. Figures for the first three quarters of the year confirm a growth rate on the order of 4.2% with respect to the same period a year earlier. As noted by the Bank of Mexico, in 2012 the Mexican economy proved resistant to the high levels of volatility and uncertainty prevailing on international financial markets and to the slower pace of economic growth in the United States.<sup>3</sup> Manufacturing exports grew during the first half of the year, particularly those from the automotive industry, with stronger sales both to the United States and to other markets, thanks largely to the depreciation of the real exchange rate compared to the levels attained in the first half of 2011. Domestic demand growth was driven by both private consumption and investment. The recovery of gross fixed investment largely reflects the buoyancy of investment expenditure on imported machinery and equipment, which, according to the Bank of Mexico, would appear to be partly due to the continuing upward trend in installed capacity utilization in the manufacturing sector, which approached pre-crisis levels in 2012.<sup>4</sup>

1.9. Private consumption outpaced GDP growth in the first two years of the period under review, before faltering in 2008 and then turning sharply negative in 2009 in the wake of the global economic crisis (Table 1.2). The recovery achieved from 2010 onwards was based on a modest increase in employment, greater availability of financing, and an increase in the number of people in jobs. On the other hand, it was impaired by a lack of growth in family remittances, which, while still an important source of financing for consumption, totalled US\$22,803 million in 2011 (2.0% of GDP) compared to US\$25,145 million (2.3% of GDP) in 2008 before the crisis broke.

**Table 1.2 Structure of GDP by expenditure, 2006-2012**

	2006	2007	2008	2009	2010	2011	2012 Sept.
<b>As a percentage of current GDP</b>							
Supply of goods and services							
Gross production	172.3	171.5	173.0	171.3	171.6	172.2	173.3
Imports of goods and services	29.2	29.5	30.3	29.1	31.5	31.6	34.0
Use of goods and services							
Intermediate demand	72.3	71.5	73.0	71.3	71.6	69.6	73.3
Final demand	129.2	129.5	130.3	129.1	131.5	128.0	134.0
Total consumption	75.1	75.1	75.3	77.7	77.3	73.4	76.2
Private consumption	64.7	64.6	64.6	65.8	65.5	62.1	64.6
Government consumption	10.4	10.4	10.7	11.9	11.8	11.3	11.5
Gross fixed capital formation	20.9	21.1	22.1	21.3	19.8	19.3	20.9

<sup>1</sup> Bank of Mexico (2012a).

<sup>2</sup> Bank of Mexico (2012a).

<sup>3</sup> Bank of Mexico (2012b).

<sup>4</sup> Bank of Mexico (2012b).

	2006	2007	2008	2009	2010	2011	2012 Sept.
Changes in inventory	5.3	5.4	4.8	2.5	4.1	4.9	3.9
Exports of goods and services	28.0	27.9	28.1	27.6	30.3	30.4	33.1
<b>Real annual growth (percentage of GDP at constant 2003 prices)</b>							
Total supply of goods and services							
Gross production	6.3	3.9	1.0	-6.9	6.4	4.2	4.6
Imports of goods and services	12.8	7.0	2.9	-18.2	20.0	7.2	4.0
Use of goods and services							
Intermediate demand	8.0	4.7	0.7	-8.1	7.8	4.7	5.2
Final demand	6.9	4.2	1.6	-9.1	8.6	4.7	4.1
Total consumption	5.2	3.9	1.7	-5.9	4.6	4.0	3.1
Private consumption	5.7	4.0	1.8	-7.3	5.0	4.4	3.3
Government consumption	1.9	3.1	1.1	3.2	2.3	2.1	2.0
Gross fixed capital formation	10.0	7.0	5.5	-11.7	0.3	8.1	6.5
Exports of goods and services	11.1	5.7	0.7	-13.3	22.0	7.7	4.6

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

1.10. The growth of gross capital formation, which outpaced GDP in 2006-2008 thanks mainly to higher levels of private investment in machinery and construction, contracted by almost 12% in 2009, as expectations deteriorated in the wake of the 2008-2009 global financial crisis. Investment levels recovered rapidly in the first half of 2011, again comfortably outpacing GDP growth. Nonetheless, despite rising strongly in the first half of 2011, total investment dropped significantly towards the end of the year, partly as a result of the slowdown in expenditure on machinery and equipment of national origin and the decline in purchases of imported machinery and equipment. Nonetheless, this did not prevent investment posting an overall annual average growth rate of 8.1% in 2011. In the first three quarters of 2012, the growth of gross fixed investment recovered, largely reflecting stronger investment spending on imported machinery and equipment.

1.11. While overall trade in goods and services declined sharply in 2009 as a result of the global crisis, it rebounded in 2010 with both imports and exports increasing by more than 20%; and this pattern continued into 2011 with growth rates of 7.2% and 7.7%, respectively.

1.12. There were no major changes in the GDP shares and contributions of the various economic sectors during the review period. Agriculture represented 3.6% of current GDP in 2011, similar to the 2007 figure, while manufacturing industry continued to make a major contribution to the Mexican economy, accounting for 17.6% of GDP in 2011. Mining contributed 10% of GDP in 2011, while trade accounted for the largest share in the services sector.

1.13. Most of the output of the manufacturing sector (which includes in-bond assembly plants (maquiladoras)) is destined for export, with 80% of manufacturing exports sold on the United States market; a large proportion being intra-sectoral trade in intermediate and final goods. Although this proportion has decreased since the previous Review (see below) it shows that the Mexican economy remains highly sensitive to business cycles in the United States. In this regard, during the review period the manufacturing sector suffered from the effects of the global crisis particularly through a reduction in demand from the United States; and Mexico has been one of the Latin American countries to be worst affected by the crisis in terms of shrinking GDP.<sup>5</sup> Recent studies show that the generation of value-added in the services sector is also sensitive to the trend of the United States economy.<sup>6</sup>

1.14. The global financial crisis and consequent contraction of Mexican GDP in 2009 triggered a sharp drop in employment, which pushed the unemployment rate up from 4% in 2008 to 5.5% in 2009. Although job creation resumed in 2010, unemployment still remains above the pre-crisis levels, standing at 5% in December 2012 according to seasonally adjusted data. In general, the unemployment rate, the rate of employment in the informal sector and the underemployment rate all remained substantially higher than before the start of the global crisis, even though the number of workers insured with the Mexican Social Security Institute (IMSS) increased sharply. The

<sup>5</sup> On this point, see Villarreal (2010).

<sup>6</sup> Empirical analyses show that in the period 1996-2009, when industrial output in the United States increased by 1%, the value added in Mexican services rose by 0.7% in the same quarter and 1.1% in the following quarter. See OECD (2011c).

underemployment rate represented 10% of the economically active population in June 2012, while about 29.4% of the employed population was estimated to be working in the informal sector at that time, in both cases according to seasonally adjusted figures.<sup>7</sup>

1.15. Per capita GDP (in US dollars) fell as a result of the international financial crisis and by September 2012 had not yet regained its 2008 levels. In short, Mexico has coped relatively successfully with the global financial crisis in terms of fully recovering lost output, although the unemployment rate and per capita GDP have not yet returned to pre-crisis levels. One of the challenges facing Mexico is to increase labour productivity and improve the general competitiveness of the economy. Policy changes with this aim were implemented during the period under review, including a sharp cut in tariffs levied on manufactured products, and the implementation of reforms to strengthen competition policy along with its system of penalties and fines (see Chapter 3). Despite this progress however, competition remains limited in some sectors, such as hydrocarbons and telephony. The global openness of the Mexican economy would be improved if these sectors were more open to competition.

1.16. The International Monetary Fund (IMF) has hailed the speed with which Mexico has recovered from the aftermath of the global crisis. According to the Fund, the foundations for this rapid output recovery have been the sound balances maintained by Mexico's public and private sectors, its strong prudential framework and the effective counter-cyclical policy response. It also singles out the flexible-exchange-rate regime as an important factor in cushioning the effects of the global crisis and underpinning the recovery.<sup>8</sup>

1.17. As a result of the financial crisis, Mexico signed three successive arrangements with the IMF under the Flexible Credit Line, most recently in January 2011, giving it access to a total of nearly US\$73 billion equivalent.<sup>9</sup> The IMF considers that these arrangements, which Mexico treats as precautionary, have supported the authorities' macroeconomic strategy by providing a buffer against potential extreme risks. It notes that the key medium-term challenges facing Mexico are to strengthen its growth potential and address a number of long-term fiscal issues, such as the projected decline in oil revenues as a proportion of GDP.<sup>10</sup> This would require both expenditure restraint and the mobilization of non-oil revenues, as well as the adoption of a structural-budget rule to make policies less pro-cyclical. The IMF also stresses the need for ambitious structural reforms to raise productivity and promote investment, such as improvements to competition regulations, a more flexible labour market, access to credit for small and medium-sized enterprises, and more efficient corporate governance among State enterprises in the energy sector.<sup>11</sup>

1.18. In recent studies of the Mexican economy, the Organisation for Economic Co-operation and Development (OECD) makes similar recommendations, including the implementation of new far-reaching fiscal reforms, together with a speedier withdrawal of energy and fuel subsidies, to guarantee long-term fiscal sustainability; in this regard it is also considered crucial to reduce reliance on oil revenues, simplify the tax system and expand the tax base.<sup>12</sup> The OECD also stresses the need to promote greater competition in the products market and to persevere with market liberalization, both through multilateral channels and through preferential and free trade agreements, as a way of making domestic industries more competitive. It further recommends reforms in infrastructure and in the education system, to be able to take better advantage of the opportunities offered by more open markets. In the agriculture sector, it advises retargeting support towards infrastructure investment and innovation, while moving away from variable input

<sup>7</sup> INEGI data, quoted in Bank of Mexico (2012b).

<sup>8</sup> IMF (2011a).

<sup>9</sup> IMF Press Release No. 11/480, "IMF Executive Board Completes Review of Mexico's Performance Under the Flexible Credit Line", 22 December 2011. Viewed at: <http://www.imf.org/external/np/sec/pr/2011/pr11480.htm>. The Executive Board of the International Monetary Fund (IMF) completed on 21 December 2011 its review of Mexico's qualification for the arrangement under the Flexible Credit Line (FCL) and reaffirmed Mexico's continued qualification to access FCL resources. The two-year arrangement for Mexico, approved on 10 January 2011, is for SDR 47.292 billion (about US\$72.980 billion) (see Press Release No. 11/4).

<sup>10</sup> IMF (2011b).

<sup>11</sup> IMF Press Release No. 11/480, "IMF Executive Board Completes Review of Mexico's Performance Under the Flexible Credit Line", 22 December 2011. Viewed at: <http://www.imf.org/external/np/sec/pr/2011/pr11480.htm>.

<sup>12</sup> OECD (2011c).



subsidies and price-related measures, to improve the sector's yield and competitiveness (see Chapter 4.2). In the case of investment and the supply of services, it suggests considering the reduction of obstacles to foreign participation in the telecommunications and transport sectors and, at the same time, reducing barriers to competition.<sup>13</sup>

### 1.2.2 Fiscal policy

1.19. The Ministry of Finance and Public Credit (SHCP) is responsible for formulating fiscal policy in Mexico, while the 2006 Federal Budget and Treasury Accountability Law (LFPRH) is the most important fiscal legislation.<sup>14</sup> The LFPRH requires the SHCP to submit the Revenue and Expenditure Budget Law for approval by Congress each year, and defines budgetary balance as the key objective of the non-financial public sector (NFPS). In exceptional circumstances, the SHCP may put forward a budget that is in deficit (or surplus); but in such cases it must provide the respective justifications to Congress, and specify the actions and number of fiscal years needed to restore fiscal balance. Investment expenditure by the State-owned oil company PEMEX and its subsidiaries is not taken into account for budgetary-balance purposes.

1.20. The LFPRH requires the estimated amount of oil revenues to be included in each Revenue and Expenditure Budget Law. Any surplus revenues, e.g. resulting from higher-than-projected oil prices, should be used to finance non-programmable expenditure and shared among the different stabilization funds and infrastructure projects. Should oil revenues turn out to be below expectations owing to a drop in oil prices during the fiscal year, the appropriate stabilization funds may be drawn down; but when these run out, expenditure cuts become necessary. Adjustment mechanisms are also contained in the LFPRH.

1.21. The finances of the Mexican Federal Government deteriorated slightly in the period 2006-2011, ending the last two years of the period with deficits of 2.7% and 2.5% of GDP (Table 1.3). Although both expenditure and income grew more or less at the same pace up to 2008, the deficit has since widened, mainly owing to the fiscal stimulus package implemented in 2009 in response to the global economic slowdown.<sup>15</sup>

**Table 1.3 Balance of the federal non-financial public sector (NFPS), 2006-2012**

(Percentage of GDP)

	2006	2007	2008	2009	2010	2011	2012 Sept.
<b>A. Budgetary income</b>	<b>15.0</b>	<b>15.1</b>	<b>16.8</b>	<b>16.8</b>	<b>16.1</b>	<b>16.2</b>	<b>12.0</b>
Tax revenue	8.6	8.9	8.2	9.5	9.6	9.0	6.5
Total income tax	4.3	4.7	5.1	5.0	5.2	5.3	4.0
Income tax	4.3	4.7	4.6	4.5	4.8	5.0	3.8
Flat-rate business tax (IETU)	..	0.0	0.4	0.4	0.3	0.3	0.2
Tax on cash deposits (IDE)	..	0.0	0.1	0.1	0.1	-0.1	0.0
Value added tax	3.7	3.6	3.8	3.4	3.9	3.7	2.8
Production and services tax	-0.1	-0.1	-1.4	0.4	0.0	-0.5	-0.6
Import tax	0.3	0.3	0.3	0.3	0.2	0.2	0.1
Oil revenues tax	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other tax revenues of the Federal Government	0.3	0.3	0.3	0.4	0.3	0.3	0.2
Non-tax income of the Federal Government	6.4	6.3	8.7	7.3	6.3	7.1	5.5
Improvements levy	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Duties	5.8	5.1	7.7	4.3	5.2	6.1	4.8
Hydrocarbons duties	5.6	4.9	7.4	4.1	4.9	5.9	4.6
Other non-oil duties	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Fees ( <i>productos</i> )	0.1	0.1	0.1	0.1	0.0	0.0	0.0
Other revenue ( <i>aprovechamientos</i> )	0.6	1.1	0.9	2.9	1.1	0.9	0.7
<b>B. Budgetary expenditure</b>	<b>16.8</b>	<b>17.0</b>	<b>18.4</b>	<b>18.9</b>	<b>18.7</b>	<b>18.7</b>	<b>13.5</b>
Programmable expenditure of the Federal Government	11.6	12.3	13.2	13.7	13.5	13.5	10.0
Current expenditure of the Federal Government	8.9	9.4	9.7	11.1	10.8	10.8	8.0
Personal services of the Federal Government	4.2	4.1	4.2	4.6	4.4	4.3	3.0

<sup>13</sup> OECD (2012b).

<sup>14</sup> The latest amendment was published in the Official Journal (*Diario Oficial de la Federación*) of 9 April 2012.

<sup>15</sup> IMF (2011a).

	2006	2007	2008	2009	2010	2011	2012 Sept.
Direct personal services of the Federal Government	1.2	1.4	1.5	1.7	1.7	1.6	1.1
Indirect personal services of the Federal Government	3.1	2.7	2.7	2.9	2.8	2.7	1.9
Federalized personal services of the Federal Government	2.3	2.3	2.3	2.5	2.4	2.3	1.6
Non-federalized indirect personal services of the Federal Government	0.7	0.4	0.4	0.4	0.4	0.4	0.3
Other current expenses of the Federal Government	0.6	1.0	0.8	1.2	1.1	1.2	0.9
Materials and supplies of the Federal Government	0.1	0.1	0.1	0.2	0.1	0.1	0.1
General and other services of the Federal Government	0.6	0.9	0.7	1.0	1.0	1.0	0.8
Current subsidies and transfers of the Federal Government	4.0	4.2	4.7	5.3	5.2	5.4	4.2
Capital expenditure of the Federal Government	2.7	2.9	3.5	2.6	2.7	2.7	2.0
Physical investment of the Federal Government	2.4	2.2	2.2	2.2	2.4	2.3	1.6
Direct physical investment of the Federal Government	0.4	0.7	0.5	0.6	0.8	1.0	0.5
Transfers for physical investment of the Federal Government	2.0	1.4	1.7	1.6	1.6	1.4	1.2
Financial and other investment of the Federal Government	0.3	0.8	1.3	0.5	0.3	0.4	0.3
Direct financial and other investment of the Federal Government	0.2	0.4	0.9	0.3	0.2	0.2	0.2
Transfers for financial and other investment of the Federal Government	0.1	0.3	0.4	0.2	0.1	0.2	0.1
Non-programmable expenditure of the Federal Government	5.2	4.7	5.2	5.2	5.2	5.1	3.5
Financial cost of the Federal Government	1.9	1.7	1.6	1.9	1.7	1.7	1.0
Internal financial cost of the Federal Government	1.4	1.3	1.4	1.6	1.4	1.4	0.8
Interest, commissions and expenditure of the Federal Government	1.0	1.1	1.1	1.4	1.3	1.3	0.7
Support for savers and debtors of the banking system	0.4	0.2	0.2	0.3	0.1	0.1	0.1
Institute for the Protection of Bank Savings (IPAB)	0.3	0.2	0.2	0.2	0.1	0.1	0.1
Other support provided to savers and debtors of the banking system	0.0	0.0	0.0	0.0	0.0	0.0	0.0
External financial cost of the Federal Government	0.5	0.3	0.3	0.3	0.3	0.3	0.2
Participations	3.2	2.9	3.5	3.1	3.3	3.3	2.4
Arrears from prior budget years, other	0.2	0.1	0.1	0.1	0.2	0.1	0.1
<b>C. Financial balance of the Federal Government</b>	<b>-1.7</b>	<b>-1.9</b>	<b>-1.6</b>	<b>-2.2</b>	<b>-2.7</b>	<b>-2.5</b>	<b>-1.6</b>
<b>Memorandum item :</b>							
Total non-oil income	9.4	10.3	9.4	12.7	11.0	10.2	..
Total oil income	5.6	4.9	7.4	4.1	4.9	5.9	..
Total financing requirements of the public sector/GDP	-1.5	-1.7	-2.3	-5.3	-4.2	-3.4	..
Net total public sector debt/GDP	30.2	29.3	33.4	36.8	36.8	38.0	..
Net external public debt (Mex\$ billion)	903.3	872.2	1,065.7	1,185.0	1,241.3	1,542.1	..

.. Not available.

Source: Ministry of Finance and Public Credit (SHCP), National Institute of Statistics, Geography and Informatics (INEGI), Economic databank (BIE).

1.22. The current expenditure of the Federal Government grew by almost 2 percentage points of GDP during the period 2006-2011, mainly owing to an increase in subsidies and current transfers, while non-programmable expenses declined by 0.1% of GDP. Total revenue from income tax (ISR) was equivalent to 5.3% of GDP in 2011 and recorded the largest increase among Federal Government income categories.

1.23. The Mexican economy remains heavily dependent on oil revenues, although the ratio between oil and non-oil budgetary income varied somewhat over the period, mainly because of

fluctuations in the international oil price. At the end of 2011, revenue from hydrocarbons duties contributed a slightly smaller share of total income than in 2006, albeit still over 30% - having slumped to an historical low of 24.4% in 2009.

1.24. The Bank of Mexico reports that the increase in budgetary income in 2011 reflected GDP growth and the higher oil price, given that the average price of the Mexican blend was almost 40% above its 2010 level. Moderate growth in VAT revenue was due to an unusual increase in reimbursements paid, according to the SHCP.<sup>16</sup>

1.25. The authorities have announced their intention to consolidate the fiscal situation following the imbalance caused by the 2009 stimulus package, through a combination of tax hikes and cost containment. In this regard, in 2010 and 2011 real primary expenditure was in fact reduced, the public debt was stabilized, and tax revenues were increased. They also expect to lift the limit on the accumulation of funds in the Oil Revenue Stabilization Fund, while gradually bringing domestic fuel prices into line with international prices, to eliminate non-selective subsidies.<sup>17</sup> On this point, the authorities noted that price and tariff policy consisted of setting the respective prices and rates on the basis of economic-efficiency and financial-soundness criteria, and that the prices of internationally tradable goods, such as gasoline and diesel fuel, were thus determined in the light of those prevailing on the international market. Nonetheless, to avoid an abrupt impact on inflation, these prices are adjusted periodically and gradually. The prices of automobile fuels have been raised each month to narrow the spread with respect to prices in the United States, and to reduce the amount of negative tax on these fuels.

1.26. According to the IMF, the fiscal situation continues to pose long-term challenges, considering the potential reduction in oil revenues and expenditure growth related to population ageing. As Mexico continues to have the lowest proportion of non-oil incomes in the OECD (10% of GDP), it needs to mobilize tax resources to compensate for the future decline in oil revenues, which could be as much as four percentage points by 2030. In this regard, the main IMF recommendations are to simplify the income tax (ISR), broaden its tax base and make it more progressive; as well as to improve the productivity of VAT by reducing exemptions, unifying the rate nationally and restricting the number of untaxed exports. Lastly, it has recommended increasing subnational tax revenue.<sup>18</sup>

1.27. The public sector's total financing requirements increased sharply between 2006 and 2009, before falling back in 2010 and 2011 (Table 1.3), following the pattern noted above in response to the crisis and subsequent stabilization. This broad indicator mainly includes the NFPS budget balance, which includes liabilities generated by PIDIREGAS-funded investment projects, the liabilities of the Institute for the Protection of Bank Savings (IPAB), and those of development banks.

1.28. The total net debt of the public sector represented 38% of GDP in 2011, up by nearly 8 percentage points since 2006. The IMF expects this moderate debt level to remain stable in the medium term, provided Mexico maintains its fiscal balance scheme. Moreover, as a growing proportion of the country's external debt is denominated in local currency, its exposure to external shocks is relatively moderate.<sup>19</sup>

1.29. In the first half of 2012, Mexico signed bilateral agreements to avoid double taxation and prevent income-tax evasion with Ukraine, Latvia, Lithuania, Qatar and Hong Kong, China.<sup>20</sup>

### 1.2.3 Monetary and exchange-rate policy

1.30. The Bank of Mexico is responsible for formulating, implementing and supervising monetary and exchange-rate policies. The Constitution gives the Bank autonomy in fulfilling its functions and defines its prime objective as to maintain the purchasing power of the local currency. Article 51 of its charter requires the central bank to send to the Federal Government and Congress each

<sup>16</sup> Bank of Mexico (2012a).

<sup>17</sup> IMF (2011a).

<sup>18</sup> IMF (2011a).

<sup>19</sup> IMF (2011a).

<sup>20</sup> Online information from the Tax Administration. Viewed at:  
[http://www.sat.gob.mx/sitio\\_internet/informacion\\_fiscal/legislacion/52\\_3558.html](http://www.sat.gob.mx/sitio_internet/informacion_fiscal/legislacion/52_3558.html).

January a presentation of the monetary policy to be pursued during the year ahead. The Board of Governors of the Bank of Mexico used its 2012 monetary programme to reaffirm its commitment to maintaining a monetary policy the key priority of which would be to preserve the purchasing power of the national currency.<sup>21</sup>

1.31. Since 2001, the Bank of Mexico has been operating an inflation-targeting regime as a framework for implementing monetary policy. The permanent objective defined by the Bank of Mexico is to achieve an annual inflation rate of 3%, as measured by the national consumer price index (INPC), and to keep it within a range of plus or minus one percentage point from that level.<sup>22</sup>

1.32. To meet the inflation target, the Bank of Mexico mainly uses interest rate management and open market operations. The policy variable for which a target is set is the overnight interbank interest rate. The Board of Governors of the Bank of Mexico held the target for the overnight interbank interest rate at 4.5% throughout 2011 and during the first half of 2012.<sup>23</sup> This has resulted in a low base rate, which has even been slightly negative in real terms. The IMF has supported this monetary policy stance, considering that inflationary pressures are under control and expectations firmly anchored.<sup>24</sup>

1.33. The monetary base grew by an average of 7.3% per year in the period 2007-2011, and then expanded at an annualized rate of 10.2% between January and August 2012 (Table 1.4). Interest rates trended upwards between 2006 and 2008, before being cut as part of the monetary policy implemented to withstand the global financial crisis (Table 1.4). Since then, borrowing rates have been kept at low levels. Nonetheless, long-term rates rose and remained high until 2010 in the wake of the uncertainty created by the crisis, which heightened risk perceptions. Since 2012 this trend has reversed, and the spread between short and long-term rates has narrowed.

**Table 1.4 Main monetary indicators, 2006-2012**

	2006	2007	2008	2009	2010	2011	2012 Average Jan-Oct
<b>Monetary aggregates</b>							
Monetary base (Mex\$ billion. end of period) <sup>a</sup>	450	495	578	632	693	763	740.2
Monetary base (% real annual variation)	12.4	8.3	7.1	10.1	5.3	5.9	9.8
M1 (% real annual variation)	11.5	5.5	2.8	7.2	5.4	10.9	10.0
M4 (% real annual variation)	11.2	6.9	7.0	7.6	5.7	10.0	12.3
<b>Interest rates (period average %)</b>							
28-day Cetes rate <sup>b</sup>	7.2	7.2	7.7	5.4	4.4	4.2	4.2
28-day TIIE rate <sup>b</sup>	7.5	7.7	8.3	5.9	4.9	4.8	4.8
20-year Treasury bond rate (fixed rate)	8.5	7.8	8.5	8.4	7.6	7.7	6.7
<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	3.0+/-1.0
National consumer price index (INPC, end of period) <sup>b</sup>	4.05	3.76	6.53	3.57	4.40	3.82	3.60
National consumer price index (INPC, annual average)	3.63	3.97	5.12	5.30	4.16	3.41	4.11
National producer price index (INPP, end of period) <sup>c</sup>	5.39	3.57	7.75	3.29	3.70	5.74	3.33
<b>Exchange rate</b>							
End of period exchange rate (Mex\$/US\$) <sup>d</sup>	10.88	10.87	13.54	13.06	12.36	13.98	13.09
Average exchange rate (Mex\$/US\$) <sup>e</sup>	10.90	10.93	11.13	13.51	12.64	12.42	13.21

<sup>21</sup> Bank of Mexico (2012c).

<sup>22</sup> Bank of Mexico (2012c and 2012d).

<sup>23</sup> Bank of Mexico (2012a and 2012b).

<sup>24</sup> IMF (2011a).

	2006	2007	2008	2009	2010	2011	2012 Average Jan-Oct
Real effective exchange rate (Mex\$/US\$) (1990=100) <sup>f</sup>	72.7	74.8	78.1	88.6	81.6	82.9	84.6
Real effective exchange rate, annual variation %	-1.2	2.9	4.5	13.4	-7.9	1.5	4.7

- a Monetary base consisting of banknotes and coins in circulation and commercial bank current account deposits at the Bank of Mexico.
- b Figures obtained for 2012.
- c Excludes oil.
- d At 31 October 2012.
- e To meet foreign-currency obligations, settlement date, average rates (January-October).
- f Estimated on the basis of consumer prices with respect to a basket of 111 countries, weighted by each country's GDP.

Source: Bank of Mexico, *Informe Anual 2011*; and INEGI, Economic databank (BIE).

1.34. For most of the period under review, inflation was held within or slightly above the range set by the Bank of Mexico (namely 3% plus or minus one percentage point). The exception was 2008, when inflation overshot the target by a wide margin and the IPNC rose by 6.5% (Table 1.4). In the second quarter of 2012, the average general inflation rate over 12 months was 3.87%, virtually the same as in the previous quarter (3.88%), and within the fluctuation band of plus or minus one percentage point from the target point of 3%.<sup>25</sup> Nonetheless, general annual inflation picked up as from June and reached the upper bound of the fluctuation band, to post a year-on-year rate of 4.77% in September 2012.<sup>26</sup> This was mainly the result of higher food prices, which the authorities consider to be temporary. In this regard, the Bank of Mexico points out that the underlying average annual inflation rate has been considerably lower than the general rate, although it has also been rising in 2012: in the second quarter it came in at 3.46%.<sup>27</sup>

1.35. The authorities consider that the recent rise in inflation mainly reflects higher international commodity prices in the first part of the year. Moreover, the Bank of Mexico considers that the pass-through from currency depreciation to prices has been small, since aggregate demand growth has not been strong enough to generate a high rate of pass-through from the exchange-rate adjustment to prices, and inflationary expectations have remained anchored.<sup>28</sup>

#### 1.2.4 Balance of payments

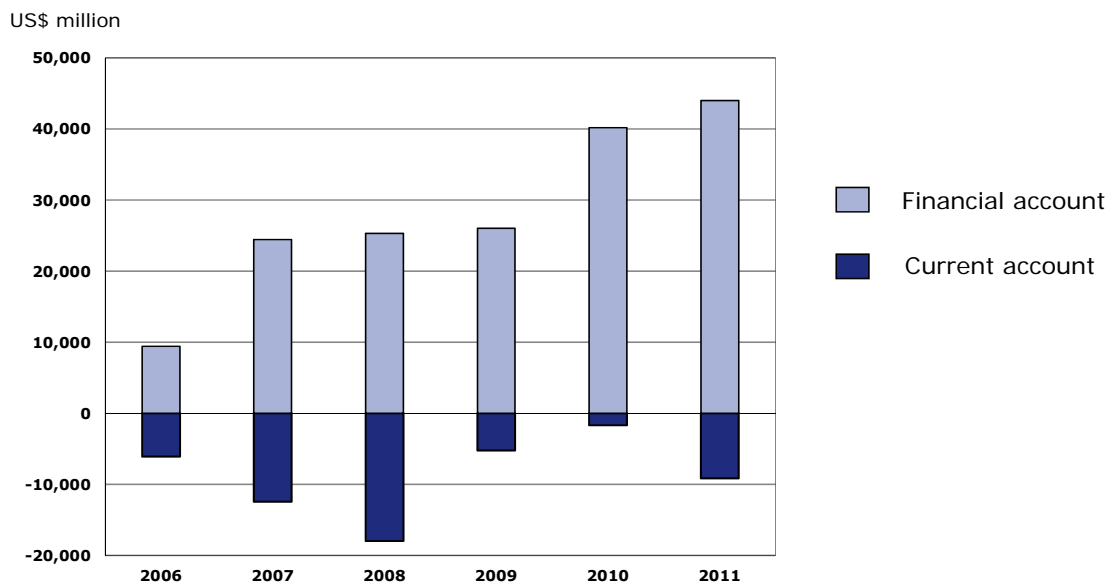
1.36. Between 2007 and 2011, the balance-of-payments current account was in deficit, and the financial account was in surplus (Chart 1.1), as had been case in 2002-2006.

<sup>25</sup> Bank of Mexico (2012b).

<sup>26</sup> Online statistics from the Bank of Mexico. Viewed at: <http://www.banxico.org.mx/portal-inflacion/index.html>.

<sup>27</sup> Bank of Mexico (2012b).

<sup>28</sup> *Idem*.

**Chart 1.1 Current account and financial account of the balance of payments, 2006-2011**

Source: Bank of Mexico.

1.37. The current account deficit fluctuated widely during the review period. Between 2006 and 2008, it almost tripled, to reach US\$17,952 million in 2008, mainly due to an increase in the merchandise trade balance caused by stronger import growth (Table 1.5 and Chart 1.2). In the two following years, 2009 and 2010, the deficit narrowed to US\$1,669 million, as a specific result of lower deficits on the merchandise trade balance and the income account. In 2011, it widened again to US\$9,153 million, mainly reflecting larger deficits on the services and income accounts. In 2011, the current account deficit represented 0.8% of GDP, compared to 1.2% and 1.6%, respectively, in 2007 and 2008.<sup>29</sup>

1.38. Apart from movements on the income account and trade balance, the decreasing surplus on the transfers account has generally worsened the current account deficit, particularly since the financial crisis. The transfers surplus shrank by 13.0% between 2007 and 2011, mainly reflecting smaller remittances; and the decline intensified from 2009 onwards, probably owing to the rise in unemployment in the host countries, in the wake of the global crisis.

**Table 1.5 Balance of payments, 2006-2012 (3rd Quarter)**

(US\$ million)

	2006	2007	2008	2009	2010	2011	2012 Sept <sup>a</sup>
<b>I. Current account</b>	<b>-6,075</b>	<b>-12,429</b>	<b>-17,952</b>	<b>-5,204</b>	<b>-1,669</b>	<b>-9,153</b>	<b>-2,584</b>
<b>1. Balance of goods and services</b>	<b>-12,754</b>	<b>-16,674</b>	<b>-24,759</b>	<b>-13,414</b>	<b>-13,035</b>	<b>-15,400</b>	<b>-7,153</b>
Balance of goods	-6,312	-10,311	-17,615	-4,926	-2,884	-1,171	2,426
Exports	250,319	272,293	291,886	229,975	298,860	349,946	275,892
Imports	256,631	282,604	309,501	234,901	301,744	351,116	273,467
Balance of services	-6,442	-6,363	-7,145	-8,489	-10,150	-14,230	-9,579
Inflows	15,827	17,149	17,575	14,730	15,167	15,298	11,895
Outflows	22,269	23,512	24,720	23,219	25,318	29,527	21,474
<b>2. Income account balance</b>	<b>-19,270</b>	<b>-22,160</b>	<b>-18,662</b>	<b>-13,383</b>	<b>-10,171</b>	<b>-16,726</b>	<b>-12,831</b>
Income	5,661	7,577	8,417	6,934	10,800	10,645	9,775
Interest	4,514	6,130	6,015	4,236	3,376	3,551	2,396
Other	1,147	1,446	2,402	2,699	7,424	7,094	7,379
Outflows	24,931	29,736	27,078	20,317	20,972	27,371	22,607
Profits remitted	2,425	5,294	2,861	3,699	4,263	2,891	4,160
Profits reinvested	7,776	8,149	8,084	4,313	2,751	6,960	4,713
Public-sector interest	8,144	8,476	8,410	6,700	7,507	9,557	7,527
Private-sector interest	6,586	7,818	7,723	5,606	6,450	7,964	6,206

<sup>29</sup> The calculations used figures from Tables 1.1 and 1.5.

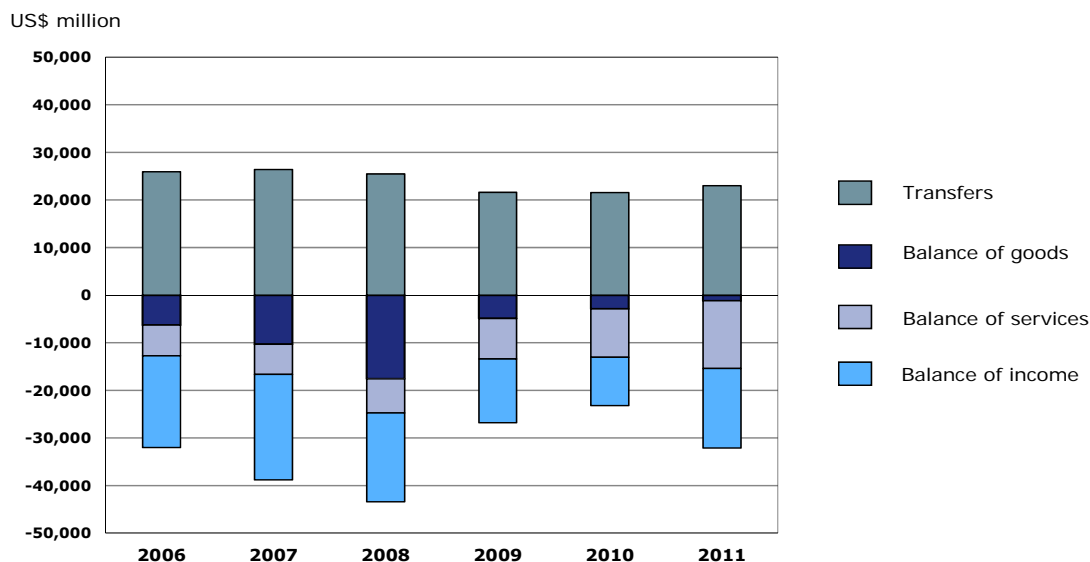
	2006	2007	2008	2009	2010	2011	2012 Sept <sup>a</sup>
<b>3 Transfers</b>	<b>25,949</b>	<b>26,405</b>	<b>25,469</b>	<b>21,593</b>	<b>21,537</b>	<b>22,974</b>	<b>17,401</b>
Inflows	26,037	26,513	25,597	21,653	21,623	23,152	17,511
Family remittances	25,567	26,059	25,145	21,306	21,304	22,803	17,267
Other	470	454	452	347	319	349	244
Outflows	88	108	128	60	86	178	110
<b>II. Financial account<sup>b</sup></b>	<b>9,423</b>	<b>24,437</b>	<b>25,336</b>	<b>26,055</b>	<b>40,175</b>	<b>44,003</b>	<b>30,128</b>
<b>1. Foreign direct investment</b>	<b>14,471</b>	<b>23,584</b>	<b>26,318</b>	<b>7,818</b>	<b>5,911</b>	<b>8,685</b>	<b>-3,329</b>
In Mexico	20,230	31,840	27,475	16,282	20,956	20,823	13,045
Abroad	-5,758	-8,256	-1,157	-8,464	-15,045	-12,139	-16,374
<b>2. Portfolio investment</b>	<b>-1,914</b>	<b>63</b>	<b>10,396</b>	<b>-5,294</b>	<b>29,728</b>	<b>41,744</b>	<b>56,978</b>
Liabilities	137	13,349	4,826	15,275	37,604	40,944	57,486
Public sector	-8,011	2,057	1,257	9,314	28,096	36,975	43,573
Private sector	3,186	2,990	-6,240	5,960	9,507	3,969	13,912
Pidiregas <sup>c</sup>	4,963	8,301	9,810	0	0	0	0
Assets	-2,051	-13,285	5,570	-20,568	-7,876	800	-507
<b>3. Other investment</b>	<b>-3,134</b>	<b>790</b>	<b>-11,378</b>	<b>23,531</b>	<b>4,536</b>	<b>-6,426</b>	<b>-23,522</b>
Liabilities	976	11,092	3,986	8,564	32,894	-1,240	-13,219
Public sector	-11,504	-1,195	768	11,826	5,478	302	-3,641
Development banks	-7,947	-1,040	-496	1,194	648	-283	-680
Bank of Mexico	0	0	0	7,229	-3,221	0	0
Non-bank sector	-3,557	-155	1,265	3,402	8,051	585	-2,960
Private sector	10,417	7,363	174	-3,262	27,417	-1,542	-9,578
Commercial banks	3,385	3,229	-3,273	2,068	30,152	-1,695	-7,644
Non-bank sector	7,031	4,134	3,447	-5,330	-2,736	153	-1,934
PIDIREGAS	2,063	4,924	3,044	0	0	0	0
Assets	-4,110	-10,302	-15,364	14,967	-28,358	-5,186	-10,303
<b>III. Errors and omissions</b>	<b>-1,142</b>	<b>-1,152</b>	<b>695</b>	<b>-16,322</b>	<b>-17,891</b>	<b>-6,670</b>	<b>-12,008</b>
<b>IV. Variation in gross international reserves</b>	<b>2,220</b>	<b>10,881</b>	<b>8,091</b>	<b>4,591</b>	<b>20,695</b>	<b>28,621</b>	<b>16,381</b>
<b>V. Adjustments for revaluation</b>	<b>-14</b>	<b>-25</b>	<b>-12</b>	<b>-63</b>	<b>-79</b>	<b>-441</b>	<b>-845</b>

a Preliminary data.

b Corresponds to the previous concept of the capital account.

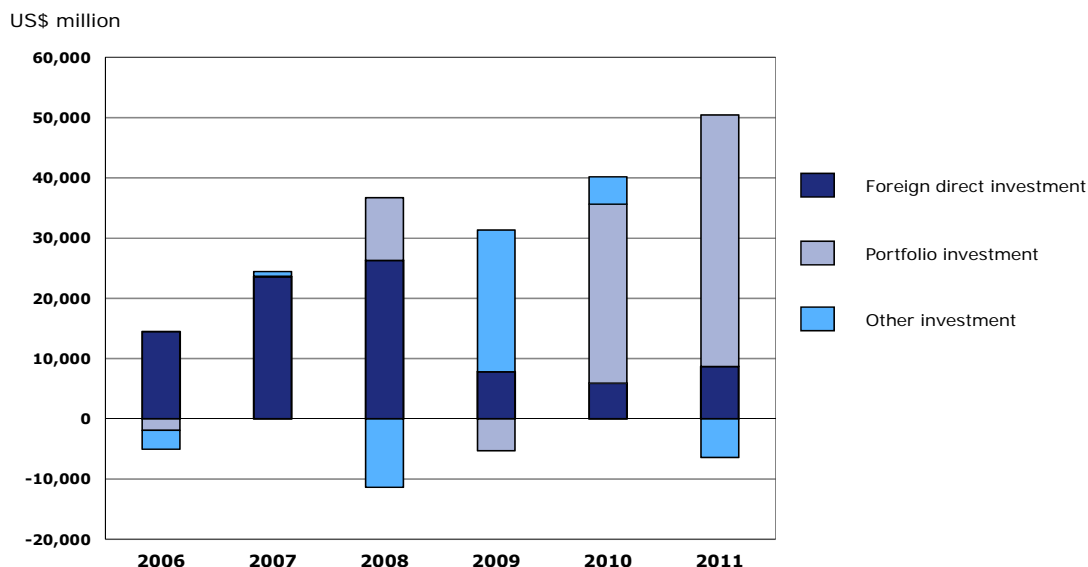
c Refers to public sector infrastructure projects undertaken in the "Long-term production infrastructure projects" (PIDIREGAS) scheme, previously known as "Projects of deferred impact in the expenditure record". Under this scheme, the projects are put out to tender with private firms.

**Chart 1.2 Components of the current account, 2006-2011**



Source: Bank of Mexico.

1.39. The surplus on the financial account of the balance of payments grew by 80.1% between 2007 and 2011 to reach a level of US\$44,003 million (Chart 1.3). Up to 2008, this increase particularly reflected sustained growth in foreign direct investment (FDI). In the ensuing years, FDI retreated abruptly, but this was offset in 2009 by an increase in the "Other investments" category, and in 2010 and 2011 by an increase in portfolio investment, particularly investment in the public sector. In 2011, the latter reached a level of US\$36,975 million.

**Chart 1.3 Components of the financial account, 2006-2011**

Source: Bank of Mexico.

### 1.3 Developments in trade and investment flows

#### 1.3.1 Merchandise trade

1.40. In 2011, Mexico's total goods trade (imports plus exports) represented 60.6% of GDP, almost the same proportion as in 2006 (60.3%).<sup>30</sup>

1.41. The growth of Mexico's trade slackened during the review period. Between 2007 and 2011, exports grew by only 28.6% (Chart 1.4 and Table A1.1), having expanded by 55.8% in 2002-2006.<sup>31</sup> Import growth also slowed to 24.4% between 2007 and 2011, compared to 51.8% in the earlier period (Table A1.2).

1.42. Trade was also marked by sharp fluctuations. Exports and imports grew at a modest pace in the early years of the period,<sup>32</sup> but faltered in 2009 in the wake of the global crisis (Chart 1.4). In that year, exports fell by 21.1% from the previous year's level to US\$229,712 million, while imports were down by 24% from their 2008 figure at US\$234,385 million. In the following years, trade recovered, and in 2011 exports and imports both rose to about US\$350 billion.<sup>33</sup>

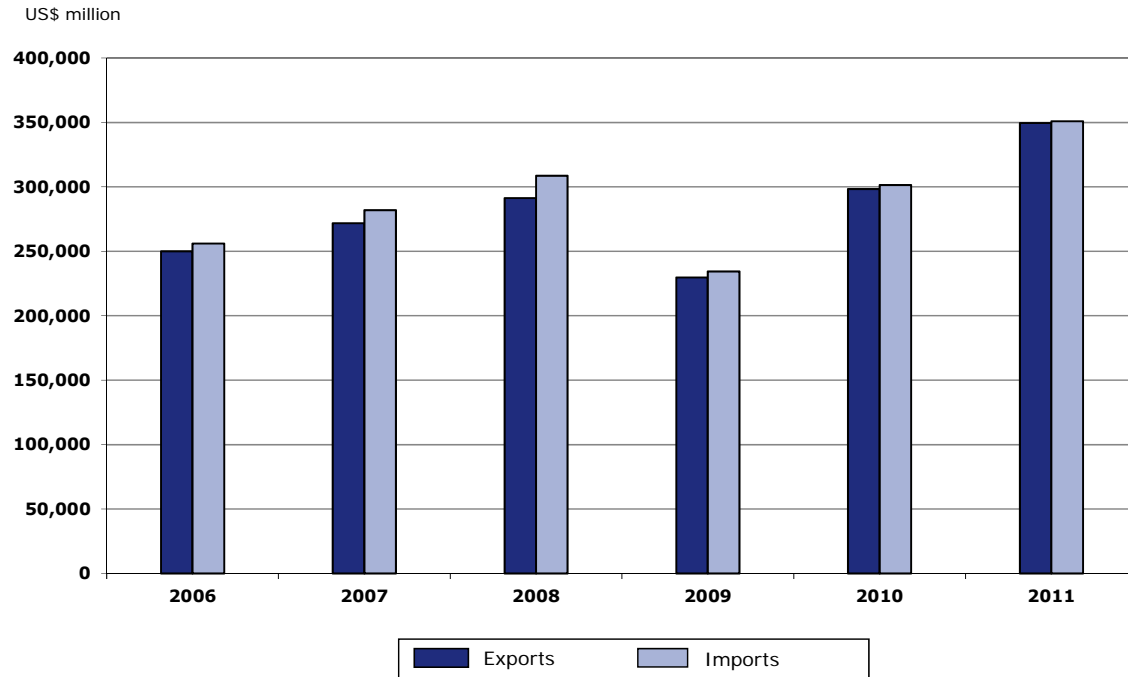
<sup>30</sup> WTO (2008).

<sup>31</sup> WTO (2008).

<sup>32</sup> Between 2007 and 2008, exports expanded by 7.2% and imports by 9.5%.

<sup>33</sup> The authorities stated that the trade data reported in the balance of payments do not necessarily coincide with the figures presented in this section, because the goods category of the balance of payments includes goods acquired in ports by freight companies, whereas the trade statistics do not include such items.



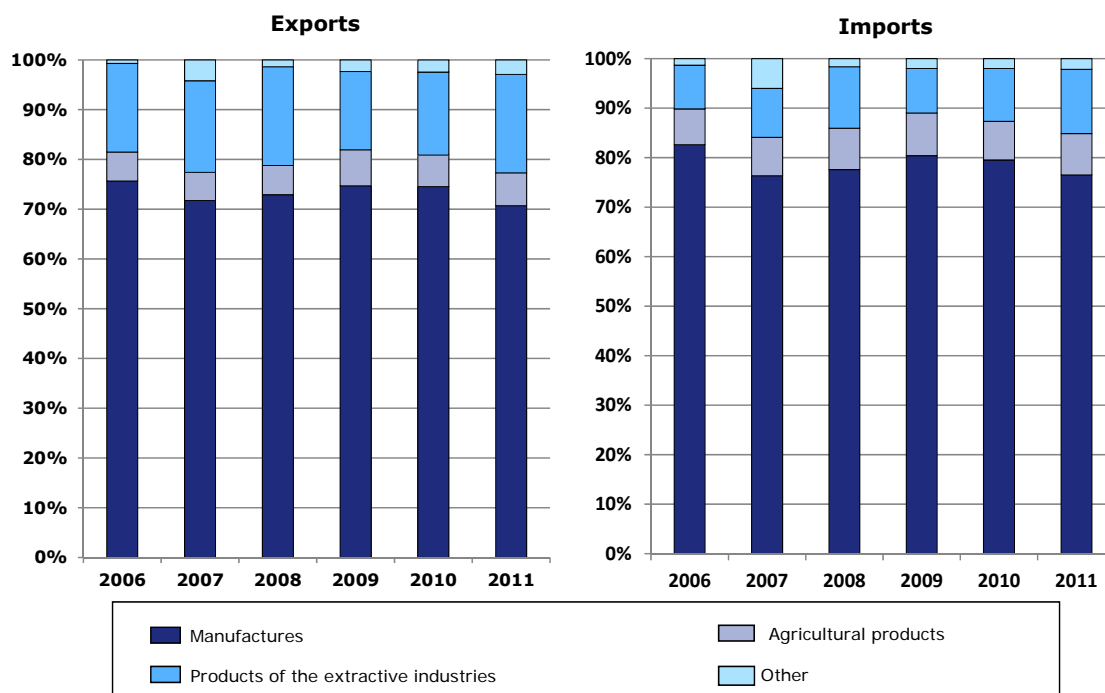
**Chart 1.4 Exports and imports of goods, 2006-2011**

Source: WTO Secretariat estimates, based on data drawn from the COMTRADE database.

1.43. Preliminary figures for the first nine months of 2012 show exports totalling US\$275,380 million and imports of US\$273,263 million (Tables A1.3 and A1.4)

### 1.3.1.1 Composition of trade in goods

1.44. The structure of Mexico's export basket changed slightly between 2007 and 2011, with the proportion of mining products growing while manufactured goods lost share (Chart 1.5). During this period, manufactures accounted for 72.9% of total exports on average, while agricultural products represented 6.3%, and products from the extractive industries accounted for 18.1%. This latter percentage is higher than that recorded in 2002-2006 (14.2% on average), mainly because of an increase in the value of fuel exports, probably stemming from the rise in oil prices during those years.

**Chart 1.5 Merchandise exports and imports by type of product, 2006-2011**

Source: WTO Secretariat estimates, based on data drawn from the COMTRADE database.

1.45. The leading manufactured exports are machinery and transport equipment (averaging 53.2% of total exports), particularly office machinery and telecommunications equipment (19.1%) and products for the automotive industry (17.2%) (Table A1.1).

1.46. The structure of imports is similar: on average 78.1% of imports are manufactured goods, while products of the extractive industries account for 11.0%, and agricultural products 8.2%. The main import products are machinery and transport equipment (averaging 45.3% of total imports) and chemicals (11.2%) (Table A1.2).

### 1.3.1.2 Direction of merchandise trade

1.47. Despite progress in terms of diversification, Mexico's trade remains geographically concentrated in a single market, the United States (Table A1.5). On average, 80.4% of its exports were sent to that market during the review period, compared to an average of 87.5% of total exports in 2001-2006.<sup>34</sup> The remainder of Mexico's exports goes mainly to Canada (averaging 3% of total exports), Germany (1.4%), Spain (1.3%), Colombia (1.2%), Brazil (1.1%) and China (1.1%). The destination markets that grew most during this period were Canada, Brazil and China.

1.48. On the import side, the structure is much less concentrated, although an average of 49.0% of imports still comes from the United States (Table A1.6). The share of imports sourced from Asia averages 29.8%. China (with an average of 13.1% of total imports), Japan (5.1%) and the Republic of Korea (4.3%) are Mexico's leading source markets in the region. China's importance as a source market grew during the period under review.

### 1.3.2 Trade in services

1.49. The deficit in the services balance widened during the period under review from US\$6,442 million to US\$14,230 million (Table 1.6).

<sup>34</sup> The data used to calculate the average for the period 2001-2006 come from WTO (2008).

**Table 1.6 Trade in services, 2006-2012 (September)**

(US\$ million)

	2006	2007	2008	2009	2010	2011	2012 Sept <sup>a</sup>
<b>Exports</b>	<b>15,827</b>	<b>17,149</b>	<b>17,575</b>	<b>14,730</b>	<b>15,167</b>	<b>15,298</b>	<b>11,895</b>
Transport	1,518	1,512	1,767	1,338	1,061	849	608
Travel-related services	12,177	12,919	13,370	11,513	11,992	11,869	9,365
Communication services	466	400	336	203	202	237	198
Insurance services	1,263	1,999	2,010	1,594	1,831	2,262	1,664
Financial services	0	0	0	0	0	0	0
Royalties and other licence fees	0	0	0	0	0	0	0
Personal, cultural and recreational services	383	308	87	80	80	80	60
Other services	20	11	6	3	2	1	0
<b>Imports</b>	<b>22,269</b>	<b>23,512</b>	<b>24,720</b>	<b>23,219</b>	<b>25,318</b>	<b>29,527</b>	<b>21,474</b>
Transport	8,940	9,936	11,865	9,303	10,774	12,120	8,623
Travel-related services	8,108	8,462	8,568	7,207	7,255	7,832	5,946
Communication services	107	99	94	72	80	112	140
Insurance services	1,977	2,764	2,732	3,199	2,626	4,086	3,323
Financial services	374	270	116	419	548	452	204
Royalties and other licence fees	503	0	0	0	0	0	0
Personal, cultural and recreational services	326	259	227	272	272	272	204
Other services	1,935	1,723	1,118	2,745	3,764	4,652	3,034
<b>Balance of trade in services</b>	<b>-6,442</b>	<b>-6,363</b>	<b>-7,145</b>	<b>-8,489</b>	<b>-10,150</b>	<b>-14,230</b>	<b>-9,579</b>

a Preliminary figures.

Source: Bank of Mexico.

1.50. The main service exports were travel-related, which on average accounted for 77.2% of total service exports, followed by insurance (12.2%) and transport (8.1%) services.

1.51. On the import side, the leading service categories were transport (averaging 42.8% of service imports), followed by travel-related (31.4%) and insurance (12.2%) services.

### 1.3.3 Foreign direct investment

1.52. Having surpassed the 2006 figure in 2007, foreign direct investment (FDI) volumes fell back in the two following years. In 2009, FDI flows totalled US\$16,316 million, barely more than half of the amount recorded in 2007 (US\$31,785 million). From 2009 onwards, however, FDI started to recover, and it had grown to US\$20,357 million in 2011. The sharp drop in FDI during this period primarily reflected the retreat of investment in manufacturing industries, and a reduction in investment from the United States (Tables 1.7 and 1.8).

**Table 1.7 Foreign direct investment by activity, 2006-2012**

(US\$ million)

Sectors	2006	2007	2008	2009	2010	2011	2012 June
Manufacturing industries	10,102	13,661	7,938	5,649	11,647	9,594	3,714
Financial and insurance services	3,932	6,522	6,236	2,534	1,878	2,507	2,176
Construction	444	2,438	1,041	915	163	1,489	1,122
Trade	692	1,558	1,900	1,544	2,797	2,052	946
Real estate, rental and leasing of movable and intangible property	1,120	1,648	1,811	1,109	1,361	908	483
Hotel and restaurant services	909	1,248	-161	111	345	657	322
Professional, scientific and technical services	693	411	497	274	253	664	274
Transportation, postal and warehousing services	-180	296	382	101	157	283	219
Information in mass media	677	303	1,489	173	190	1,126	176
Business support and waste management and remediation services	1,365	916	583	2,874	639	55	59
Other services except public administration	-2	44	59	73	82	258	62
Electricity, water and gas supplied by pipeline to the final consumer	-85	578	483	59	5	-219	47
Agriculture, forestry, fishing and hunting	21	144	52	36	65	22	18
Mining	433	1,689	4,750	840	1,240	880	2
Health and social assistance services	5	25	26	17	5	3	2
Educational services	1	39	169	2	7	4	1
Leisure, cultural and sporting and other recreational services	55	267	-15	5	31	74	-3
<b>Total</b>	<b>20,181</b>	<b>31,785</b>	<b>27,239</b>	<b>16,316</b>	<b>20,868</b>	<b>20,357</b>	<b>9,622</b>

Note: The sectors correspond to the North American Industry Classification System (NAICS).

Source: Ministry of the Economy.

**Table 1.8 Foreign direct investment by country of origin, 2006-2012**

(US\$ million)

Country	2006	2007	2008	2009	2010	2011	2012 June
United States	12,939	13,174	11,260	7,327	5,761	10,490	3,552
Spain	1,436	5,402	4,941	2,684	1,446	3,152	2,967
Luxembourg	176	540	336	188	364	144	650
Germany	741	643	646	57	311	328	585
Japan	-1,422	395	346	218	225	773	434
France	156	232	205	267	133	204	354
United Kingdom	972	607	1,393	365	623	59	344
Netherlands	2,807	6,633	1,856	2,236	8,927	1,451	167
Canada	633	482	3,072	1,633	1,526	729	164
Denmark	253	88	76	-7	-13	116	92
Other	1,488	3,588	3,107	1,349	1,565	2,912	314
<b>Total</b>	<b>20,181</b>	<b>31,785</b>	<b>27,239</b>	<b>16,316</b>	<b>20,868</b>	<b>20,357</b>	<b>9,622</b>

Source: Ministry of the Economy.

1.53. The main FDI-receiving sectors in the period 2007-2011 were manufacturing industries, which on average absorbed 41.9% of FDI, followed by financial and insurance services (16.1%) and trade (9.0%).

1.54. In terms of the origin of flows, the United States continues to account for the largest amount of FDI in Mexico. Between 2007 and 2011 it provided an average of 45.1% of Mexico's total inward FDI, followed by Spain (13.5%) and the Netherlands (17.5%). Thus these three countries between them provided three quarters of all FDI entering Mexico during that period. The smaller volume of FDI in 2009 mainly reflects the overall reduction in inflows from its partners, and from the United States in particular. In 2010, a substantial increase in investment from the Netherlands gave renewed impetus to FDI in Mexico.

## 2 TRADE AND INVESTMENT REGIME

### 2.1 General legal framework

2.1. Mexico is a Federal Republic comprising 31 States and a Federal District. Its political system is based on three powers: the Executive, the Legislature and the Judiciary (see Box 2.1).<sup>1</sup>

#### Box 2.1 System of government

**Executive Power** is vested in the President of the United Mexican States, who serves as both Head of State and Head of Government, and is elected by universal suffrage every six years for a single non-renewable term.

**Legislative Power** is represented by the Congress of the Union, comprising a Chamber of Deputies and a Senate. The Chamber of Deputies is made up of 500 members elected every three years, whereas the Senate consists of 128 members elected every six years.

**Judicial Power** lies with the Supreme Court of Justice of the Nation, the Electoral Tribunal, collegiate and unitary circuit courts, and district courts (Article 94 of the Political Constitution of the United Mexican States). The Supreme Court of Justice of the Nation consists of 11 judges (*ministros*) who are elected for a 15-year term by the Senate, from a shortlist submitted by the President of the Republic.

**Elections:** The most recent presidential and congressional elections took place in July 2012.

**Drafting of laws and decrees:** The legislative drafting procedure for a law or decree comprises the following steps: proposal, debate, approval, promulgation and publication. A proposal consists in the tabling of a draft law or decree by the President of the Republic, the Deputies or Senators of the Congress of the Union, the Legislatures of the States, or citizens representing at least 0.13% of the nominal electoral roll in accordance with the terms laid down in law (Article 71 of the Constitution). Drafts are debated successively in each chamber, beginning with the originating chamber. If passed in both chambers, the draft is referred to the President of the Republic, who may: (a) make observations on the decree that has been approved and return it to the chamber of origin for further debate, or (b) promulgate and publish it for implementation (Article 72 of the Constitution).

Source: Political Constitution of the United Mexican States and online information from the Office of the President of the Republic. Viewed at: <http://www.presidencia.gob.mx>.

2.2. There have been no fundamental changes to the legal regime that underpins Mexico's trade policy since the last Review in February 2008. That regime is based on the Political Constitution of the United Mexican States ("the Constitution"), and on the Foreign Trade Law (LCE)<sup>2</sup> together with its implementing regulations.<sup>3</sup> Other relevant rules on trade matters referred to in this report include:

- the Customs Law;
- the Law on General Import and Export Taxes (LIGIE);
- the General Rules for Foreign Trade issued by the Ministry of Finance and Public Credit;
- the General Rules and Criteria for Foreign Trade issued by the Ministry of the Economy;
- the Foreign Investment Law;
- the Law on the Approval of International Economic Treaties;
- the Federal Law on Metrology and Standardization;
- the Federal Law on Animal Health;

<sup>1</sup> Article 49 of the Constitution of the United Mexican States (1917) provides for the separation of Executive, Legislative and Judicial powers. The most recent reform of the Constitution was published in the Official Journal of 9 August 2012.

<sup>2</sup> Published in the Official Journal of 27 July 1993. The most recent reform was published on 21 December 2006.

<sup>3</sup> Published in the Official Journal of 30 December 1993. The most recent reform was published on 29 December 2000.

- the Federal Law on Plant Health;
- the General Law on Health;
- the Federal Copyright Law;
- the Law on Government Procurement, Leases and Services.

2.3. The Supreme Court of Justice of the Nation has held that the Constitution is the highest ranking legal instrument, followed by international treaties signed by the President and approved by the Senate, followed in turn by the federal and State laws.<sup>4</sup>

2.4. In accordance with the Constitution, foreign policy lies within the exclusive purview of the federal authorities (Articles 117 and 118). The President of the Republic ("the President") has the power to direct foreign policy; to sign, denounce, suspend and amend international treaties and to issue interpretative statements thereon, subject to Senate approval (Articles 76 and 89 of the Constitution).<sup>5</sup> Congress is responsible for legislation generally, and in particular for establishing the taxes on external trade (Article 73 of the Constitution).

## 2.2 Trade policy objectives and formulation

2.5. The principal objectives of Mexico's trade policy are still to strengthen and increase the country's share in world trade. Those objectives are part of the National Development Plan 2007-2012 (PND)<sup>6</sup> and the Sectoral Programme for the Economy 2007-2012 (PSE).<sup>7</sup> The PND is the foundation for all the public policies of the Federal Government and is implemented through sectoral, institutional, regional or special government programmes, such as the PSE, drawn up by the Ministry of the Economy (SE).

2.6. The PSE comprises four priority action areas, one of which is to boost foreign trade and foreign direct investment. On the basis of the objectives set out in the priority action areas, the main strategies employed by the SE are: (a) to optimize the existing network of trade agreements; (b) to negotiate new agreements; (c) to promote convergence between agreements; (d) to strengthen the multilateral trading system; and (e) to ensure the legal defence of Mexico's trade interests.<sup>8</sup> Moreover, the authorities have indicated that Mexico's trade policy is implemented so as to contribute to stronger competitiveness and increase the country's participation in global value chains.

2.7. The SE remains the body responsible for formulating and directing foreign trade policies and promoting Mexico's external trade in cooperation with the Ministry of External Relations.<sup>9</sup> The SE is also responsible for analysing and setting tariff levels and proposing amendments thereto; examining and determining restrictions to trade; setting official prices having regard to the opinion

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<sup>4</sup> Article 133 of the Constitution and Supreme Court of Justice of the Nation (2007), page 6.

<sup>5</sup> Law on the Approval of International Economic Treaties, published in the Official Journal of 2 September 2004. This law lays down the criteria for the approval of international treaties on trade in goods, services, investment, technology transfer, intellectual property, double taxation and economic cooperation.

<sup>6</sup> Published in the Official Journal of 31 May 2007. In terms of strategies to attain the objectives set in priority areas No. 2 ("A competitive economy that generates employment") and No. 5 ("Effective democracy and a responsible foreign policy"), the National Development Plan (2007-2012) recognizes the need to pursue the process of trade liberalization and to promote exports and foreign investment for the benefit of the country's economic development. The strategy to be pursued in terms of international trade relations is to continue with the negotiation of trade agreements, while deepening and taking advantage of the trade agreements already in force.

<sup>7</sup> Published in the Official Journal of 14 May 2008. The PSE comprises four priority areas to promote the country's economic development, objectives and indicators for each priority area and strategies for attaining each objective.

<sup>8</sup> Online information from the SE. Viewed at: <http://www.economia.gob.mx/comunidad-negocios/comercio-exterior> [6 August 2012].

<sup>9</sup> Article 34 (I and IV) of the Law on the Organization of the Federal Public Administration, published in the Official Journal of 29 December 1976. The most recent amendment was published on 14 June 2012.

of the Ministry of Finance and Public Credit (SHCP); and establishing, together with the SHCP, the general criteria for establishing measures to boost foreign trade.<sup>10</sup>

2.8. The powers of the SE also include analysing, establishing and amending non-tariff regulations and restrictions that affect trade in and the transit of goods; laying down rules of origin and requirements on designation of country of origin; granting prior permits and allocating export and import quotas; coordinating international trade negotiations and issuing rules to comply with trade agreements; drawing up programmes and mechanisms to promote and stimulate exports; completing investigations into safeguards and unfair international trade practices, and imposing safeguards as well as determining the compensatory duties (anti-dumping or countervailing duties ("*cuotas compensatorias*" (*derechos antidumping o compensatorios*)) ensuing from such investigations (Article 5 of the LCE).

2.9. The President has powers on tariff and non-tariff matters. He may, when he deems it urgent and necessary on grounds of national interest, impose, amend or remove tariffs; and regulate, restrict or prohibit the export, import, movement or transit of goods through decrees published in the Official Journal (Article 131 of the Constitution and Article 4 of the LCE). The President may also lay down measures to regulate or restrict such trade flows through decisions issued by the SE and/or the competent authority and published in the Official Journal (Article 4 of the LCE). The President is also responsible for authorizing ports, establishing maritime and border customs offices and deciding on their location.

2.10. Mexico also has two commissions to assist the President on external trade matters: the Foreign Trade Commission (COCEX) and the Joint Export Promotion Commission (COMPEX) (Articles 6 and 7 of the LCE). The COCEX serves as a mandatory consultative agency for all entities of the Federal Public Administration on any measure that concerns the import, export, movement or transit of goods. The COCEX comprises representatives of the Ministries and other federal entities and has powers to issue opinions on the adoption or amendment of tariff and non-tariff measures. The COCEX reviews regulatory or restrictive measures and can hold consultations with business chambers, industrial, commercial or agricultural associations, and other stakeholders (Article 6 of the LCE and Article 9 of its implementing regulations).

2.11. The COMPEX comprises representatives of the public and private sectors and its role is to analyse, evaluate, propose and promote measures to streamline administrative processes and remove barriers to foreign trade (Article 7 of the LCE and Article 177 of its implementing regulations).

## 2.3 International trade relations

### 2.3.1 WTO

2.12. Mexico is a founding Member of the WTO.<sup>11</sup> Between 1994 and 1997, Mexico also participated in the negotiations on basic telecommunications and on financial services and accepted the Fourth<sup>12</sup> and Fifth<sup>13</sup> Protocols, respectively, to the General Agreement on Trade in Services (GATS). In May 2008 Mexico notified to the WTO its acceptance of the Protocol amending the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).<sup>14</sup> Mexico is not party to the Plurilateral Agreements on Government Procurement, Trade in Civil Aircraft or Information Technology.

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<sup>10</sup> Article 34 (V) of the Law on the Organization of the Federal Public Administration.

<sup>11</sup> The SE represents the country at the WTO through the Permanent Mission of Mexico to the WTO in Geneva.

<sup>12</sup> As a result of the negotiations on basic telecommunications of 1994-1996, in 1997 Mexico added partial commitments in respect of basic telecommunications to its schedule of specific commitments of 1994 (WTO document GATS/SC/56/Suppl.2 of 11 April 1997).

<sup>13</sup> As a result of the negotiations on financial services of 1997, Mexico adopted a new text in 1998 (WTO document GATS/SC/56/Suppl.3 of 26 February 1998) replacing the section on financial services set out in its 1994 schedule of commitments annexed to the GATS.

<sup>14</sup> Decision of 6 December 2005. WTO document WT/L/641 of 8 December 2005.

2.13. Mexico grants most-favoured-nation (MFN) treatment to all its trading partners (including those that are not WTO Members), except where a product is eligible for preferential treatment under a trade agreement.

2.14. In conformity with its multilateral commitments Mexico has continued to submit notifications to the WTO (Table A2.1), although at October 2012 some were still pending.

2.15. Mexico has also continued to participate in the WTO dispute settlement mechanism. Although Mexico was not the subject of any complaint during the period under review, it lodged five complaints of its own and participated as a third party in 17 cases (Table A2.2). Three of the five complaints led to the establishment of a panel, an appeal and a ruling (or the circulation of a report) by the Appellate Body. The dispute with the United States on tuna, in which a ruling was handed down in May 2012, is noteworthy because of its long-running nature and history.<sup>15</sup> The Appellate Body and Panel reports<sup>16</sup> were adopted on 13 June 2012.

2.16. Mexico takes an active part in the WTO's work and in the Doha Round negotiations. Mexico recognizes the importance of concluding those negotiations as soon as possible and of refining the WTO's disciplines to ensure the effectiveness of the multilateral system. In the framework of the negotiations, Mexico has submitted a number of proposals individually or jointly with other WTO Members as part of the "Middle Ground" Group<sup>17</sup>, the Group of 20 (G-20)<sup>18</sup> or the Friends of Anti-Dumping Negotiations.<sup>19</sup> Mexico is also a co-sponsor of the proposal on the establishment of a database of geographical indications for wines and spirits.<sup>20</sup>

### 2.3.2 Trade agreements

2.17. Mexico is among the Latin American countries with the largest number of trade agreements. At September 2012 Mexico had 12 free trade agreements (FTAs) in force and eight partial scope agreements within the framework of the Latin American Integration Association (LAIA) (see Table 2.1).<sup>21</sup> The agreements cover a total of 51 countries, 44 of them under FTAs. Most of Mexico's trade (81.3% in 2011) is with countries with which it has a trade agreement, especially the United States and Canada, which are parties to the North America Free Trade Agreement (NAFTA) (see Table 2.2). In 2011, 67% of all trade was with these two countries, 14.3% was with countries that are party to other FTAs and 2.2% with countries that are party to a partial scope agreement.

**Table 2.1 List of regional trade agreements signed by Mexico (in force, whether or not notified), 2007-2012<sup>a</sup>**

Agreement with	Date of entry into force	Type of agreement	Notification to the WTO	
			Year	Document series
<b>Free Trade Agreements and Treaties that provide for the establishment of a free-trade zone</b>				
<ul style="list-style-type: none"> <li>▪ Central America (FTA) <ul style="list-style-type: none"> <li>El Salvador</li> <li>Nicaragua</li> <li>Honduras</li> <li>Costa Rica</li> <li>Guatemala</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>01 September 12</li> <li>01 September 12</li> <li>01 January 13*</li> <li>Pending</li> <li>Pending</li> </ul>	Goods and services	Pending	-
<ul style="list-style-type: none"> <li>▪ Peru (Economic Integration Agreement)<sup>b</sup></li> </ul>	01 February 12	Goods and services	2012	WT/REG308
<ul style="list-style-type: none"> <li>▪ Japan (Economic Association Agreement)</li> </ul>	01 April 05	Goods and services	2005	WT/REG198

<sup>15</sup> A summary of the course of this dispute can be viewed at: [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds381\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds381_e.htm). The ruling was circulated in the Appellate Body report contained in WTO document WT/DS381/AB/R of 16 May 2012.

<sup>16</sup> Amended by the Appellate Body report.

<sup>17</sup> Information provided by the authorities.

<sup>18</sup> A coalition of developing countries pressing for ambitious agriculture reforms in the developed countries, with flexibilities for the developing countries.

<sup>19</sup> The fields in which Mexico has submitted proposals include agriculture, trade facilitation, and services.

<sup>20</sup> WTO document TN/IP/W/10/Rev.4 of 31 March 2011.

<sup>21</sup> The LAIA was set up in 1980 under the Montevideo Treaty and comprises Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay, and the Bolivarian Republic of Venezuela. Cuba joined in 1999 and Panama in 2012. This agreement was notified to the GATT on 1 July 1982 (WTO document L/5342).



Agreement with	Date of entry into force	Type of agreement	Notification to the WTO Year	WTO Document series
▪ Uruguay (FTA) <sup>c</sup>	15 July 04	Goods and services	Pending	-
▪ EFTA (FTA with the European Free Trade Association: Iceland, Liechtenstein, Norway and Switzerland)	01 July 01	Goods and services	2001	WT/REG126
▪ Northern Triangle El Salvador Guatemala Honduras	not in force** 15 March 01*** 01 June 01***	Goods and services	Pending	WT/REG212
▪ European Union (Economic Association Agreement)	01 July 00 (G) 01 March 01 (S)	Goods and services	2000(G) 2002(S)	WT/REG109
▪ Israel (FTA)	01 July 00	Goods	2001	WT/REG124
▪ Chile (FTA) <sup>d</sup>	01 August 99	Goods and services	2001	WT/REG125
▪ Costa Rica	01 January 95***			WT/REG218
▪ Colombia (FTA) <sup>e</sup>	01 January 95	Goods and services	2010	WT/REG289
▪ Canada and the United States (North American Free Trade Agreement (NAFTA))	01 January 94	Goods and services	1993(G) 1995(S)	WT/REG4
<b>Partial scope agreement</b>				
▪ Plurinational State of Bolivia, (AAP.CE No. 66)	07 June 10	Goods	Pending	-
▪ MERCOSUR (AAP.CE No. 55) Paraguay Argentina, Brazil, Uruguay	01 February 11 01 January 03	Goods, partial scope: automotive sector	Pending	-
▪ Brazil (AAP.CE No. 53)	02 May 03	Goods, partial scope	Pending	-
▪ Cuba (AAP.CE No. 51)	28 February 01	Goods, partial scope	Pending	-
▪ Paraguay (AAP.R No. 38)	01 July 84	Goods, partial scope	Pending	-
▪ Ecuador (AAP.R No. 29)	14 December 87	Goods, partial scope	Pending	-
▪ Argentina (AAP.CE No. 6)	01 January 87	Goods, partial scope	Pending	-
▪ Panama (AAP.A25 No. 14)	24 April 86	Goods, partial scope	Pending	-
<b>Other agreements</b>				
▪ MERCOSUR (AAP.CE No. 54) <sup>f</sup>	05 January 06	Framework agreement	Pending	-
▪ LAIA (AR.CEYC No. 7)	09 August 90	Goods, partial scope: cultural goods	Pending	-
▪ Global System of Trade Preferences among Developing Countries (GSTP)	19 April 89	Goods	1989	L/6564
▪ LAIA (Latin American Integration Association)	18 March 81	Goods, preferences, and preferential framework	1982	L/5342 and WT/COMTD/72 <sup>g</sup>
▪ Protocol Relating to Trade Negotiations Among Developing Countries (TNDC)	11 February 73	Goods	1971	L/3598

- a Where agreements have been negotiated within the framework of the LAIA, the LAIA reference is included in parentheses.
- b The Economic Integration Agreement with Peru was deposited at the LAIA under the designation AAP.CE No. 67.
- c The FTA with Uruguay was deposited at the LAIA under the designation AAP.CE No. 60.
- d The FTA with Chile was deposited at the LAIA under the designation AAP.CE No. 41.
- e The FTA with Colombia was deposited at the LAIA under the designation AAP.CE No. 33.
- f The aim of AAP.CE No. 54 with MERCOSUR is to lay down the legal framework for the establishment of a free-trade area between Mexico and MERCOSUR.
- g Most recent biennial report.
- \* This date is included in the Decision notifying the entry into force between Mexico and Honduras of the Free Trade Agreement between the United Mexican States, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, published in the Official Journal of 30 November 2012.
- \*\* Ceased to have force upon the entry into effect of the FTA with Central America.
- \*\*\* Will remain in force until the entry into effect of the FTA with Central America.

Note: G: goods; S: services.

AAP.A25: Agreements under Article 25 of the Montevideo Treaty. These Agreements provide that preferences granted to non-LAIA Latin American countries are automatically extended to LAIA member countries of "relatively lower economic development", namely the Plurinational State of Bolivia, Ecuador and Paraguay.

AAP.CE: Partial Scope Economic Complementarity Agreement.

AAP.R: Partial Scope Agreement on the Renegotiation of the Historical Heritage.

AR.AM: Regional Market Opening Agreement.

AR.CEYC: Agreement on Cooperation and Exchange of Cultural Goods.

Source: WTO Secretariat.

2.18. During the period under review, Mexico signed three new trade agreements: one with the Plurinational State of Bolivia, one with Peru, and one with Central America (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua). At end 2012 the first two of those agreements were in force whereas the agreement with Central America had entered into force between Mexico and El Salvador, and between Mexico and Nicaragua only.

2.19. During the review period, changes were also made to: the FTA with Colombia; the Agreement to strengthen Mexico's economic partnership with Japan; the FTA with Chile; the FTA with Israel; and the FTA with EFTA. Under Economic Complementarity Agreement No. 55 on Trade in the Automotive Sector between Mexico and the MERCOSUR countries the terms of trade between Mexico and Brazil were amended (Bilateral Appendix II) and in June 2012 Argentina suspended the Agreement.

### 2.3.2.1 Free trade agreements

2.20. Despite the large number of agreements signed and some progress in diversifying its trade, Mexico's trade structure remains strongly focused on the United States, a partner in NAFTA. In 2011, the United States accounted for around 78.6% of Mexico's exports and 49.7% of its imports (Table 2.2). These percentages are lower than they were in 2001 (88.7% and 67.7% respectively) and 2006 (84.8% and 51.1% respectively).<sup>22</sup>

2.21. In 2011 the United States attracted 64% of all Mexican trade (imports and exports). The European Union, Canada and Japan followed a long way behind with 8.1%, 2.9% and 2.7% respectively. The Latin American countries with which Mexico has an FTA (Central America, Chile, Colombia, Peru and Uruguay), account for 3% of Mexican trade.

2.22. In 2011, 36% of imports that entered Mexico received preferential treatment under an FTA (Table 2.2). It should be noted that 58.3% of tariff lines are MFN duty free, which could be one of the explanations for the low use of preferences.

**Table 2.2 Features of trade between Mexico and countries with which it has a trade agreement**

	% of tariff lines exempt from duties under the agreement at January 2012 <sup>a</sup>	% of Mexico's total trade, 2011	% of Mexican exports, 2011	% of Mexican imports, 2011	% of Mexican imports receiving preferences, 2011
<b>Countries with an FTA</b>		81.31	91.95	70.72	35.94
United States	99.9	64.09	78.55	49.70	27.43
EU	97.0	8.09	5.40	10.77	4.80
Canada	99.0	2.90	3.06	2.75	1.92
Colombia	96.3	0.92	1.61	0.24	0.18
Japan	48.4	2.68	0.64	4.70	0.32
Chile	99.2	0.60	0.59	0.60	0.56
Guatemala	97.5	0.33	0.51	0.15	0.13
Peru	82.3	0.27	0.37	0.17	0.02
Switzerland	91.8	0.39	0.35	0.44	0.22
Costa Rica	98.6	0.52	0.29	0.76	0.08
El Salvador	97.7	0.11	0.19	0.03	0.02
Honduras	97.4	0.12	0.14	0.10	0.05
Nicaragua	99.7	0.08	0.12	0.04	0.04
Uruguay	95.0	0.08	0.08	0.08	0.06
Israel	90.8	0.09	0.03	0.15	0.08
Norway	91.0	0.03	0.01	0.04	0.02
Liechtenstein <sup>b</sup>	91.8	0.01	0.00	0.01	0.00
Iceland	91.3	0.00	0.00	0.00	0.00

<sup>22</sup> WTO (2008).

	% of tariff lines exempt from duties under the agreement at January 2012 <sup>a</sup>	% of Mexico's total trade, 2011	% of Mexican exports, 2011	% of Mexican imports, 2011	% of Mexican imports receiving preferences, 2011
<b>Countries with a partial scope agreement<sup>c</sup></b>	n.a.	2.19	2.66	1.72	0.33
<b>Other countries</b>	n.a.	16.50	5.39	27.56	0.04 <sup>d</sup>
<b>Total</b>	n.a.	<b>100</b>	<b>100</b>	<b>100</b>	<b>36.31</b>

- a The calculation does not take account of lines that are MFN duty free. Data as at 1 January except for Peru, El Salvador, Nicaragua and Honduras. Data for Peru are as at 1 February 2012. Data for El Salvador, Nicaragua and Honduras relate to the single FTA at 1 September 2012. The single FTA had already entered into force in respect of these three countries or a date had been set for its entry into force.
- b Liechtenstein is subject to the same tariff treatment as Switzerland.
- c Includes Argentina, the Plurinational State of Bolivia, Brazil, Cuba, Ecuador, Panama and Paraguay.
- d This percentage refers to imports that entered Mexico under the WTO powdered milk quota.
- n.a. Not applicable.

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

### 2.3.2.1.1 Free trade agreements with North American and Latin American countries

2.23. In January 2008 the three NAFTA countries completed their tariff reduction programme when tariffs on highly sensitive agricultural products were abolished. Mexico eliminated tariffs on maize, beans and powdered milk originating in the United States and Canada, and on sugar originating in the United States. In accordance with NAFTA, in 2009 Mexico launched the process of eliminating prohibitions and restrictions on the importation of used vehicles originating from the NAFTA region based on the age of the vehicle; that process will be completed gradually by 2019 (see Chapter 3.2.8<sup>23</sup>). At January 2012 almost all products from the United States and Canada (99.9% and 99% of tariff lines respectively) were exempt from import duties (Table 2.2).

2.24. Mexican exports to the United States and Canada were also duty free, with a few exceptions in respect of Canada, such as sugar, eggs, dairy products and poultry products.

2.25. During the period under review, the NAFTA countries amended the rules of origin set out in the agreement (Annex 401, Chapter IV) with the aim of relaxing some of them. The amendments entered into force in 2009.

2.26. The FTA with Central America, signed in November 2011, will replace the separate FTAs that Mexico had with Costa Rica, Nicaragua and the countries of the Northern Triangle (Guatemala, Honduras and El Salvador), combining them in a single agreement.<sup>24</sup> The single FTA entered into force between Mexico and El Salvador and Mexico and Nicaragua on 1 September 2012, thereby terminating the separate FTAs that Mexico had with those countries. The single FTA will enter into force in respect of the other countries upon completion of their domestic legal formalities.<sup>25</sup> The new FTA reflects the tariff elimination commitments in the individual agreements and includes new manufactures. There are increases in quotas for some agricultural products. Under the individual agreements, before the single agreement was applied, between 97.2% (Honduras) and 99.3% (Nicaragua) of Mexico's tariff lines were duty free for imports from those countries.<sup>26</sup> Under the new agreement, the percentage of duty-free lines varies between 97.4% (Honduras) and 99.7% (Nicaragua). The tariff-reduction programme in the new agreement spans ten years from the date of entry into force. Additionally, 98.2% of the specific rules of origin in the former agreements were approved, and relaxed in respect of motor vehicles and tractors, dairy preparations and other products. The approval process resulted in a single set of rules and a single

<sup>23</sup> Decree regulating the definitive import of used vehicles, published in the Official Journal of 1 July 2011; and Tenth Amendment to the Decision of the Ministry of the Economy establishing General Rules and Criteria for Foreign Trade, published in the Official Journal of 29 December 2008. It should be noted that since 2005 no permit has been required for the import of certain types of used vehicles that are between ten and 15 years old.

<sup>24</sup> Published in the Official Journal of 9 January 2012.

<sup>25</sup> In November 2012, 1 January 2013 was notified as the date of entry into force of the Central America FTA between Mexico and Honduras.

<sup>26</sup> Percentages calculated using data provided by the authorities. For El Salvador the figure was 97.5%.

certificate of origin with the aim of reducing customs procedures and costs. The new agreement also includes a chapter on electronic commerce and telecommunications.<sup>27</sup>

2.27. In April 2007, before the signature of the FTA with Central America, new protocols adding provisions on cumulation in the textiles sector were signed and incorporated into the FTAs with Costa Rica<sup>28</sup>, Nicaragua<sup>29</sup>, and the Northern Triangle (Guatemala, Honduras and El Salvador).<sup>30</sup> These provisions allow for cumulation of materials originating in the United States for the manufacture of clothing (Chapter 62 of the HS). They have been in force since August 2008, except in respect of Costa Rica, where the Protocol entered into force in January 2009.

2.28. In July 2009, Mexico and Costa Rica signed the Amending Protocol to their bilateral FTA; it entered into force on 6 February 2011<sup>31</sup>, and its aim was to amend the rules of origin for certain products.

2.29. The Economic Integration Agreement with Peru, signed in April 2011 and in force since February 2012, replaces Economic Complementarity Agreement (AAP.CE) No 8 signed in 1987. With the entry into force of the agreement, 82.3% of Mexico's tariff lines immediately became duty free, compared to 0.7% under AAP.CE No. 8.<sup>32</sup> The liberalization process for other products will be implemented over ten years. Mexico excluded 210 tariff lines from the negotiation, including products such as coffee, sugar, beef, poultry meat, apples, fresh potatoes, fresh chilli and certain dairy products. In addition to trade in goods and services the agreement covers investments and establishes a dispute settlement mechanism.

2.30. In conformity with the FTA with Colombia, the tariff-reduction programme (including the automotive sector) was completed in 2010 for Mexico and 2011 for Colombia. At January 2012, 96.3% of Mexico's tariff lines were duty free for Colombian imports (Table 2.2). Mexico and Colombia added a new protocol to the FTA incorporating new articles and amending some of its provisions.<sup>33</sup> The new protocol, signed on 11 June 2010 and in force since 2 August 2011, includes new market access clauses, amends certain rules of origin and strengthens the role of the Administrative Commission. The clauses on market access included the addition by Mexico of 70 tariff lines to its tariff-reduction programme (42 in agriculture and 28 in the industrial sector), and the addition by Colombia of 49 tariff lines (37 in agriculture and 12 in industry); implementation of the reductions should be completed by 2020.<sup>34</sup> The new protocol also provides for diagonal cumulation with countries with which both parties have trade agreements, provided *inter alia* that the agreements in question have equivalent provisions.

2.31. Since its last Review, Mexico has continued the liberalization process with Uruguay. The FTA has been in force since 2004 and its implementation period runs until 2014, by which date 95.5% of Mexico's tariff lines will be duty free.<sup>35</sup> At January 2012, Mexico had already liberalized 95% of its tariff lines (Table 2.2). Products excluded by Mexico from liberalization include certain meats, beans, sugar, wheat, tobacco, edible oils, sardines, spirits and clothing. Trade in automotive goods is governed by Economic Complementarity Agreement (AAP.CE) No. 55 between Mexico and MERCOSUR, and the additional protocols thereto.

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<sup>27</sup> Text of the agreement with Central America and related information note. Viewed at: [http://www.economia.gob.mx/files/comunidad\\_negocios/comercio\\_exterior/TLC\\_Unico\\_ficha.pdf](http://www.economia.gob.mx/files/comunidad_negocios/comercio_exterior/TLC_Unico_ficha.pdf).

<sup>28</sup> The Decree promulgating the Protocol adding textile cumulation provisions to the FTA between Mexico and Costa Rica was published in the Official Journal of 31 December 2008.

<sup>29</sup> The Decree promulgating the Protocol adding textile cumulation provisions to the FTA between Mexico and Nicaragua was published in the Official Journal of 14 August 2008.

<sup>30</sup> The Decree promulgating the Protocol adding textile cumulation provisions to the FTA between Mexico and El Salvador, Guatemala and Honduras was published in the Official Journal of 14 August 2008.

<sup>31</sup> The Decree promulgating the Amending Protocol to the FTA between Mexico and Costa Rica was published in the Official Journal of 3 February 2011.

<sup>32</sup> Information provided by the Mexican authorities.

<sup>33</sup> The Decree promulgating the Amending Protocol to the FTA between Mexico, Colombia and the Bolivarian Republic of Venezuela was published in the Official Journal of 27 July 2011. The amendments made by the Protocol include the name of the agreement to take into account the denunciation of the agreement by the Bolivarian Republic of Venezuela in 2006.

<sup>34</sup> Annex 1 to the Amending Protocol to the Free Trade Agreement between the United Mexican States, the Republic of Colombia and the Bolivarian Republic of Venezuela, signed at Cartagena de Indias, Colombia, on 13 June 1990.

<sup>35</sup> Information provided by the Mexican authorities.

2.32. Pursuant to the Mexico-Chile FTA, tariffs on the majority of goods traded between these two countries were eliminated after the agreement entered into force. At January 2012, 99.2% of Mexico's tariff lines were duty free for imports from Chile (Table 2.2). Goods still subject to payment of import duty in Mexico include shrimps, lobsters, beans, maize, wheat and wheat flour, edible oils, sugar, tobacco, petroleum products and articles of worn clothing. The Protocol adding a chapter on government procurement to the FTA with Chile was signed on 28 August 2007 and entered into force in November 2008.<sup>36</sup>

### 2.3.2.1.2 Free trade agreements with European countries

2.33. In line with the tariff reduction schedules in their FTA, Mexico and the European Union liberalized most of their agricultural products in 2010.<sup>37</sup> Under the agreement, at January 2012 Mexico had tariff quotas for tuna and skipjack, and applied tariffs to agricultural products such as sugar, maize, meats, potatoes, eggs, beans, cereal flours and fruits.<sup>38</sup> The European Union and Mexico eliminated tariffs on industrial products in 2003 and 2007 respectively.<sup>39</sup>

2.34. In line with the tariff-reduction schedule in the FTA between Mexico and EFTA, the parties eliminated tariffs on all industrial and agricultural products in 2007, except for a small list of agricultural products.<sup>40</sup> At January 2012, between 91% (Norway) and 91.8% (Switzerland) of Mexican tariff lines were duty free under the FTA (Table 2.2). Amending protocols to the three bilateral agreements on agriculture between Mexico and Iceland, Norway and Switzerland were signed in October 2011 in order to facilitate trade in agricultural products between the parties. The new provisions allow for consignments of originating agricultural products to be subdivided or split in a third country, provided that the procedure is monitored by customs.<sup>41</sup> These provisions entered into force in August and September 2012 for Norway and Switzerland respectively.<sup>42</sup> In the case of Iceland, entry into force is pending.

### 2.3.2.1.3 Free Trade Agreements with other countries

2.35. In conformity with the FTA between Mexico and Israel, the tariff-reduction process was completed in 2005. The lines that were not negotiated consist principally of agricultural products together with a few chemical products. To enhance and facilitate economic relations between the two countries, an amending protocol including provisions on the transshipment of goods and a chapter on bilateral cooperation entered into force in March 2010.<sup>43</sup>

2.36. The tariff-reduction process between Mexico and Japan that was launched in 2005 with the entry into force of the Agreement to strengthen the economic partnership between Mexico and Japan (AAE) is due to be completed in 2015 in respect of both countries. At January 2012, 48.4% of Mexico's tariff lines were duty free for Japanese imports (Table 2.2) and under the agreement that percentage will be 94.1% in 2015. The agreement also provides for special tariff-reduction schemes for the automotive and steel sectors.<sup>44</sup>

<sup>36</sup> The Decree promulgating the Protocol adding the chapter on government procurement to the FTA between Mexico and Chile was published in the Official Journal of 27 October 2008.

<sup>37</sup> WTO document WT/REG109/3 of 27 August 2001.

<sup>38</sup> According to the information provided by the Mexican authorities.

<sup>39</sup> The authorities have indicated that where industrial products are concerned, Mexico only reserved the right to restrict imports and exports of hydrocarbons (Annex IV to the agreement).

<sup>40</sup> The authorities have indicated that where industrial products are concerned, Mexico reserved the right to restrict imports and exports of hydrocarbons (Annex VI to the agreement).

<sup>41</sup> Information provided by the Mexican authorities.

<sup>42</sup> Decree promulgating the Amending Protocol to the Agreement on Agriculture between the United Mexican States and the Kingdom of Norway signed at Mexico City on 27 November 2000, done at Mexico City on 11 October 2011, published in the Official Journal of 6 June 2012; and Decree promulgating the Amending Protocol to the Agreement on Agriculture between the United Mexican States and the Swiss Confederation signed at Mexico City on 27 November 2000, done at Mexico City on 11 October 2011, published in the Official Journal of 21 August 2012.

<sup>43</sup> Decree promulgating the Amending Protocol to the Free Trade Agreement between the United Mexican States and the State of Israel, signed at Mexico City on 18 November 2008, published in the Official Journal of 17 March 2010.

<sup>44</sup> Information provided by the authorities and WTO document WT/REG198/4 of 15 September 2008.

2.37. A protocol<sup>45</sup> amending the AAE was signed in September 2011 and entered into force on 1 April 2012. It provides for increases in quotas, tariff reductions for products such as orange juice and agave syrup, and for faster tariff-reduction for certain automotive parts. Other amendments made to the AAE in 2012 include the relaxation of certain rules of origin for chemical products, steel and automotive parts, and amendments relating to certificates of origin and customs procedures.<sup>46</sup>

### 2.3.2.2 Partial scope agreements

2.38. Mexico has partial scope (limited coverage) agreements within the LAIA<sup>47</sup> framework with Argentina, Brazil, Cuba, Ecuador, Panama and Paraguay. It also has a partial scope agreement with the MERCOSUR countries that applies only to trade in goods in the automotive sector (AAP.CE No. 55). During the period under review, Mexico signed a partial scope agreement with the Plurinational State of Bolivia (AAP.CE No. 66). Mexico also amended AAP.CE No. 55 on the automotive sector with the MERCOSUR countries.

2.39. The new agreement with the Plurinational State of Bolivia (AAP.CE No. 66) entered into force on 7 June 2010. It replaced the FTA that had been in place between the two countries since 1995 and was denounced by the Plurilateral State of Bolivia in December 2009. The new agreement retained the tariff preferences and exceptions set out in the FTA (AAP.CE No. 31) in respect of trade in goods.<sup>48</sup> Mexico excluded 205 products from liberalization, including oils, marmalades, dairy products, meat, wheat, sorghum, rice, oilseeds, sugar and alcohol.<sup>49</sup> Unlike the FTA, the new agreement does not cover trade in services.

2.40. The aim of AAP.CE No. 55 between Mexico and MERCOSUR is to lay the foundations for liberalization of the parties' automotive sectors and promote their integration. In the agreement, the parties agreed to liberalize, on a reciprocal, gradual basis, imports of automobiles, freight vehicles with a g.v.w. of 8,845 kg or less, tractors, trailers and semi-trailers and coachwork by 30 June 2011, and imports of buses and freight vehicles with a g.v.w. exceeding 8,845 kg by 1 July 2020.<sup>50</sup> The parties also negotiated lists of duty-free automotive parts on a bilateral basis.<sup>51</sup> Each country, except for Paraguay, established a transition schedule for implementing the liberalization process for the automotive sector. Paraguay signed AAP.CE No. 55 with Mexico in 2002, and it entered into force in February 2011.<sup>52</sup> At end 2012, the transition schedule for the agreement was still pending (Appendix III).

2.41. In March 2012 Mexico and Brazil renegotiated Appendix II (Concerning Trade in the Automotive Sector between Brazil and Mexico) of the Agreement and agreed to apply annual duty-free quotas for three years on a reciprocal basis for imports of automobiles and light vehicles (with a g.v.w. of 8,845 kg).<sup>53</sup> The quotas are scheduled for elimination in 2015. The Protocol also amends the formula for calculating the regional content index (RCI) for Brazil and adopts the formula used by Mexico. Additionally, the value of that index is adjusted in order to determine

<sup>45</sup> Decree promulgating the Amending Protocol to the Agreement to strengthen Mexico's economic partnership with Japan, signed at Mexico City on 22 September 2011, published in the Official Journal of 30 March 2012.

<sup>46</sup> Information provided by the authorities.

<sup>47</sup> The LAIA member countries are Argentina, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Cuba (since 1999), Ecuador, Mexico, Panama (since February 2012), Paraguay, Peru, Uruguay and the Bolivarian Republic of Venezuela.

<sup>48</sup> In other words, it retained the 11,891 tariff lines that were already duty free (98.2% of all lines).

<sup>49</sup> According to the information provided by the Mexican authorities.

<sup>50</sup> During the transition period Appendices I (Argentina), II (Brazil), III (Paraguay) and IV (Uruguay) were to govern product scope and market access between Mexico and each MERCOSUR country. Paraguay's transition schedule (Appendix III) was still pending at June 2012.

<sup>51</sup> Information provided by the authorities.

<sup>52</sup> The Notice of entry into force between Mexico and Paraguay of Economic Complementarity Agreement No. 55 was published in the Official Journal of 8 April 2011.

<sup>53</sup> The Decision notifying the Fourth Additional Protocol to Appendix II Concerning Trade in the Automotive Sector between Brazil and Mexico of Economic Complementarity Agreement No. 55 was published in the Official Journal of 26 March 2012.

whether a good is originating, and was set at 30% for 2012, 35% for 2013 and 40% for 2016. For Mexico, the regional content index was already 30% in 2012, whereas for Brazil it was 60%.<sup>54</sup>

2.42. Following this renegotiation, Argentina suspended application of AAP.CE No. 55, its Annexes and Appendix I (Concerning Trade in the Automotive Sector between Argentina and Mexico) in June 2012 for three years<sup>55</sup>, a decision that Mexico challenged through the mechanisms available to it under the LAIA (LAIA Committee of Representatives Resolution No. 114<sup>56</sup>) and under AAP.CE No. 55.<sup>57</sup>

### 2.3.3 Other agreements and preferences in force

2.43. Together with 12 other countries, Mexico is a member of the Latin American Integration Association (LAIA) set up under the Montevideo Treaty of 1980.<sup>58</sup> Under the Treaty members grant, on a reciprocal basis, a tariff preference (Regional Tariff Preference (PAR)) that takes the form of a percentage reduction on the MFN tariff. The tariff reduction is determined by the level of development of the member countries; the tariff preferences that Mexico grants range from 20% to 48%.<sup>59</sup> The Treaty classifies the countries into three categories: relatively less economically developed countries (Plurinational State of Bolivia, Ecuador and Paraguay); countries at an intermediate stage of development (Chile, Colombia, Cuba, Panama, Peru, Uruguay and the Bolivarian Republic of Venezuela); and other countries (Argentina, Brazil and Mexico). It covers all tariff lines except for those in the list of exceptions drawn up by each country.

2.44. Mexico is also a member of the Global System of Trade Preferences among Developing Countries (GSTP), comprising 77 countries, under which it grants concessions on a small number of tariff lines.<sup>60</sup>

### 2.3.4 Trade agreements under negotiation

2.45. Since October 2012 Mexico has been formally involved in the negotiations on the Trans-Pacific Partnership (TPP). The TPP, which comprises nine countries of the Asia-Pacific region<sup>61</sup> and aims to liberalize trade and investment between its members, covers a broad range of products and issues.

2.46. In June 2012 Mexico, together with Chile, Colombia and Peru, signed the Pacific Alliance Framework Agreement. One of the objectives of the agreement is to establish an area of deep integration resulting in the free movement of goods, services, capital and persons between member countries.<sup>62</sup>

<sup>54</sup> Article 6 of Annex II to ACE No. 55 and Article 5 of the Fourth Additional Protocol to Appendix II Concerning Trade in the Automotive Sector between Brazil and Mexico of ACE No. 55.

<sup>55</sup> Decree No. 969/2012 suspending the application of Economic Complementarity Agreement No. 55/02, including its Annexes, and of Bilateral Appendix I Concerning Trade in the Automotive Sector between Argentina and Mexico, published in the Official Journal of the Argentine Republic of 26 June 2012.

<sup>56</sup> Document ALADI/CR/Resolución 114 of 22 March 1990. This document can be viewed at: <http://www.aladi.org/nsfaladi/juridica.nsf/vresolucionescomite>.

<sup>57</sup> Information provided by the authorities.

<sup>58</sup> Under the LAIA there are two types of agreement: agreements involving all members, referred to as "Regional Scope Agreements" (AAR), and agreements involving two or more member countries, referred to as "Partial Scope Agreements" (AAP).

<sup>59</sup> According to information from the LAIA, at November 2012 Mexico granted regional tariff preferences of 20%, 28%, 40% and 48%. Online information from the LAIA. Viewed at: <http://www.aladi.org/nsfaladi/Consolidado.nsf/vBeneficiosOtorgados/mexico>.

<sup>60</sup> Decree Promulgating the Agreement on the Global System of Trade Preferences among Developing Countries, adopted on 13 April 1988 at Belgrade, Yugoslavia, published in the Mexican Official Journal of 21 July 1989. Mexico did not undertake any commitments in the Second (1992) and Third (2004) Rounds of GSTP Negotiations.

<sup>61</sup> The basis of the agreement is the Trans Pacific Strategic Economic Partnership Agreement (P4) between Brunei, Chile, New Zealand and Singapore, signed on 3 June 2005, and in force since 28 May 2006. In 2008, negotiations began with Australia, the United States, Peru and Viet Nam with a view to their joining the group. In 2010 Malaysia joined the negotiations and in October 2012, Mexico and Canada did so.

<sup>62</sup> Article 3 of the Pacific Alliance Framework Agreement.

## 2.4 Foreign investment regime

### 2.4.1 Formulation and regulatory framework

2.47. Foreign investment in Mexico is governed by the Foreign Investment Law (LIE)<sup>63</sup> and its implementing regulations<sup>64</sup>, and by the Constitution (Articles 27 and 73).<sup>65</sup> At bilateral level, foreign investment is also governed by agreements on the promotion and reciprocal protection of investment (IPPAs) and by chapters on investment contained in the international trade agreements that Mexico has signed. Registration of foreign investment is compulsory; restrictions and exclusions on foreign investment have been retained in certain areas. Foreign investment amounting to more than 49% of a company's capital requires government approval if it exceeds a given monetary value.<sup>66</sup>

2.48. The LIE has been amended four times since the last Review: in 2008, 2011 (twice) and in 2012, but has not undergone any fundamental change.

2.49. The LIE sets out, among other things, the rights of foreign investors, the restrictions and limits on their participation in share capital of businesses, and penalties in the event of an infringement of the LIE.<sup>67</sup> In accordance with the LIE (Article 4) foreigners and foreign companies may hold up to 100% of the share capital of Mexican companies, acquire fixed assets, operate in new economic areas, open and manage establishments (including in-bond assembly plants (maquiladoras)), and extend or relocate existing establishments in all sectors of industry, except for those listed in Articles 5-8 of the LIE. In accordance with those Articles, 12 types of activity are the preserve of the State, five are reserved for Mexican nationals or Mexican companies with a "foreigners exclusion clause" and 31 are subject to restrictions on foreign investment participation (see below).

2.50. With regard to administrative aspects, the principal regulatory, implementing and management bodies for foreign investment continue to be the National Foreign Investment Commission (CNIE), the Directorate-General of Foreign Investment (DGIE), the Directorate-General of Negotiations on Services (DGNS) and the National Register of Foreign Investment (RNIE) (see Box 2.2). All four entities are answerable to the SE and the CNIE has responsibility for directing foreign investment policy. Entry on the RNIE of all foreign investment and Mexican companies with foreign equity holdings remains compulsory (Article 32 of the LIE).

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<sup>63</sup> Published in the Official Journal of 2 December 1993; the most recent amendment was published on 9 April 2012.

<sup>64</sup> Implementing regulations for the Foreign Investment Law and the National Foreign Investment Register published in the Official Journal of 8 September 1998. The most recent amendment was published on 4 May 2009.

<sup>65</sup> Article 27 regulates the acquisition of land and water by foreigners while Article 73 empowers Congress to issue laws regulating foreign investment, technology transfer and the generation, circulation and application of scientific and technological knowledge necessary for national development.

<sup>66</sup> For 2012 that value was around Mex\$3.2 billion, as determined under General Resolution No. 13 defining the revised value of the total sum of assets referred to in Article 9 of the Foreign Investment Law, published in the Official Journal of 10 July 2012. Online information from the SE. Viewed at: [http://www.economia.gob.mx/files/comunidad\\_negocios/ied/resolucion\\_general\\_13.pdf](http://www.economia.gob.mx/files/comunidad_negocios/ied/resolucion_general_13.pdf).

<sup>67</sup> According to the definition given in the LIE, foreign investment includes: (a) participation by foreign investors in any proportion whatever in the share capital of Mexican companies; (b) investment by Mexican companies with majority foreign ownership; and (c) participation by foreign investors in the activities and actions covered by the LIE (Article 2 of the LIE).



## Box 2.2 Principal federal bodies as regards foreign investment, 2012

**The National Foreign Investment Commission (CNIE)** is responsible for directing policy on foreign investment; determining the terms and conditions governing foreign shareholding where it may exceed 49%; issuing general decisions setting out the criteria governing the application of laws and regulations on foreign investment; and authorizing use of the neutral investment mechanism (see below), among others. Any request concerning an investment must be submitted to the CNIE; in the absence of any response within 45 working days the request must be deemed approved under the terms specified therein (Article 28 of the LIE). The CNIE may prohibit acquisitions by foreign investors on grounds of national security (Article 30 of the LIE).

**The Directorate-General of Foreign Investment (DGIE)** is responsible for representing Mexico in international forums and bodies dealing with foreign investment and also acts as the technical secretariat of the CNIE. Its activities include: administering and operating the National Register of Foreign Investment (RNIE); issuing administrative decisions under the LIE; drawing up and circulating statistics; and evaluating foreign investment projects submitted to the CNIE for consideration.

**The Directorate-General of Negotiations on Services (DGNS)** is responsible for negotiating, monitoring and circulating international agreements on investment and trade in services at bilateral, regional and multilateral levels.

**The National Register of Foreign Investment (RNIE)** holds a record of all foreign investors and Mexican companies in which there is any kind of foreign shareholding. Registration in the RNIE is compulsory and a fine is payable if incorrect or incomplete information is given or if the requirement to register is not complied with within the specified time-limit.

Source: SE.

### 2.4.2 Restrictions on foreign investment

2.51. In accordance with the LIE, Mexico keeps a list of:

- activities that are the preserve of the State (Article 5 of the LIE);
- economic activities and companies that are reserved for Mexican nationals or Mexican companies with a "foreigners exclusion clause" (Article 6 of the LIE).<sup>68</sup> Foreign investment in these activities is not allowed unless it is in the form of a "neutral investment". Neutral investment is an investment vehicle that confers only pecuniary rights on holders; it does not confer any voting rights. Therefore it is not taken into account in determining the percentage of foreign investment in a Mexican company. Undertaking a neutral investment operation requires authorization from the SE and, where applicable, the National Banking Securities Commission (Articles 18-20 of the LIE).
- economic activities in which the share of foreign investment may be up to 10%, 25% or 49% of a company's capital stock (Article 7 of the LIE). For certain activities and companies the percentage may exceed 49%, subject to the approval of the CNIE. For an existing Mexican company, CNIE approval will be required only if the total value of the company's assets is greater than the amount determined annually by the CNIE (Articles 8 and 9 of the LIE).

2.52. Only the list of activities reserved to Mexican nationals or Mexican companies with a "foreigners exclusion clause" has changed since the last Review. An amendment in 2008 removed credit unions from the list and authorized direct and indirect participation of foreign investment amounting to up to 10% of a credit union's capital. Where indirect participation is concerned, company shares may be acquired only by Mexican legal persons (companies) that have foreign share capital. Foreign legal persons that exercise functions of authority are prohibited from participating in the share capital of credit unions.<sup>69</sup> Box 2.3 below sets out the three lists in detail.

<sup>68</sup> Under this type of clause, neither foreign investors nor companies with a "foreigners inclusion clause" may participate either directly or indirectly in these activities.

<sup>69</sup> Decree issuing the Law on Credit Unions and supplementing and amending the General Law on Credit Instruments and Operations, published in the Official Journal of 20 August 2008.

**Table 2.3 Limits on foreign investment, 2012**

<p><b>1. List of activities that are the preserve of the State</b></p> <ul style="list-style-type: none"> <li>▪ Petroleum and other hydrocarbons;</li> <li>▪ Basic petrochemicals;</li> <li>▪ Electricity;</li> <li>▪ Generation of nuclear energy;</li> <li>▪ Radioactive minerals;</li> <li>▪ Telegraphy;</li> <li>▪ Radio telegraph services;</li> <li>▪ Postal services;</li> <li>▪ Issuing of banknotes;</li> <li>▪ Minting of coins;</li> <li>▪ Control, supervision and surveillance of ports, airports and heliports; and</li> <li>▪ Any other areas that may be expressly reserved by specific legislation.</li> </ul>
<p><b>2. List of activities and companies reserved for Mexican nationals or Mexican companies with a "foreigners exclusion clause"</b></p> <ul style="list-style-type: none"> <li>▪ Domestic land transportation of passengers, tourism and freight (excluding messenger and parcel services);</li> <li>▪ Retail sale of gasoline and distribution of liquefied petroleum gas;</li> <li>▪ Broadcasting and other radio and television services (other than cable television);</li> <li>▪ Development banking institutions within the terms laid down in law; and</li> <li>▪ Professional and technical services expressly reserved by the relevant legislation.</li> </ul>
<p><b>3. Limits on foreign holdings in economic activities and companies</b></p> <p><b>Up to 10% in share capital in:</b></p> <ul style="list-style-type: none"> <li>▪ Production cooperatives</li> </ul> <p><b>Up to 25% in share capital in:</b></p> <ul style="list-style-type: none"> <li>▪ Domestic air transport;</li> <li>▪ Air taxi services;</li> <li>▪ Specialized air transport.</li> </ul> <p><b>Up to 49% in share capital in:</b></p> <ul style="list-style-type: none"> <li>▪ Insurance institutions;</li> <li>▪ Bonding institutions;</li> <li>▪ Currency exchange houses;</li> <li>▪ General bonded warehouses;</li> <li>▪ Companies referred to in Article 12 <i>bis</i> of the Stock Market Law;</li> <li>▪ Pension fund management firms;</li> <li>▪ The manufacture or commercialization of explosives, firearms, cartridges, munitions and fireworks except for industrial and mining activities;</li> <li>▪ Printing and publication of newspapers for circulation only in Mexico;</li> <li>▪ Series "T" shares in companies that own agricultural, ranching or forestry lands;</li> <li>▪ Fresh water, coastal, and exclusive economic zone fishing (excluding aquaculture);</li> <li>▪ Integrated port administration;</li> <li>▪ Port pilot services for vessels engaged in inland navigation under the terms of the relevant law;</li> <li>▪ Companies involved in the commercial operation of vessels engaged in inland and coastal navigation (excluding cruising, marine dredging activities, and implements for port construction, conservation and operation);</li> <li>▪ Supply of fuel and lubricants for ships, aircraft, and railway equipment; and</li> <li>▪ Concessionaire companies under the terms of Articles 11 and 12 of the Federal Telecommunications Law.</li> </ul> <p><b>Over 49% in share capital subject to approval by the CNIE</b></p> <ul style="list-style-type: none"> <li>▪ Port services for vessels engaged in inland navigation operations, such as towing, mooring and lighterage;</li> <li>▪ Shipping companies engaged in the operation of vessels solely for high-seas traffic;</li> <li>▪ Concessionaires or permit-holders for aerodromes for public service;</li> <li>▪ Private education services, from pre-school to high school levels;</li> <li>▪ Legal services;</li> <li>▪ Credit information companies;</li> <li>▪ Securities rating institutions;</li> <li>▪ Insurance agents;</li> <li>▪ Cellular telephony services;</li> <li>▪ Construction of pipelines for petroleum and petroleum products;</li> <li>▪ Drilling of petroleum and gas wells;</li> <li>▪ Construction, operation and exploitation of railways considered as a public means of transport; and supply of public railway services.</li> </ul>

Source: Foreign Investment Law (most recent amendment published in the Official Journal of 9 April 2012).

2.53. No changes have been made to restrictions on foreign investment in real estate since the last Review. Under the Constitution (Article 27), foreigners may not acquire ownership of land or water in restricted zones. The LIE authorizes foreign participation in Mexican companies that acquire or wish to use real estate in a restricted zone for residential or non-residential purposes, subject to certain conditions (Articles 10 and 11 of the LIE).

2.54. Mexico ranks as the eighth most restrictive of the 55 countries considered in the OECD FDI Restrictiveness Index (2012).<sup>70</sup> The Mexican authorities have pointed out that the index does not take account of neutral investment, provided for in the LIE.

### 2.4.3 Incentives for foreign investment

#### 2.4.3.1 International investment agreements

2.55. In the aim of promoting and increasing FDI, Mexico has continued to sign agreements on the promotion and reciprocal protection of investment (IPPAs) and FTAs containing provisions on foreign investment.

2.56. In general, the investment chapters incorporated into FTAs establish disciplines on sectoral liberalization, national treatment, MFN treatment, capital movements, expropriation and dispute settlement mechanisms (including between the investor and the State). All of Mexico's FTAs include a chapter on investment or at least provisions on investment<sup>71</sup>, except for the FTA with Israel.

2.57. Since the last Review, Mexico has signed two new IPPAs: one with China and one with Singapore. They were signed in July 2008 and November 2009 and entered into force in June 2009 and April 2011 respectively. The period under review also saw the entry into force of the agreements that Mexico had signed in 2007 with India (in force since February 2008) and Slovakia (in force since April 2009). As a result, at June 2012 Mexico had 28 IPPAs in force.<sup>72</sup>

2.58. Since the last Review of its trade policy, Mexico has signed 16 new bilateral agreements to avoid double taxation with: Bahrain (22 February 2012); Barbados (16 January 2009); Colombia (13 August 2009\*); Estonia (19 October 2012\*); Hong Kong, China (18 June 2012\*); Hungary (31 December 2011); Iceland (10 December 2008); Kuwait (27 October 2009\*); Latvia (20 April 2012\*); Lithuania (23 February 2012\*); Panama (30 December 2010); Peru (27 April 2011\*); Qatar (14 May 2012\*); South Africa (22 July 2010); Ukraine (29 January 2012\*); and Uruguay (28 December 2010). Nine of these agreements (identified by an asterisk\*) have not yet entered into force. At October 2012 Mexico had 52 bilateral agreements to avoid double taxation.<sup>73</sup>

2.59. Mexico became a member of the Multilateral Investment Guarantee Agency (MIGA) in 2009.

#### 2.4.3.2 Other incentives

2.60. Mexico grants national treatment, including incentives, to foreign investors. The principal incentives available to national and foreign investors are the duty and tax-free importation of inputs and machinery used in the production of export goods, such as the IMMEX programmes under which import duties are refunded to exporters (drawback) and sectoral export promotion programmes (see Chapter 3). Investors are also able to draw on finance schemes run by the

<sup>70</sup> OECD (2012).

<sup>71</sup> The agreements with the European Union and EFTA contain provisions or sections on investment rather than a chapter on the subject.

<sup>72</sup> In addition to the four IPPAs previously referred to, Mexico has IPPAs in force with: Argentina, Australia, Austria, Belarus, the Belgium-Luxembourg Economic Union, Cuba, the Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Italy, the Netherlands, Panama, Portugal, the Republic of Korea, Spain, Sweden, Switzerland, Trinidad and Tobago, the United Kingdom and Uruguay. In 2006, Mexico issued an addendum to the 1995 agreement with Spain; the addendum entered into force in April 2008.

<sup>73</sup> The remaining 36 agreements were with: Australia, Austria, Belgium, Brazil, Canada, Chile, China, the Czech Republic, Denmark, Ecuador, Finland, France, Germany, Greece, India, Indonesia, Ireland, Israel, Italy, Japan, the Republic of Korea, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, the Russian Federation, Singapore, the Slovak Republic, Spain, Sweden, Switzerland, the United Kingdom and the United States. Information supplied by the authorities.

National Foreign Trade Bank (Bancomext) and the Nacional Financiera (NAFIN) development banking institution. There are also financial incentives that vary from State to State.

2.61. During the period under review, Mexico did not make any notifications under the Agreement on Trade-Related Investment Measures (TRIMs Agreement).

2.62. There are no restrictions on exchange rates or capital movements.

#### 2.4.4 Establishment of companies

2.63. The establishment, operation and liquidation of commercial companies are governed by the General Law on Commercial Companies (LGSM)<sup>74</sup> and the LIE.

2.64. Foreign companies may become established in Mexico through branches, representative offices, or by participating in new Mexican companies or acquiring shares in existing Mexican companies.

2.65. In accordance with Article 1 of the General Law on Commercial Companies, Mexico recognizes six types of commercial company: (a) general partnerships; (b) limited partnerships; (c) limited liability companies; (d) public limited companies; (e) partnerships limited by share capital; and (f) cooperatives. Any of these types of company, with the exception of cooperatives, may be established as an open capital company. The most common types of company among foreign investors are public limited companies.

2.66. The first step in setting up a new commercial company in Mexico (with or without foreign participation) is to obtain authorization from the SE for use of the company or trade name to ensure that it is distinguishable and to prevent duplication of company names or trade names (Article 15 of the LIE). Authorization must be granted if the company name or trade name is available and there are no prohibitions on or conditions for its use<sup>75</sup>, or rejected within no more than two working days (instead of five days as was the case until December 2011<sup>76</sup>) (Article 16A of the LIE). Once authorization has been granted to set up a company (or to change a company name or trade name), an entry must be made on the Public Trade Register within 90 days (Article 17 of the regulations implementing the LIE and the RNIE). Additionally, the public attesting officer before whom the commercial company is constituted is required to issue a Notice of Use of Company Name or Trade Name to the SE within 180 days following the date of the Authorization of Use in question.<sup>77</sup> Since September 2012, authorizations to use a company name or trade name, notices of use and notices of release<sup>78</sup> can be submitted online through the portal [www.tuempresa.gob.mx](http://www.tuempresa.gob.mx).<sup>79</sup>

2.67. A foreign company that intends to operate in Mexico through a branch or representative office must first request authorization from the SE (Articles 17 and 17A of the LIE). Companies constituted in accordance with the laws of Canada, Chile, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Japan, Nicaragua, Peru, the United States or Uruguay are not required to

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<sup>74</sup> The General Law on Commercial Companies was published in the Official Journal of 4 August 1934. The most recent amendment to it was published on 15 December 2011.

<sup>75</sup> Article 13 of the regulations implementing the LIE, Article 9 of the Regulations authorizing the use of company names and trade names, and document entitled *Criterios Lingüísticos aplicables a los trámites relativos a la autorización de uso de Denominaciones y Razones Sociales* (Linguistic Criteria applicable to procedures authorizing the use of Company Names and Trade Names). This document can be viewed at: [http://www.tuempresa.gob.mx/documents/10180/0/OFICIO\\_Reglas\\_LING.pdf/cae078df-91ae-408f-96a5-09ba7aaa21b7](http://www.tuempresa.gob.mx/documents/10180/0/OFICIO_Reglas_LING.pdf/cae078df-91ae-408f-96a5-09ba7aaa21b7).

<sup>76</sup> Decree amending, supplementing and repealing various provisions of the Foreign Investment Law, the General Law on Commercial Companies, the Law on the Organization of the Federal Public Administration, the Federal Law on Duty, the Federal Law on Administrative Procedures and the Federal Law on the Promotion of Microindustry and Crafts Industries, published on 15 December 2011.

<sup>77</sup> Article 24 of the Regulations authorizing the use of company names and trade names, published in the Official Journal of 14 September 2012.

<sup>78</sup> A Notice of Release states that a company name or trade name is no longer in use.

<sup>79</sup> Article 2 of the Regulations authorizing the use of company names and trade names, published in the Official Journal of 14 September 2012.

obtain such authorization provided that they meet certain requirements.<sup>80</sup> Once the application has been approved or the notice duly submitted, the foreign company must be entered on the Public Trade Register (Article 251 of the LGSM).<sup>81</sup> Where the object of the foreign company is a financial activity, it must comply with the provisions of the applicable financial laws in order to establish a representative office.<sup>82</sup>

2.68. Finally, foreign investment must be entered on the RNIE within 40 days calculated from the date of registration on the Public Trade Register or the date on which commercial transactions are conducted (Article 32 of the LIE and Article 37 of the regulations implementing the LIE and the RNIE). Representative offices do not require entry on the RNIE.

2.69. Foreign investors may also become established in Mexico through joint ventures (Article 252 of the LGSM). A joint venture does not have legal personality and therefore is not subject to the requirements on participation or registration (Articles 253-255 of the LGSM).

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<sup>80</sup> General Resolution laying down the criterion for the application of Article 17 of the Foreign Investment Law on the establishment of foreign legal persons in Mexico, published in the Official Journal of 8 August 2012. The resolution was issued by the National Foreign Investment Commission.

<sup>81</sup> If the application complies with the requirements, the SE must grant the authorization within 15 days otherwise the application will be deemed to have been approved.

<sup>82</sup> Where banks (or multiple banking institutions) are concerned, Article 7 of the Credit Institutions Law provides that "the activities conducted by representative offices shall comply with the rules issued by the Ministry of Finance and Public Credit, to which end it shall consult the Central Bank and the National Banking Securities Commission".

### 3 TRADE POLICIES BY MEASURE

#### 3.1 Overview

3.1. Since its previous Review in 2008, Mexico has adopted various measures to streamline customs procedures and formalities and lower import costs. In 2008, some import requirements were lifted and in 2012 a single window for completing formalities electronically started to operate.

3.2. In 2009, Mexico initiated a unilateral tariff reduction programme extending over five years. As a result, in January 2012, 58.3% of tariff headings were duty free and the average tariff was 6.2% (11.2% in 2007). This reduction programme only lowered tariffs on manufactures, with the average tariff on these products falling from 9.9% to 4.6% between 2007 and 2012, while the average tariff for agricultural products only decreased from 23% to 20.9%. Since the previous Review, Mexico has also streamlined its tariff structure by making a substantial reduction in the number of tariff levels, from 88 to 28, ranging from 3% to 254%.

3.3. During the period under review, Mexico continued to deepen its network of preferential agreements. In 2012, average tariffs ranged from 0% to 2.6% under free trade agreements (FTAs) and from 0.6% to 6.2% under partial scope agreements (PSAs). The unilateral tariff reduction process has to a certain extent narrowed the gap between MFN tariffs and preferential tariffs. Mexico has also streamlined and consolidated the procedures for obtaining certificates of origin.

3.4. Mexico applies WTO-type tariff quotas to certain agricultural products as well as unilateral and preferential quotas. The unilateral quotas are applied to both agricultural products and manufactures.

3.5. As far as customs valuation is concerned, Mexico has abolished estimated prices for products such as glass, iron, toys and textiles but has maintained them for used motor vehicles.

3.6. Besides tariffs, imports are subject to: a customs processing fee (DTA); the storage fee; the value added tax (VAT); and a special tax on production and services (IEPS). New vehicles are subject to a tax (ISAN). These taxes and charges have to be paid at the time of import. The DTA remains 8 per mil of the customs value of the goods.

3.7. Mexico still requires a prior import permit for some goods such as petroleum products, used tyres and used clothing. The list of products requiring a permit has changed several times since the previous Review. In 2008, this requirement was also imposed on the import of diamonds in the rough, whereas it was lifted for some types of used vehicle in 2009.

3.8. Concerning the application of contingency measures, Mexico made limited use of anti-dumping measures during the period under review.

3.9. As far as technical regulations are concerned, the procedures for adopting Mexican Official Standards (NOMs) are clearly defined. In 2008, the requirement on the sanitary registration needed to import medicines into Mexico was gradually lifted. Since then, foreign manufacturers have been able to obtain sanitary registration if they are in possession of a licence, certificate or document attesting that the company has a permit to manufacture medicines, issued by the competent authority in the country of origin, and there is no longer any need to set up a plant or laboratory in Mexico, as had hitherto been the case. From January 2011 onwards, the information that has to be given on labels for food and non-alcoholic beverages has been modified.

3.10. As regards sanitary and phytosanitary measures, the issue of certificates and consultation of the import requirements vary depending on the product and the measure to be certified. Since the previous Review, consultation of the phytosanitary, animal health and aquaculture requirements has been simplified following the introduction of online consultation modules in 2010 and 2012.

3.11. In order to promote its exports, Mexico has programmes providing financial support, tax incentives or training. Among these are the following programmes providing tax benefits: the import tax refund (drawback) programme for exporters and the programme for the Manufacturing, Maquila (in-bond assembly) and Export Services Industry (IMMEX), revised in 2010. Over the

period 2007-2011, companies under the IMMEX programme were responsible for 66.2% of Mexico's exports and 47.2% of its imports.

3.12. Exports are subject to the DTA, unless the goods are going to certain countries with which Mexico has a trade agreement. The rate is fixed and applies to each transaction. Export taxes have to be paid on some products, while for others enrolment in the Register of Exporters is necessary. Export permits are needed for diamonds in the rough, iron ores and some petroleum products, whereas at the time of the previous Review, a permit was only required for petroleum products.

3.13. Mexico has several business and sectoral support programmes. These are mainly aimed at micro, small and medium-sized enterprises (MSMEs) and basically consist of financial assistance, tax incentives and technical training. Of particular interest are the sectoral promotion (PROSEC) programmes, in effect since 2002. These cover 24 sectors and were revised several times during the review period.

3.14. As far as competition policy is concerned, during the period under review Mexico introduced reforms to boost the role of the Federal Competition Commission and its system of penalties and fines. Despite this progress, there are still competition-related problems in some sectors, for example, the hydrocarbons, telephony and television sectors. Mexico continues to impose ceiling prices for various products such as petrol, electricity and patented inputs and medicines.

3.15. During the period under review, Mexico revised its Industrial Property Law as regards the procedure for obtaining a patent. Provisions were also added on applications for registration and licensing of trademarks and their renewal. In 2011, the implementing regulations for the Industrial Property Law were also amended in respect of the requirements for registering trademarks.

## **3.2 Measures directly affecting imports**

### **3.2.1 Customs regimes**

3.16. Mexico's customs regime is mainly governed by the 1995 Customs Law<sup>1</sup> and its implementing regulations<sup>2</sup>, together with the General Foreign Trade Rules, published each year by the Ministry of Finance and Public Credit (SHCP), and the General Rules and Criteria for Foreign Trade, issued by the Ministry of the Economy (SE).<sup>3</sup>

3.17. The General Customs Administration (AGA) is responsible for monitoring compliance with customs and foreign trade legislation and, in particular, for controlling the entry and exit of goods to or from Mexican territory, as well as for collecting tariffs and other trade-related duties. The AGA is an administrative unit of the Tax Administration Service (SAT)<sup>4</sup>, which in turn is a decentralized body of the SHCP.<sup>5</sup>

3.18. The Customs Law establishes six types of customs regime applicable to both imports and exports (Table 3.1).

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<sup>1</sup> Published in the Official Journal of 15 December 1995 and entered into force on 1 April 1996; the latest amendment was published on 9 April 2012.

<sup>2</sup> Published in the Official Journal of 6 June 1996; the latest amendment was published on 28 October 2003. The latest reform regarding quantities was published in the Official Journal of 27 December 2011.

<sup>3</sup> The General Foreign Trade Rules for 2012 were published in the Official Journal of 29 August 2012; the latest amendment was published on 10 September 2012. The General Rules and Criteria for Foreign Trade were published in the Official Journal of 6 July 2007 and the latest amendment was published on 3 September 2012.

<sup>4</sup> Article 2 of the SAT's Rules of Procedure, published in the Official Journal of 22 October 2007; the latest amendment was published on 13 July 2012.

<sup>5</sup> Article 1 of the Law on the SAT, published in the Official Journal of 15 December 1995; the latest amendment was published on 9 April 2012.

**Table 3.1 Customs regimes, 2012**

Regime	Description
Definitive	<ul style="list-style-type: none"> <li>▪ Import: Entry of foreign goods to remain in Mexico for an unlimited time.</li> <li>▪ Export: Exit of Mexican goods or inward-cleared goods to remain abroad for an unlimited time.</li> </ul>
Temporary	<ul style="list-style-type: none"> <li>▪ Import: Entry of foreign goods to remain in Mexico for a limited time and subsequent return abroad in the same state or after having undergone processing, transformation or repair under a maquila or export programme.</li> <li>▪ Export: Exit of Mexican goods to remain abroad for a limited time and subsequent return to Mexico in the same state or to undergo processing, transformation or repair.</li> </ul>
In-bond storage	<ul style="list-style-type: none"> <li>▪ The storage of goods of Mexican or foreign origin in any authorized General Deposit Warehouse (AGD). This regime allows the selection of the definitive import or export regime to be deferred, return abroad or temporary import for the maquila industry or firms with export programmes authorized by the SE. Private persons may keep their goods in the warehouse for as long as considered necessary provided that they pay the storage fee. The goods may be removed <i>in toto</i> or in part for import or export subject to payment of the tariffs and other duties applicable. Some products are not eligible for this regime, for example, arms, ammunition, explosives, precious jewels and stones.</li> </ul>
Goods in transit	<ul style="list-style-type: none"> <li>▪ May be domestic or international goods.</li> </ul>
Processing, transformation or repair in an in-bond facility	<ul style="list-style-type: none"> <li>▪ Introduction of foreign or Mexican goods into such facilities for the purpose of processing, transformation or repair for subsequent definitive or temporary export. Foreign goods under this regime are subject to payment of the general import tax if they enter under a deferral or drawback programme and of the compensatory duties ("<i>cuotas compensatorias</i>") applicable to this regime. The goods may only be withdrawn from the regime in order to be returned abroad or exported.</li> </ul>
Strategic in-bond facility	<ul style="list-style-type: none"> <li>▪ The introduction of foreign, domestic or inward cleared goods into these facilities for a limited time for the purpose of handling, storage, safekeeping, exhibition, sale, distribution, processing, transformation or repair. Goods under this regime are not subject to foreign trade taxes or compensatory duties ("<i>cuotas compensatorias</i>"), except in certain cases, or to compliance with non-tariff regulations or restrictions, except for those concerning animal or plant health, public health, the environment or national security.</li> </ul>

Source: Title IV of the Customs Law (Articles 90-135D).

### 3.2.2 Registration, customs documents and procedures

3.19. Since the previous Review, Mexico has implemented several measures to streamline customs procedures, thus making companies more competitive and facilitating their participation in international markets. The changes were mainly made from 2008 onwards when the Decree granting administrative facilities for customs and foreign trade purposes was adopted.<sup>6</sup> This Decree abolished a number of import requirements (Box 3.1) and streamlined procedures for obtaining a certificate of origin (see Chapter 3.3.1). It also provided for the creation of a digital window for electronic formalities, which was one of the trade facilitation initiatives in the 2007-2012 Customs Modernization Plan.<sup>7</sup> The authorities have indicated that, during this period, streamlined administrative procedures were introduced for correcting customs documents and reinforcing customs security by using non-intrusive inspection technology, *inter alia*.

<sup>6</sup> This Decree was published in the Official Journal of 31 March 2008 and came into force on 14 April 2008.

<sup>7</sup> The purpose of this plan is to facilitate trade flows, make customs personnel more professional, utilize appropriate systems and technology, and speed up customs clearance of goods entering or leaving Mexican territory.



**Box 3.1 Changes in customs requirements for imports****The Decree granting administrative facilities for customs and foreign trade purposes (2008) eliminated:**

**(a) enrolment in the Register of Importers in Specific Sectors**, except for goods involving a potential risk to public health or national security. Prior to the reform, enrolment in the Register of Importers in Specific Sectors applied to 34 types of product. These included foodstuffs, beverages, textiles, footwear, electronic goods, chemicals, iron and steel. Since the reform, registration has only applied to eight types of product, namely: (i) chemicals; (ii) radioactive and nuclear products; (iii) chemical precursors and essential chemicals; (iv) firearms and parts thereof, spare parts, accessories and ammunition; (v) explosives and explosive-related material; (vi) chemicals, material for pyrotechnical use or for fireworks involving explosives; (vii) other arms and accessories, cold steel weapons and accessories; and (viii) weapons-related machinery, appliances, devices and artefacts and others (Annex 10 to the General Foreign Trade Rules for 2012).

**(b) security**, except for used vehicles. Security is required when, in the case of definitive import, the value declared by the importer and the value estimated by the SAT differ. The security requirement was also eliminated for goods in internal or international transit. The security has to cover any payments or compensatory duties (anti-dumping or countervailing duties ("*cuotas compensatorias*") in respect of the difference between the declared value and the estimated value (Article 86A of the Customs Law).

**(c) the requirement to attach the following documents to the import declaration:**

- Document providing information to permit the identification, examination and control of the goods, except in the case of goods involving a potential risk to public health or national security. This requirement applied to a specific list of agricultural and industrial products that included meat, sugar, potatoes, apples, cocoa, beer, wines and liqueurs, bicycles, automobiles, textiles, cotton and metals, among others (Annex 18 to the General Foreign Trade Rules for 2011 containing the list of products was repealed on 18 April 2008).
- Documents proving the origin of goods subject to compensatory duties ("*cuotas compensatorias*").

Source: Decree granting administration facilities for customs and foreign trade purposes, published in the Official Journal of 31 March 2008.

3.20. In general, pursuant to Article 36 of the Customs Law, the following were the import requirements in September 2012:

- **Enrolment in the Register of Importers kept by the SAT and in the Federal Register of Taxpayers.** Importers of goods that present a potential risk to public health or national security must also be listed in the Register of Importers in Specific Sectors (Table 3.1).
- **Employment of the services of a customs broker or appointment of an in-house customs agent.**<sup>8</sup> All import formalities must be conducted through a customs broker or an in-house customs agent.<sup>9</sup> A customs broker or in-house customs agent is not required by international passengers importing goods worth US\$3,000 or less (excluding duty-free goods)<sup>10</sup>, or for certain temporary imports and in other specific cases.<sup>11</sup>
- **Import declaration and other documents.** Persons wishing to import goods must submit an import request or declaration, through a customs broker or in-house customs agent, in the form approved by the SHCP and accompanied by the following documents: (a) the commercial invoice if the value of the goods exceeds US\$300; (b) the bill of lading or air waybill; (c) documentation proving compliance with any applicable non-tariff regulations and restrictions, where applicable; (d) documents proving the source and origin of goods subject to tariff preferences, quotas, indication of the country of origin (labels) or other specified measures; (e) 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. With the adoption of the Decree granting administrative facilities

<sup>8</sup> The requirements for obtaining a customs broker's licence or an authorization to act as an in-house customs agent are set out in Articles 159 and 168 of the Customs Law, respectively.

<sup>9</sup> Article 40 of the Customs Law.

<sup>10</sup> If the passenger is carrying computer equipment, the value of the goods and the computer equipment together must not exceed US\$4,000.

<sup>11</sup> Articles 106-107 of the Customs Law; and Rules 3.2.2, 3.2.5 and 3.7.1 of the General Foreign Trade Rules for 2012.

for customs and foreign trade purposes in 2008, the following no longer need to be attached to the import declaration: (a) documents proving the origin of goods subject to compensatory duties (anti-dumping or countervailing duties ("*cuotas compensatorias*")<sup>12</sup>; (b) information to permit the identification, examination and control of the imported goods for different types of agricultural or industrial products, including the brand, model, serial number and technical or commercial specifications; and (c) document proving that security has been deposited in the customs security account when it is considered that the goods have been undervalued.<sup>13</sup>

- **Payment of the relevant charges.** Tariffs have to be paid pursuant to the Law on General Import and Export Taxes (LIGIE)<sup>14</sup>, as well as the other charges due (see Chapter 3.2.7), together with compensatory duties ("*cuotas compensatorias*"), where applicable.

3.21. After the relevant taxes and charges have been paid, the customs broker or in-house customs agent presents the goods to the customs authority, together with the import declaration and the other documents required, and initiates the computerized selection mechanism.<sup>15</sup> If the mechanism indicates that customs inspection is required, the customs authority examines the documents and undertakes a physical inspection of the goods. After the inspection, the selection mechanism is activated for a second time in order to determine whether the goods need to be inspected again. If no irregularities that might give rise to a preventive embargo on the goods are detected in the course of the first or second customs inspection, the goods are handed over 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.<sup>16</sup>

3.22. According to data provided by the authorities, during the period from 1 January 2011 to 30 September 2012, 9% of import transactions were subject to customs inspection. Of this percentage, 0.2% led to a preventive embargo of the goods. The authorities have indicated that the estimated average time required for customs clearance is approximately 2 hours for goods subject to customs inspection and 8 minutes for those with free customs clearance.

3.23. In order to speed up customs procedures, since 2002 Mexico has had a "certified enterprises" programme under which authorized exporters or importers are given administrative facilities for the customs clearance of their goods.<sup>17</sup> The facilities include correction of the data contained in customs documents, lower fines and access to exclusive channels for imports. There are currently five categories of certified enterprise and the benefits applicable vary depending on the category (see Box 3.2). In December 2011<sup>18</sup>, the certified enterprises scheme was reorganized to incorporate a new category, the "New Certified Enterprises Scheme" (NEEC), which focuses on compliance with safety standards relating to logistics and supply chains. Companies which can

<sup>12</sup> Article 3(iii) of the Foreign Trade Law (LCE) defines compensatory duties ("*cuotas compensatorias*") as those imposed on imported goods when there is price discrimination or subsidization in their country of origin. In other words, they are compensatory measures applied as a result of an investigation into unfair international trade practices (Article 5).

<sup>13</sup> The authorities have indicated that, currently, in the majority of cases, the documents to be attached to the declaration are forwarded electronically through the single window.

<sup>14</sup> LIGIE, published in the Official Journal of 18 June 2007; the latest amendment was published on 13 September 2012.

<sup>15</sup> The mechanism makes a random selection of the customs declarations to be inspected. This is based on an intelligent risk analysis system that takes into account information on the type of importer or exporter, the product, its value, the country of origin, and the sanitary and phytosanitary risks, national security, smuggling and fraud.

<sup>16</sup> Articles 43 and 44 of the Customs Law. The authorities have pointed out that, since December 2010, the computerized selection mechanism is only activated once for goods intended for export, those imported or exported by passengers and for the clearance of goods by authorized companies in accordance with agreements signed by Mexico, as well as in the customs posts indicated, (Article 43 of the Customs Law and Rule 3.1.17 of the General Foreign Trade Rules for 2012).

<sup>17</sup> Articles 100-A and 100-B of the Customs Law.

<sup>18</sup> The Fourth Amendment to the General Foreign Trade Rules 2011, published in the Official Journal of 15 December 2011.

prove a certain level of fiscal, customs and safety compliance, including those in category (e), are eligible for this scheme (as indicated in box 3.2).<sup>19</sup>

### Box 3.2 Categories of certified enterprise

#### The programme applies to the following types of enterprise:

(a) enterprises which imported a minimum of Mex\$300 million during the six months preceding enrolment in the register of certified enterprises;

(b) beneficiary enterprises under the IMMEX Programme, except marketing firms, which imported a customs value of Mex\$200 million or more during the six months preceding enrolment in the register of certified enterprises;

(c) enterprises under the IMMEX Programme that do not meet the conditions in subparagraph (b), provided that they prove compliance with their customs obligations and other requirements;

(d) courier and express parcels enterprises; and

(e) enterprises with foreign trade operations and approved by the Central Administration of International Affairs (ACAI). These include holding companies, firms under the IMMEX Programme in the aviation sector, as well as those that have a SECIIT (Electronic System for the Control of Inventories of Temporary Imports) and operate under Annex 24, Part II of the General Foreign Trade Rules for 2012.

Source: Article 100-A of the Customs Law and Rule 3.8.1 of the General Foreign Trade Rules for 2012.

3.24. In January 2011, the Decree establishing Mexico's digital window for foreign trade was adopted (<https://www.ventanillaunica.gob.mx>).<sup>20</sup> Pursuant to this Decree, the single window or VUCEM came into service on 1 June 2012. It combines a number of the procedures established by various Ministries and required in order to conduct foreign trade transactions, including non-tariff measures and administrative charges. A valid and active advanced electronic signature (FIEL)<sup>21</sup> issued by the SAT is required in order to carry out these procedures and replaces the applicant's handwritten signature in order to guarantee the security of the procedure. For imports, the procedures that can be conducted through the VUCEM are: applications for import permits and enrolment of companies in the IMMEX programme or a PROSEC programme, *inter alia*. According to the authorities, the implementation of procedures through the VUCEM should be completed by February 2013.

3.25. The authorities have indicated that, during the period under review, Mexico strengthened security at the customs, one of its priority areas. This was achieved by adopting measures that include advance electronic transmission of data and the use of non-intrusive technology that have enabled the Mexican customs to focus efforts on detecting goods that pose a risk to public health or national security.

### 3.2.3 Customs valuation

3.26. Mexico has applied the WTO Customs Valuation Agreement since 1995<sup>22</sup>, but maintains two reservations under paragraphs 3 and 4 of Annex III.<sup>23</sup>

3.27. Customs valuation procedures have not changed since the previous Review. Pursuant to the WTO Agreement and the Customs Law, the customs value of goods, which serves as the taxable

<sup>19</sup> Rule 3.8.1 (L) of the General Foreign Trade Rules for 2012.

<sup>20</sup> The Decree was published in the Official Journal of 14 January 2011.

<sup>21</sup> The certificate attests to the validity of the FIEL, which is used to identify the sender of a message as its legitimate author and is equivalent to a handwritten signature. In order to use it when sending messages, two keys are needed: the "private key", which is only known to the owner of the FIEL, and the "public key", available on the Internet for consultation by all users of digital services.

<sup>22</sup> Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 in the Decree enacting the Final Act of the Uruguay Round of Multilateral Trade Negotiations, published in the Official Journal of 30 December 1994.

<sup>23</sup> WTO document G/VAL/67 of 12 December 2011. Pursuant to paragraph 3 of Annex III, Mexico, as a developing country, reserves the right to reject a request by importers (allowed by Article 4 of the Agreement) to reverse the order of application of the deductive value method and the computed value method. Pursuant to paragraph 4 of Annex III, Mexico reserves the right to determine the value of the goods on the basis of the unit price of sale (deductive method), including the value added if the imported goods have been transformed, whether or not the importer requests this.

base, is the transaction value. This is defined as the price paid or payable by the importer and may include transport, insurance and freight costs payable by the importer unless these are broken down and indicated separately.<sup>24</sup>

3.28. When the customs value cannot be determined on the basis of the transaction value, the alternative methods of valuation according to the WTO Agreement are used.<sup>25</sup>

3.29. According to the Mexican authorities, in around 78.6% of import transactions the customs value is determined using the transaction value.

3.30. Where there are mistakes or irregularities in the information provided by the importer, the customs authority may reject the declared value and determine the customs value of the imported goods in accordance with the WTO Agreement. Importers may also consult the customs authorities with regard to determination of the customs value of the goods before importing them.<sup>26</sup>

3.31. Mexico has had an estimated price mechanism designed to counteract undervaluation since 1994.<sup>27</sup> During the period under review, this mechanism underwent several amendments. In 2008, estimated prices were abolished for all products (a total of 332 tariff headings), with the exception of used vehicles.<sup>28</sup> In 2010, the number of tariff headings in this category increased from three<sup>29</sup> to nine (Table 3.2). These nine tariff headings specifically relate to 648 models of used vehicle (compared to 349 in 2007), as well as to vehicles falling under the category of "other models and makes". If a value lower than the estimated price is declared when these goods are imported, security has to be deposited in a customs account to cover the difference in payments and compensatory duties ("*cuotas compensatorias*") between the declared price and the estimated value.<sup>30</sup> This security is one of the requirements to be able to import products appearing on this list. Since July 2010 (the latest amendment), persons definitively importing used vehicles into the border zone<sup>31</sup> have no longer been obliged to deposit security subject to certain conditions, and provided that the supplier abroad forwards information on the vehicle electronically, together with its selling price, and endorses in advance the data contained in the corresponding import declaration.<sup>32</sup>

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<sup>24</sup> Customs Law, Articles 64, 65 and 66.

<sup>25</sup> *Idem*, Articles 71 and 78.

<sup>26</sup> *Idem*, Articles 78-A and 78-B.

<sup>27</sup> Resolution establishing the mechanism to guarantee the payment of taxes on goods subject to prices estimated by the SHCP, published in the Official Journal of 28 February 1994. The latest amendment was published in the Official Journal of 20 July 2010.

<sup>28</sup> The products for which estimated prices were abolished included glass, iron and steel, tools, toys and games, textiles, footwear and chemicals. Resolution amending the miscellaneous provision establishing the mechanism to guarantee the payment of taxes on goods subject to prices estimated by the SHCP, published in the Official Journal of 21 April 2008.

<sup>29</sup> These three headings concern motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars, as well as other vehicles with spark-ignition internal combustion reciprocating piston engines of various cylinder capacity.

<sup>30</sup> Article 86-A of the Customs Law.

<sup>31</sup> These vehicles must remain in the northern border zone, in the states of Baja California or Baja California Sur, in the partial region of the state of Sonora or in the municipalities of Cananea or Caborca in the state of Sonora.

<sup>32</sup> Resolution establishing the mechanism to guarantee the payment of taxes on goods subject to prices estimated by the SHCP, published in the Official Journal of 20 July 2010.

**Table 3.2 List of used automotive products subject to estimated prices**

Tariff heading	Description of the tariff heading	No. of vehicle models covered
8701.20.02	Road tractors for semi-trailers	56
8703.22.02	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars. Other vehicles, with spark-ignition internal combustion reciprocating piston engine: of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc.	14
8703.23.02	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars. Other vehicles, with spark-ignition internal combustion reciprocating piston engine: of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc.	207
8703.24.02	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars. Other vehicles, with spark-ignition internal combustion reciprocating piston engine: of a cylinder capacity exceeding 3,000 cc.	266
8704.21.04	Motor vehicles for the transport of goods. Other, with compression-ignition internal combustion piston engine (diesel or semi-diesel), with g.v.w. not exceeding 5 tonnes.	6
8704.22.07	Motor vehicles for the transport of goods.	33
8704.23.02	Motor vehicles for the transport of goods. Other, with compression-ignition internal combustion piston engine (diesel or semi-diesel), with g.v.w. exceeding 20 tonnes.	1
8704.31.05	Motor vehicles for the transport of goods. Other, with spark-ignition internal combustion piston engine, with g.v.w. not exceeding 5 tonnes.	59
8704.32.07	Motor vehicles for the transport of goods. Other, with spark-ignition internal combustion piston engine, with g.v.w. exceeding 5 tonnes.	6

Source: Annex 2 to the Resolution amending the miscellaneous provision establishing the mechanism to guarantee the payment of taxes on goods subject to prices estimated by the SHCP, published in the Official Journal of 28 February 1994; the latest amendment was published on 20 July 2010.

### 3.2.4 Rules of origin

3.32. Mexico applies preferential and non-preferential rules of origin.

3.33. The Foreign Trade Law (LCE) (Article 5) provides that the SE shall be responsible for determining rules of origin, basing itself on the following criteria: (a) a change in tariff classification; (b) national or regional content; and (c) use of a specific production process.<sup>33</sup> If these criteria cannot be applied, the SE may use additional criteria, which must be spelled out in the corresponding rule of origin.

3.34. Non-preferential rules of origin are contained in the 1994 Decision on rules for determining the country of origin of imported goods for non-preferential purposes.<sup>34</sup> The purpose of these rules is to identify the origin of products and determine whether or not they are subject to payment of compensatory duties (anti-dumping or countervailing duties ("*cuotas compensatorias*") in order to prevent circumvention of duty. Under this Decision, a good is deemed to originate in a country if: (a) it has been wholly obtained or produced in that country; (b) it has been produced using exclusively materials originating in that country; or (c) if each of non-originating materials incorporated into the good produce a change in tariff classification and meet the requirements laid down in the specific rules of origin, unless they constitute an assembly, assortment or mixture; or a good composed of the combination of different goods, *inter alia*.<sup>35</sup>

3.35. Since 2008, importers of products subject to compensatory duties ("*cuotas compensatorias*") no longer need to submit a certificate of origin at the time of import.

<sup>33</sup> Article 10 of the LCE.

<sup>34</sup> Decision establishing rules for determining the country of origin of imported goods and provisions for their certification for non-preferential purposes, published in the Official Journal of 30 August 1994. Its latest amendment was published in the Official Journal of 16 October 2008. The title of the Decision changed as of that date and ceased to be called the Decision establishing rules for determining the country of origin of imported goods and provisions for their certification, in relation to compensatory duties ("*cuotas compensatorias*").

<sup>35</sup> Article 3 in Annex I to the Decision establishing rules for determining the country of origin of imported goods and provisions for their certification for non-preferential purposes.

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Mexico abolished this requirement by means of the 2008 Decree on administrative facilities for customs purposes (see Chapter 3.2.2).<sup>36</sup>

3.36. Preferential rules of origin are defined in the trade treaties and agreements signed by Mexico and determine the conditions under which a product is deemed to originate in a country and is therefore eligible for preferential tariff treatment. The criteria followed when drawing up preferential rules of origin are similar to those for non-preferential rules. In general, the provisions in the trade treaties and agreements signed by Mexico indicate that a good qualifies as originating if: (a) it has been wholly obtained or produced in the territory of the Parties; (b) it has been wholly produced in the territory of the Parties using exclusively originating materials; (c) the goods produced wholly in the territory of the Parties use non-originating materials but comply with specific rules of origin (degree of transformation). There are also additional provisions in some treaties and agreements for automotive goods, textiles and clothing.

3.37. All the FTAs signed by Mexico also include a *de minimis* provision under which goods can be considered as originating if the total value of the non-originating inputs that do not comply with the change of tariff classification criterion do not exceed a specified percentage of the product's value. All FTAs also include a bilateral cumulation clause. In the most recent agreements, for example, those with Peru and Central America, there is also an "extended cumulation of origin" provision which enables producers to include materials from non-Parties with which the Parties have a trade agreement without losing their originating status, provided that these agreements contain an equivalent clause. There has also been a cumulation mechanism for the textiles and clothing sector between Mexico and the DR-CAFTA countries (except for the Dominican Republic) since 2008 under three Protocols, which add provisions on textile cumulation to Mexico's FTAs with Costa Rica, Nicaragua, and Guatemala, Honduras and El Salvador. The Protocol which includes these provisions for the FTAs with Costa Rica and Nicaragua was signed on 12 April 2007, while for the FTA with Guatemala, Honduras and El Salvador, the corresponding Protocol was signed on 16 April 2007. These provisions have been in force since 15 August 2008, with the exception of Costa Rica, for which the Protocol came into effect on 1 January 2009.

3.38. As the number of rules of origin schemes has risen along with the increase in the number of treaties and agreements signed by Mexico, so has, potentially, the problem for the customs of administering them. To streamline this administration, Mexico has tried to consolidate procedures for obtaining certificates of origin (see Chapter 3.3), issuing them electronically and promoting the convergence of its agreements and rules of origin. For example, the trade agreement with Central America, signed in 2011, will replace three agreements with countries in the region and will standardize 98.2% of the rules of origin (see Chapter 2).

3.39. In order to claim preferential treatment under a trade agreement, it has to be proved that a product complies with the corresponding rules of origin and, for this purpose, a certificate of origin has to be submitted together with the import declaration.

### 3.2.5 Tariffs

3.40. The tariffs applied by Mexico are contained in the 2007 LIGIE and are based on the Harmonized Commodity Description and Coding System (HS). In January 2012, Mexico's tariff schedule (HS 2007) contained 12,107 eight-digit headings.<sup>37</sup>

3.41. The LIGIE came into force on 1 July 2007 and has been amended 17 times. The latest amendment was published in the Official Journal of 13 September 2012. One of the main amendments was the Decree amending the tariff schedule in the LIGIE, which was published in the Official Journal of 24 December 2008. This Decree introduced a unilateral tariff reduction programme extending over five years, which began on 2 January 2009 and should be completed in 2013. The programme provides for the elimination and/or reduction of import tariffs for a specific number of headings each year. The most important change took place in 2010, when tariffs on 3,852 headings were eliminated (Chart 3.1), so that on 1 January 2012, 7,064 of the

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<sup>36</sup> Decree granting administrative facilities for customs and foreign trade purposes, published in the Official Journal of 31 March 2008.

<sup>37</sup> This figure corresponds to the tariff headings in Chapters 1 to 97 of the HS and does not therefore include 42 tariff headings in Chapter 98. Mexico uses these for special transactions.

headings (58.3% of the total) were duty free.<sup>38</sup> The last stage in the reduction process should be completed on 1 January 2013, when 165 headings concerning clothing and footwear should become duty free.<sup>39</sup> Following these reductions, the simple average of applied MFN rates fell from 11.2% in 2007 to 6.2% in 2012 (Table 3.3).

**Table 3.3 Summary of MFN tariffs, 2012**

Description of product	MFN 2007			2012			Bound tariff range <sup>a</sup> (%)
	No. of headings	Average (%)	No. of headings	Average (%)	Range (%)	Coefficient of variation (CV)	
<b>Total</b>	<b>11,948</b>	<b>11.2</b>	<b>12,107</b>	<b>6.2</b>	<b>0-254</b>	<b>2.4</b>	<b>0-254</b>
HS 01-24	1,198	24.1	1,211	22.7	0-254	1.7	0-254
HS 25-97	10,750	9.7	10,896	4.4	0-50	1.6	0-156
<b>By WTO category</b>							
<b>Agricultural products</b>	<b>1,195</b>	<b>23.0</b>	<b>1,198</b>	<b>20.9</b>	<b>0-254</b>	<b>1.9</b>	<b>0-254</b>
Animals and animal products	152	47.7	150	48.2	0-254	1.6	9-254
Dairy products	37	43.3	37	39.2	0-125	1.0	18-156
Fruit, vegetables and garden produce	346	16.5	348	16.3	0-245	1.1	5-245
Coffee and tea	31	44.2	31	42.5	0-140.4	1.0	25-156
Cereals and cereal preparations	130	25.8	131	19.7	0-158	1.3	9-194
Oilseeds, fats and oils and their products	116	15.2	115	12.2	0-254	2.7	0-254
Sugar and confectionery	28	70.4	28	63.3	3.3-210	1.2	45-210.4
Beverages, alcohol and tobacco	88	25.8	89	25.4	10-90.2	0.6	36-67.5
Cotton	8	6.1	8	0.0	0-0	n.a.	37-45
Other agricultural products n.e.s.	259	7.9	261	5.2	0-36	1.4	0-45
<b>Non-agricultural products (including petroleum)</b>	<b>10,753</b>	<b>9.9</b>	<b>10,909</b>	<b>4.6</b>	<b>0-50</b>	<b>1.5</b>	<b>0-156</b>
Fish and fish products	141	16.8	152	16.8	0-20	0.4	30-45
Mineral products and metals	1,793	9.4	1,829	2.9	0-15	1.9	0-50
Chemicals and photographic products	3,064	6.3	3,091	1.9	0-30.2	2.0	0-156
Wood, wood pulp, paper and furniture	472	10.4	534	4.7	0-15	1.2	0-50
Textiles	919	11.6	929	9.2	0-30	0.6	10-50
Clothing	355	35.0	355	21.6	20-30	0.1	35-50
Leather, rubber, footwear and travel articles	351	15.0	353	6.8	0-30	1.4	20-50
Non-electrical machinery	1,458	7.9	1,481	3.3	0-20	1.8	20-50
Electrical machinery	967	8.5	965	2.9	0-20	1.9	10-50
Transport equipment	366	14.7	385	8.1	0-50	1.4	10-50
Non-agricultural products n.e.s.	846	10.7	814	5.5	0-20	1.2	10-50
Petroleum	21	5.3	21	0.2	0-5	4.5	35-50
<b>By ISIC sector<sup>b</sup></b>							
Agriculture and fishing	521	13.9	530	11.6	0-245	1.4	0-245
Mining	125	6.1	126	0.5	0-15	4.7	0-50
Manufacturing	11,301	11.1	11,450	6.0	0-254	2.5	0-254

<sup>38</sup> The majority of the headings for which tariffs were abolished had a tariff of 5%.

<sup>39</sup> These products correspond to Chapters 61 to 64 in the HS.

Description of product	MFN 2007			2012			Bound tariff range <sup>a</sup> (%)
	No. of headings	Average (%)	No. of headings	Average (%)	Range (%)	Coefficient of variation (CV)	
<b>By stage of processing</b>							
First stage of processing	988	11.9	1,006	9.1	0-245	1.7	0-245
Semi-processed products	4,198	7.4	4,287	3.0	0-210	2.9	0-210.4
Fully processed products	6,762	13.4	6,814	7.8	0-254	2.2	0-254

n.a. Not applicable.

a The bindings are shown in the HS 2002 classification and the rates applied in HS 2007, consequently there may be differences in the number of headings included in the summary.

b ISIC (Rev.2), excluding electricity (one line).

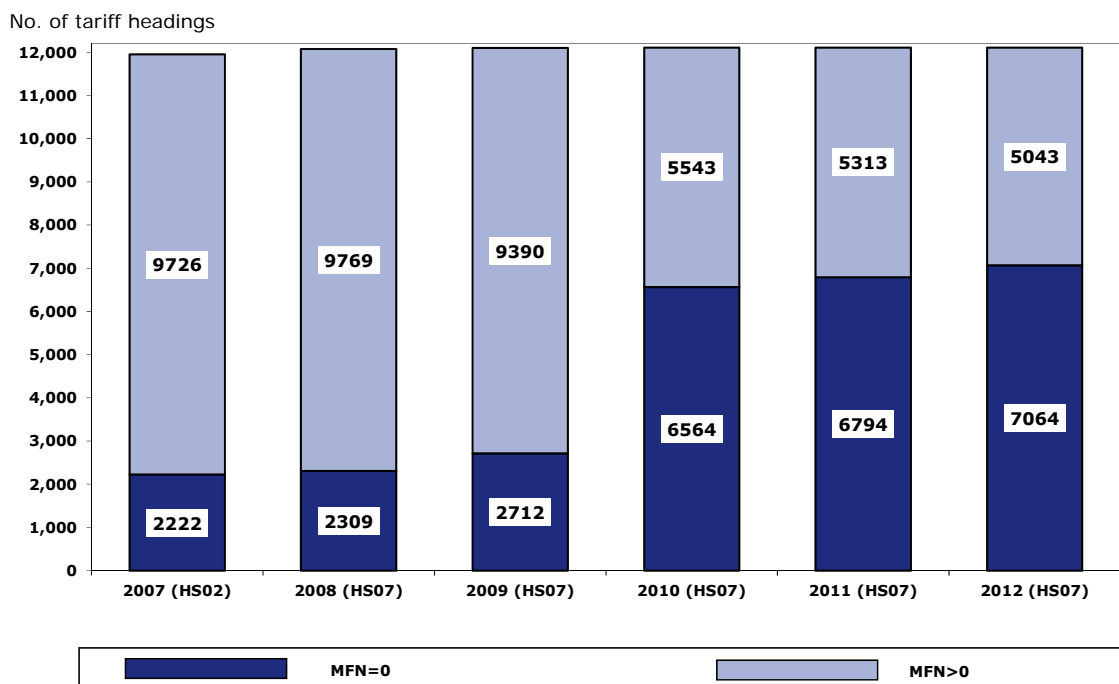
Note: The average takes into account the *ad valorem* equivalents (AVEs) for headings subject to non-*ad valorem* rates. The AVEs were estimated on the basis of the unit values of total imports in 2011, provided by the Mexican authorities.

Source: WTO Secretariat estimates, based on data (HS 2007) provided by the authorities.

3.42. It should be emphasized that the unilateral tariff reduction programme was implemented according to the timetable despite the international context marked by a severe financial crisis.

3.43. Mexico still applies tariff quotas to 145 headings (see Chapter 3.2.6).

### Chart 3.1 Trend in the number of duty-free tariff headings on an MFN basis, 2007-2012



Source: WTO Secretariat.

#### 3.2.5.1 Tariff structure

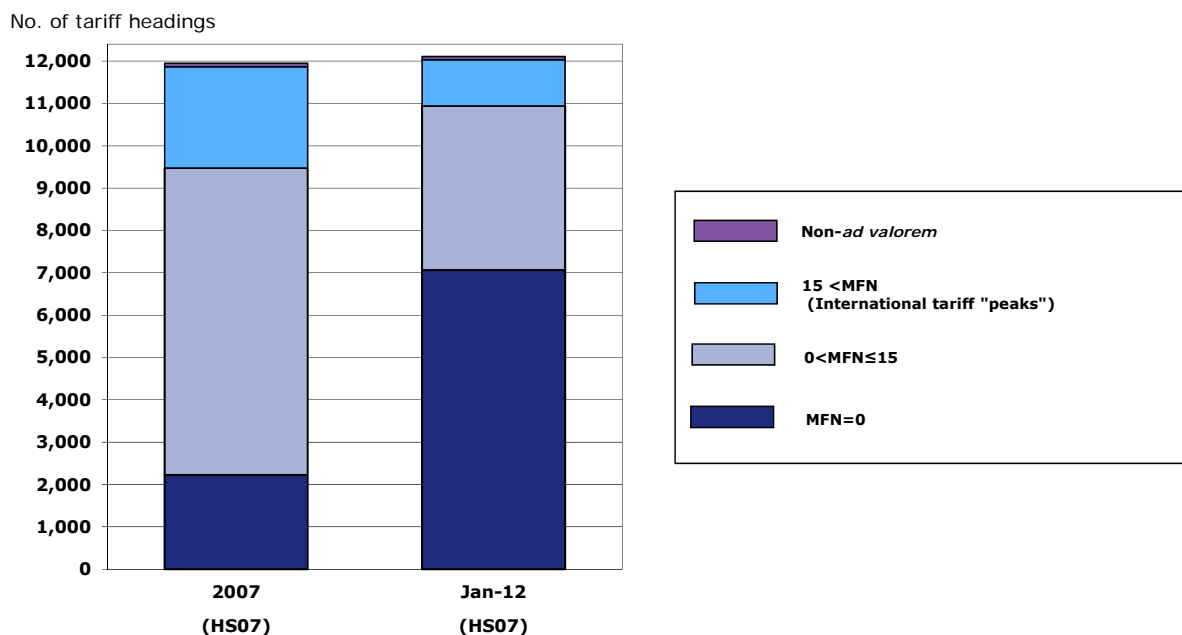
3.44. All the tariff headings applied by Mexico are still *ad valorem*, with the exception of 80 headings (or 0.7% of the total) (Chart 3.2). Of these headings, 14 have specific tariffs, 44 have compound tariffs and 22 relate to headings whose import is banned. For all these headings, the only change was the liberalization of one of the compound tariff headings.<sup>40</sup>

<sup>40</sup> This is heading 2918.14.01, corresponding to citric acid, liberalized in 2009 (in other words a zero *ad valorem* tariff was imposed).



3.45. The aforementioned unilateral reduction programme brought about substantial changes in the level and distribution of *ad valorem* tariffs. The programme eliminated and lowered tariffs on a large number of manufactures. As a result, between 2007 and 2012<sup>41</sup>, the percentage of duty-free headings rose from 18.65% to 58.3%, and the percentage of headings with a tariff between 0 to 15% fell from 60.7% to 32.1%. The percentage of headings with a tariff exceeding 15% also decreased over this period, from 20% to 9.4% (Chart 3.2).

**Chart 3.2 Structure of MFN tariffs in 2007 and 2012**



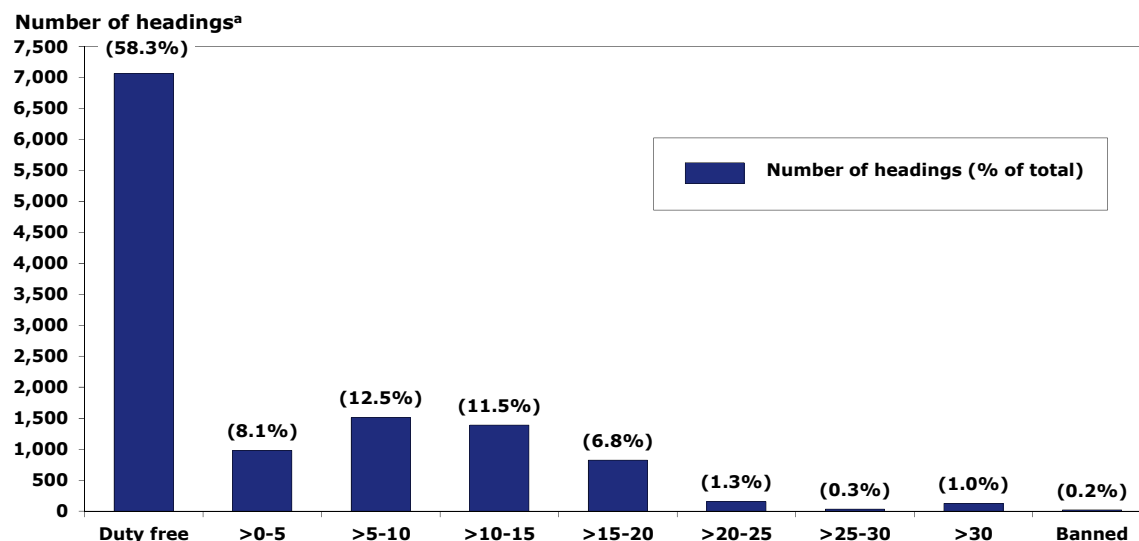
Source: WTO Secretariat.

3.46. In January 2012, the 4,963 headings with an *ad valorem* tariff higher than zero were subject to 28 different rates (compared to 88 at the time of the previous Review), which ranged from 3% to 254%.<sup>42</sup> The tariffs most frequently occurring were: 15% (1,386 headings), 10% (1,354 headings), 5% (974 headings) and 20% (820 headings). Accordingly, 38.9% of all headings were subject to an above-zero rate, but of 20% or less, and only 2.6% had a tariff higher than 20% (Chart 3.3). The headings with the highest rates corresponded to agricultural products, including: pig fat, animal and plant fats and oils (254%); potatoes (245%); poultry meat and edible offal (234%); and fructose and fructose syrup (210%).

3.47. Irrespective of the sector (industry or agriculture), Table 3.3 shows that the average tariff fell for all categories of product, except as regards animals and products of animal origin. The average tariff on agricultural products fell from 23% in 2007 to 20.9% in 2012. The products with the largest average tariff reductions (in percentage points) were: sugar and confectionery; cereals and cereal preparations; cotton; and dairy produce. For industrial (or non-agricultural) products, the average tariff fell to less than half, from 9.9% to 4.6%. The industrial products with the largest tariff reductions were: clothing; leather, rubber, footwear and travel articles; transport equipment; and mineral and metal products.

<sup>41</sup> The majority of the headings for which tariffs were abolished had a tariff of 5%.

<sup>42</sup> The rates were: 3%; 5%; 7%; 9%; 10%; 15%; 20%; 25%; 30%; 36%; 45%; 50%; 63%; 67%; 72%; 109%; 115.2%; 120%; 123%; 125%; 125.1%; 140.4%; 156%; 158%; 210%; 234%; 245% and 254%.

**Chart 3.3 Breakdown of MFN rates, 2012**

a The total number of headings is 12,107.

Note: In the case of headings subject to quotas, only the out-of-quota tariffs applied are included. Of the 145 headings subject to a quota, 130 have an out-of-quota tariff, which is *ad valorem*. For headings with non-*ad valorem* tariffs, the AVEs have been calculated.

Source: WTO Secretariat calculations, based on data (HS07) provided by the authorities.

3.48. Despite these reductions, sugar and confectionery remained the agricultural products with the highest average tariff (63.3%), followed by animals and animal products (48.2%), and coffee and tea (42.5%). As regards industrial products, the highest average tariffs continued to apply to clothing (21.6%) and fish and fish products (16.8%).

3.49. Mexico abolished the seasonal tariff on sorghum, but still applies it to soya beans and safflower seeds. Under this type of tariff, imports of these two products enter Mexico duty-free, but only during a certain period of the year. Outside this period, a tariff of 15% applies to soya beans and 10% to safflower seeds.<sup>43</sup>

3.50. Table 3.3 also shows that tariff escalation remains biased. Tariffs on semi-processed products are on average (3%) lower than those on fully processed products (7.8%), while tariffs on raw materials (9.1%) are higher than those on semi-processed and fully processed products. This negative escalation not only leads to inconsistencies in Mexico's tariff structure but could ultimately have a negative impact on firms' competitiveness.

3.51. In 2011, earnings from import duties amounted to Mex\$26,881.2 million (US\$2,100 million), around 0.6% of the value of imports and 1.2% of the Federal Government's revenue that year. In 2007, the latter percentage was 1.9%.<sup>44</sup>

### 3.2.5.2 Tariff bindings

3.52. Mexico has bound all its tariff headings in the WTO. The levels of binding ranged from 0 to 254% depending on the product. In January 2012, the tariffs imposed by Mexico were lower than the corresponding bound rate, except in the case of sweetened or flavoured water (including mineral water and aerated water). These products (HS 2202.10.01) were subject to a compound tariff whose AVE (90.2%), as calculated by the Secretariat, was higher than the bound rate (67.5%).

<sup>43</sup> HS 2007 tariff headings: 1007.00.02 (sorghum), 1201.00.03 (soya beans) and 1207.99.07 (safflower seeds).

<sup>44</sup> Office of the President of the Republic (2012), Chapter 2.1 Financial policy for competitiveness.

### 3.2.5.3 Tariff concessions

3.53. Article 61 of the Customs Law lists the goods exempt from foreign trade taxes. This list includes: grants/donations; goods for own consumption imported by persons living in the border zone; goods to be used for national defence or public security; vehicles for international services<sup>45</sup>; household effects belonging to immigrants and repatriated or deported Mexican citizens, *inter alia*.

3.54. Temporary imports and imports under the strategic in-bond facility regime (Table 3.1) are not subject to tariffs or to compensatory duties ("*cuotas compensatorias*") (Articles 104 and 135-B of the Customs Law).<sup>46</sup>

3.55. Mexico grants tariff reductions or exemptions to companies or persons participating in PROSEC or IMMEX programmes. Under PROSEC programmes, imports of inputs to be used by any of the 24 industries covered are eligible for tariff reductions (see Chapter 3.4.1). Companies participating in the IMMEX programme receive tariff concessions for their temporary imports (see Chapter 3.3.4).

### 3.2.5.4 Preferential tariffs

3.56. During the period under review, Mexico continued to deepen its network of preferential agreements. The unilateral tariff reduction process that began in 2008, however, has to a certain extent narrowed the gap between MFN tariffs and preferential tariffs.

3.57. In July 2012, Mexico granted tariff preferences for imports from 51 countries, of which 44 were covered by FTAs (see Chapter 2). The preferential tariffs varied depending on the partner and the sector. In 2012, average tariffs ranged from 0 to 2.6% in the case of FTAs, and from 0.6 to 6.2% in the case of PSAs. To calculate this average rate, the lowest tariff between the MFN tariff and the preferential tariff was used for each product in order to reflect market access conditions as precisely as possible. Only preferential trade with the United States is entirely duty free (Table A3.1). In general, tariffs on agricultural products are markedly higher than those on other products.

### 3.2.5.5 Latest tariff modifications: the change in nomenclature from HS 2007 to HS 2012

3.58. The HS 2012 classification came into effect on 1 July 2012.<sup>47</sup> This new classification eliminates, creates and reorganizes several subheadings for products so the number of headings rose from 12,107 in January (HS 2007) to 12,264 in September 2012 (HS 2012) (Chart 3.4).<sup>48</sup> There were three other amendments during this period<sup>49</sup>, which reduced the number of headings by 128.<sup>50</sup> Despite this reduction, the average tariff rose slightly from 6.2% to 6.4%, attributable solely to the changes brought about by introduction of the HS 2012 nomenclature. For the sake of consistency, this report is based on the tariff at 1 January 2012, which uses the HS 2007, as this is the nomenclature used for preferential tariffs.

<sup>45</sup> Except for vehicles to be commercially operated, vehicles bought for use or consumption in Mexico and vehicles for consumption or use abroad.

<sup>46</sup> There are two main categories of temporary imports: those which enter Mexico for a limited time and a specific purpose, and then return abroad without transformation; and imports of goods to undergo processing, transformation or repair by companies with export programmes authorized by the SE.

<sup>47</sup> Decree amending the tariff schedule in the LIGIE; the miscellaneous provision amending various tariffs in the tariff schedule in the LIGIE; the miscellaneous provisions establishing the import regime in the northern border zone and the border region, and the miscellaneous provision establishing the general import tax for the border region and the northern border zone, published in the Official Journal of 29 June 2012. The Decision presenting the tables for correlation of TIGIE 2007 and TIGIE 2012 were published in the Official Journal on the same date. The HS 2012 classification (Fifth edition of the Harmonized Commodity Description and Coding System) came into force on 1 July 2012.

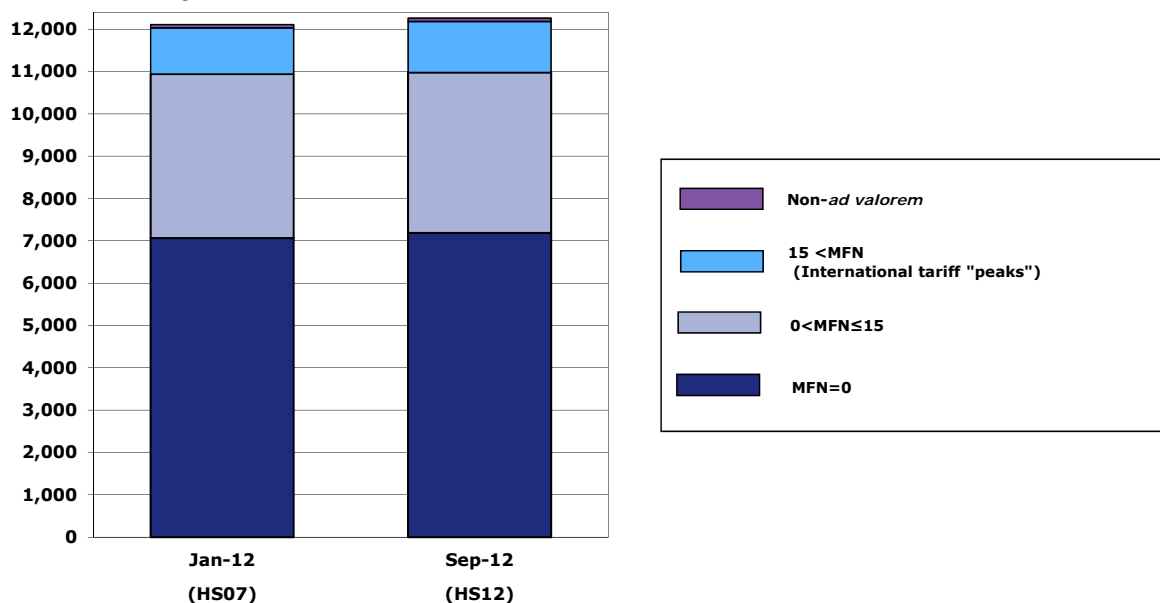
<sup>48</sup> In both cases, the total number of tariff headings covers Chapters 1 to 97 of the respective HS.

<sup>49</sup> These amendments were published in the Official Journals of 23 January 2012, 5 and 13 September 2012.

<sup>50</sup> This figure was calculated only taking into account the comparable headings in HS 2007 and HS 2012.

**Chart 3.4 Structure of MFN tariffs between January and September 2012, HS 07 and HS 12 nomenclatures**

No. of tariff headings



Source: WTO Secretariat.

### 3.2.6 Tariff quotas

3.59. Mexico applies WTO-type tariff quotas, but also unilateral and preferential quotas.

3.60. Within the WTO, Mexico applies quotas to 62 tariff headings, all relating to the agricultural sector (see Chapter 4). The products concerned are: cheese, coffee, meat and edible offal, animal fats, potatoes, beans, wheat, barley, maize, sugar and products with a high sugar content.

3.61. Mexico also has unilateral quotas for 95 tariff headings that cover both agricultural products and manufactures (Table 3.4). Of these headings, 13 are also subject to WTO-type quotas; this is the case for beans, coffee, barley, and dairy-produce-based preparations. For these products, the in-quota tariff is lower in the case of the unilateral quota. In 2011, the products for which the volume of imports exceeded the quotas specified were toys and roasted and ground coffee.

**Table 3.4 Unilateral tariff quotas applied by Mexico**

Tariff heading	In-quota tariff	Out-of-quota tariff	Quota available 2011	Quota imported 2011
<b>Ducks, geese or guinea-fowls</b> 0207.33.01	10	234%	200,000 kg	-
<b>Egmont cheese</b> 0406.90.06	20	45%	1,600,000 kg	-
<b>White, black and other beans, except for sowing</b> 0713.33.02 <sup>a</sup> ; 0713.33.03 <sup>a</sup> 0713.33.99 <sup>a</sup>	0 0	125.1% 125.1%	100,000,000 kg	-
<b>Roasted and ground coffee individual containers of a weight not exceeding 40 g</b> 0901.21.01 <sup>a</sup> ; 0901.22.01 <sup>a</sup> 0901.90.99 <sup>a</sup>	0 0	72% 72%	35,201 kg	277,926 kg
<b>Barley in grains, not hulled, except for sowing</b> 1003.00.02 <sup>a</sup> ; 1003.00.99 <sup>a</sup>	0	115.2%	3,000,000 kg	-
<b>Oats (other)</b> 1004.00.99	0	10%	140,000,000 kg	-
<b>Malt, whether or not roasted</b> 1107.10.01; 1107.20.01	0	158%	3,000,000 kg	2,749,035 kg

Tariff heading	In-quota tariff	Out-of-quota tariff	Quota available 2011	Quota imported 2011
<b>Carnauba wax</b> 1521.10.01	10	45%	250,000 kg	86,920 kg
<b>Sugar</b> 1701.11.01; 1701.11.02 1701.99.01; 1701.99.02 1701.99.99	0.014 US\$/kg 0.036 US\$/kg 0.036 US\$/kg	0.338 0.36 0.36	135,000,000 kg	117,883,906 kg
<b>Dairy-produce-based preparations</b> 1901.90.05 <sup>a</sup>	0	109%	44,200,000 kg	16,097,881 kg
<b>Instant coffee, not flavoured, coffee extract, other</b> 2101.11.01 <sup>a</sup> ; 2101.11.02 <sup>a</sup> 2101.11.99 <sup>a</sup> ; 2101.12.01 <sup>a</sup>	20	140.4% 140.4%	1,413,600 kg	28,871 kg
<b>Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya bean oil</b> 2304.00.01	0	15%	700,000 kg	-
<b>Articles for infants</b> 3924.90.99 3926.90.99 7013.37.99 8715.00.01 9401.80.01	0 0 0 0 0	15% 10% 15% 15% 10%	US\$22,350,470	US\$16,799,492
<b>Textured yarn of polyester textile</b> 5402.33.01	0	9%	15% of the volume produced annually in Mexico (kg)	-
<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; 8704.21.03; 8704.21.99 8704.31.03 8704.31.99	0 0 0 0 0 0 0 0 0 0	20% 20% 20% 20% 20% 20% 20% 50% 50%	253,218 units	16,999 units
<b>Used motor vehicles</b> 8703.21.02; 8703.22.02 8703.23.02; 8703.24.02 8703.31.02; 8703.32.02 8703.33.02; 8703.90.02	With the tariff applicable in accordance with the TIGIE or international trade treaties or agreements	50% 50% 50% 50%	100 units	21 units
<b>Toys</b> 9503.00.01-9503.00.06; 9503.00.07; 9503.00.08; 9503.00.09; 9503.00.10-9503.00.20; 9503.00.21; 9503.00.22-9503.00.24; 9503.00.26; 9503.00.99 9504.30.99; 9504.40.01 9504.90.01; 9504.90.02 9504.90.04; 9504.90.06 9504.90.99; 9505.90.99 9506.59.99; 9506.62.01 9506.69.99; 9506.70.01 9506.99.06; 9506.99.99	0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	15% 10% 5% 10% 15% 10% 15% 15% 15% 15% 15% 15% 15% 15% 15% 15%	US\$20,000,000	US\$75,958,648

a Tariff headings subject to a WTO-type quota. The in-quota tariff is lower for the unilateral quota than for the WTO-type quota.

Source: Data provided by the Mexican authorities.

3.62. Mexico has preferential quotas under its agreements with (number of tariff headings in brackets): Argentina (ECA 6) (131 headings), Brazil (ECA 53) (13 headings), Colombia (28 headings), Costa Rica (11 headings), Cuba (ECA 51) (289 headings),

El Salvador (7 headings), Guatemala (20 headings), Honduras (6 headings), Israel (20 headings), Japan (160 headings), Nicaragua (5 headings), Peru (47 headings), Uruguay (32 headings), the European Union (4 headings), Panama, Ecuador and Paraguay (PSA 14) (48 headings).

### 3.2.7 Other charges affecting imports

3.63. In addition to tariffs, the following are payable on imports, depending on the product or the customs regime: (a) DTA; (b) storage fee; (c) VAT; (d) IEPS; and (e) ISAN. The rates of these taxes were modified during the period under review. The VAT, IEPS and ISAN apply to both imported and domestic products.

3.64. The DTA is the charge payable for the customs procedure involving a customs declaration or similar document. In general, the rate is still 8 per mil of the customs value of the goods.<sup>51</sup> Other special taxes or amounts apply depending on the customs regime, the type of product or if it is necessary to rectify the customs declaration.<sup>52</sup> The import of goods exempt from payment of tariffs does not mean that they are exempt from the DTA, except for goods entering Mexico under trade agreements with: the Plurinational State of Bolivia, Canada, Chile, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the United States, provided that they comply with the relevant rules of origin.<sup>53</sup>

3.65. The storage fee is payable for the deposit of goods for import in customs in-bond facilities. Storage is free-of-charge for the first two days for goods entering by air or land and for the first five days for those coming by sea. Afterwards, the fees prescribed in Article 42 of the Federal Law on Duty apply and depend on the duration of storage and the specifications of the goods (for example, weight, volume, and special storage requirements, *inter alia*).<sup>54</sup> The rates are regularly updated. In September 2012, they were Mex\$9.65/day for the first 15 days, Mex\$18.82 for the subsequent 30 days and Mex\$30.49/day over and above this period.<sup>55</sup>

3.66. VAT is imposed on all imported goods (except household equipment and effects, donated goods, works of art, *inter alia*)<sup>56</sup> and is set at a rate of 16%, with the exception of the border zone or regions, where the rate is 11%. These rates are higher than in 2007, when they were 15% and 10%, respectively. The tax is applied on the total customs value of the goods and the amount of the relevant tariffs plus other import duties.<sup>57</sup>

3.67. The ISAN is paid on the sale or import of new automobiles. It comprises a fixed amount and an *ad valorem* rate and is calculated on the selling price of the vehicle to the final consumer.<sup>58</sup> For imports, the tax is calculated on the sum of the customs value, the amount of the tariffs and other import-related duties, excluding VAT.<sup>59</sup> The tax does not apply to vehicles imported duty free or covered by trade agreements signed by Mexico, provided that they meet the corresponding requirements.<sup>60</sup> Vehicles whose price is lower than Mex\$193,231.20 (US\$15,100) are also exempt

<sup>51</sup> Article 49 of the Federal Law on Duty, published in the Official Journal of 31 December 1981. The latest amendment was published in the Official Journal of 14 June 2012.

<sup>52</sup> For example, for temporary imports by maquila industries or companies with SE export programmes, as well as for machinery and equipment for production in in-bond facilities, the rate is 1.76 per mil of the goods' value. For other goods, provided that they are for production by companies with export programmes, a flat rate of Mex\$250 is payable (Article 49 of the Federal Law on Duty).

<sup>53</sup> Article 49 of the Federal Law on Duty and Rule 5.1.3 of the General Foreign Trade Rules for 2012.

<sup>54</sup> Article 41 of the Federal Law on Duty.

<sup>55</sup> These rates apply per 500 kg and are double for goods in crates or packaging of a volume exceeding 5 m<sup>3</sup>, hazardous goods, goods that require refrigeration, *inter alia* (Article 42 of the Federal Law on Duty).

<sup>56</sup> Article 25 of the Law on VAT and Annex 27 to the General Foreign Trade Rules for 2012. The Law on VAT was published in the Official Journal of 29 December 1978; the latest amendment was published on 7 December 2009.

<sup>57</sup> Article 27 of the Law on VAT.

<sup>58</sup> Article 3 of the Federal Law on the ISAN, published in the Official Journal in December 1996.

The latest amendment was published in the Official Journal of 27 December 2006. The latest update of the rates was published in the Official Journal of 5 January 2012. Five brackets of automobile prices are determined for the purpose of calculating the tax. It is composed of a specific amount that varies from Mex\$0 to Mex\$8,260.86 (US\$1,700) depending on the price bracket for the automobile, and an *ad valorem* rate that 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>59</sup> Article 2 of the Federal Law on the ISAN.

<sup>60</sup> Article 62 of the Customs Law and Article 8 of the Federal Law on the ISAN.

from this tax. Moreover, a 50% reduction on the amount of the tax applies to automobiles whose price is between Mex\$193,231.21 and Mex\$244,759.53 (US\$19,100). These limits are updated annually.<sup>61</sup>

3.68. In June 2012, the IEPS applied to seven different types of product, both domestic and imported, at rates that ranged from 20% to 160% of the product's value. Since the previous Review, Mexico has raised the rate of the IEPS on processed tobacco (cigars, cheroots, hand-rolled cheroots and other processed tobacco) and has included energizing drinks and their inputs in the group of products subject to the IEPS.<sup>62</sup>

3.69. The rates of the IEPS on processed tobacco ranged from 30.4% to 160% in June 2012, compared to 20.9% and 110% in December 2006.<sup>63</sup> Cigars are also subject to an additional tax which, in 2011, rose from Mex\$0.10 to Mex\$0.35 per cigar sold or imported.<sup>64</sup> In 2011, Mexico also imposed payment of the IEPS, at a rate of 25%, on energizing drinks and on concentrates, powders and syrups used to make them.<sup>65</sup> The application and rates for the other products subject to the IEPS are still the same as those indicated in the previous Report (rates between brackets): alcoholic beverages and beer (25% to 50%); alcohol, denatured alcohol and non-crystallized honey (50%). The IEPS rates for petroleum and diesel fuel are adjusted each month.

3.70. In general, importers pay these taxes when submitting the declaration to be processed by authorized offices and before the computerized selection mechanism is activated.<sup>66</sup> For domestic producers, there are different time-limits for paying the IEPS, VAT and ISAN.<sup>67</sup>

### 3.2.8 Import, restrictions and licensing

3.71. Mexico has a list of import prohibitions and goods subject to prior import permits. The list of products subject to this type of permit has changed since Mexico's previous Review: diamonds in the rough have been included, while some types of used vehicle have been removed. Import permits also apply to certain products imported under specific trade agreements.<sup>68</sup>

3.72. The use and determination of import restrictions and prohibitions is governed by the LCE and its implementing regulations.<sup>69</sup> Pursuant to Article 4 of this Law, the President is responsible for determining non-tariff measures to regulate or restrict the export, import, movement or transit of goods. These measures are implemented in the form of decisions issued by the SE, or jointly with the competent authority, and are published in the Official Journal. Before being issued, they are forwarded to the Foreign Trade Commission for an opinion, except in cases of emergency. The measures may be in the form of prior permits, maximum quotas, indication of the country of origin, certification, compensatory duties ("*cuotas compensatorias*") or other instruments deemed appropriate (Article 17 of the LCE).

3.73. Measures restricting imports may be determined: (a) temporarily to remedy imbalances in the balance of payments; (b) to regulate the entry of used goods, waste or goods with no substantial market in their country of origin; (c) in accordance with provisions in international treaties or conventions to which Mexico is party; (d) in response to restrictions on Mexican exports imposed unilaterally by other countries; (e) to prevent an inflow of goods subject to unfair trade practices; and (f) for national security, public health, plant or animal health or ecological

<sup>61</sup> Articles 1, 2, 3 and 8 of the Federal Law on the ISAN. The latest update of the rates was published in the Official Journal of 5 January 2012.

<sup>62</sup> Law on the IEPS, published in the Official Journal of 30 December 1980. The latest amendment was published in the Official Journal of 12 December 2011.

<sup>63</sup> Decree amending the Law on the IEPS, published in the Official Journal of 27 December 2006. The Decree came into force on 1 January 2007.

<sup>64</sup> Decree amending Article 2 of the Law on the IEPS, published in the Official Journal of 19 November 2010. The Decree came into force on 1 January 2011.

<sup>65</sup> Decree amending and adding various provisions to the Law on the IEPS, published in the Official Journal of 19 November 2010. The Decree came into force on 1 January 2011.

<sup>66</sup> Article 83 of the Customs Law.

<sup>67</sup> Articles 5 of the Law on the IEPS, 5-D of the Law on VAT and 4 of the Law on the ISAN.

<sup>68</sup> Mexico's latest notification in this respect was circulated on 18 January 2010, WTO document G/LIC/N/1/MEX/3.

<sup>69</sup> Articles 14 to 25 of the implementing regulations for the LCE, published in the Official Journal of 30 December 1993. The latest amendment was published in the Official Journal of 29 December 2000.

reasons (Article 16 of the LCE). As regards unfair practices, prior permit requirements may not be imposed, although other types of measure may be taken, including compensatory duties ("*cuotas compensatorias*"), which can only be imposed in such situations (Articles 17 and 22 of the LCE).<sup>70</sup>

3.74. Mexico's list of products that cannot be imported remains the same as at the time of the previous Review. It contains 22 tariff headings<sup>71</sup>, including organic chemicals and narcotics.

3.75. Mexico also has a prior import (and export) permit regime described in the 2007 Decision on goods subject to prior permits (hereinafter the Permits Decision).<sup>72</sup> At September 2012, Mexico required prior import permits for 40 tariff headings, including diamonds in the rough since June 2008.<sup>73</sup>

3.76. A prior import permit is also required for the import of machinery, inputs and components intended for sectoral promotion programmes (Table 3.5), but not included in the schedules for these programmes. Such goods are classified under the special operations heading while awaiting publication of the decree incorporating them into the corresponding PROSEC schedules. Import permits apply to all programmes (24 in all), with the exception of sectoral programmes for the food and fertilizer industries.

**Table 3.5 Products subject to a prior import permit issued by the SE, September 2012**

Product	Number of tariff headings	Scope
Petroleum products	13	Definitive import
Used tyres	2	Definitive import
Used clothing	1	Definitive import
Anti-pollution equipment and parts thereof	1	Definitive import
Equipment for research or technological development	1	Definitive import
Used vehicles	19	Definitive import
Diamonds in the rough	3	Definitive or temporary import, in-bond storage, processing, transformation or repair in in-bond facilities or strategic in-bond facilities
Goods for sectoral programmes under the special operations heading	24	Definitive or temporary import

Source: WTO Secretariat based on the Decision determining the classification and coding of goods whose import or export is subject to a prior permit issued by the SE, published in the Official Journal of 6 July 2007 (contained in Annex 2.2.1 to the SE Decision issuing General Rules and Criteria for Foreign Trade). The latest amendment was published in the Official Journal of 3 September 2012.

<sup>70</sup> Article 22 also indicates that prior permits cannot be used to restrict the export, import, movement or transit of goods in order to comply with provisions regarding Mexican official standards.

<sup>71</sup> The following HS tariff headings are concerned: 0301.9901; 1208.9003; 1209.9907; 1211.9002; 1302.1102; 1302.1902; 1302.3904; 2833.2903; 2903.5202; 2903.5903; 2910.9001; 2931.0005; 2939.1101; 3003.4001; 3003.4002; 3003.9005; 3004.4001; 3004.4002; 3004.9033; 4103.2002; 4908.9005 and 4911.9105. The subheading 2903.5905 in the HS 2002 classification has been replaced by the subheading 2903.5202 in the HS 2007, but the two subheadings refer to the same chemical product.

<sup>72</sup> Decision determining the classification and coding of goods whose import or export is subject to a prior permit issued by the SE, published in the Official Journal of 6 July 2007. The latest notification was published in the Official Journal of 3 September 2012. The Decision is contained in Annex 2.2.1 to the SE Decision issuing General Rules and Criteria for Foreign Trade. The text of the Decision can be viewed online at: <http://www.aduanas-mexico.com.mx/claa/ctar/leyes/anexo221.html>.

<sup>73</sup> The permit was introduced as part of the Kimberley Process Certification Scheme (KPCS) by means of the Fifth Amendment to the SE Decision issuing General Rules and Criteria for Foreign Trade, published in the Official Journal of 16 June 2008. On 6 November 2008, Mexico became a participant in the KPCS so it can only trade in diamonds in the rough with the other participants. WTO document G/LIC/N/1/MEX/3 of 18 January 2010.



3.77. In 2009, the permit requirement was lifted for 30 tariff headings relating to used vehicles; as a result, in June 2012 only 19 headings relating to automotive products remained subject to a prior import permit.<sup>74</sup>

3.78. Furthermore, since July 2011 under the NAFTA, the permit (and certificate of origin) requirement has been lifted for 17 tariff headings relating to eight- to ten-year old used vehicles assembled in Mexico, Canada or the United States.<sup>75</sup> Since 2009, the Permits Decision has included a timetable for the phasing out of the permit requirement for used vehicles from Canada and the United States (Article 6 *bis* of the Permits Decision).<sup>76</sup> According to this timetable, the process began in 2009 with the elimination of the permit requirement for certain types of used vehicle at least ten years old and will terminate on 1 January 2019, when no prior import permit will be required for any vehicle whose serial number corresponds to a vehicle manufactured or assembled in Mexico, the United States or Canada, irrespective of its age. Special criteria apply to used vehicles from the United States or Canada intended to remain permanently in Mexico's northern border zone.<sup>77</sup> In any event, since 2005 a permit has not been required to import certain types of used vehicle between ten and 15 years old.<sup>78</sup>

3.79. Mexico also requires a permit for the import of some products under certain trade agreements. In the course of revising the foreign trade regulations in April 2008, Mexico lifted the import permit requirement for sugar (four tariff headings)<sup>79</sup> from the United States under the NAFTA<sup>80</sup>, but maintained it for 32 products imported under PSAs (LAIA) with Argentina, Brazil, Cuba, Ecuador, Panama, Paraguay and Peru (Article 3 of the Permits Decision), as well as for eight agricultural products imported under the FTA with Chile and 25 under the FTA with Uruguay (Article 5 of the Permits Decision).

3.80. The SE is responsible for issuing prior permits for the export or import of goods (Article 21 of the LCE). The procedure for obtaining a prior permit can be conducted through the single window.<sup>81</sup> Permits are valid for one year and must be granted within not more than 15 working days from the application. After this period, it is considered that the permit has been granted.<sup>82</sup> In addition, specific products require an import permit from other Ministries, including: the Environment and Natural Resources (SEMARNAT); Health; Energy; National Defence; and Agriculture, Livestock, Rural Development, Fisheries and Food (SAGARPA).

### 3.2.9 Contingency measures

#### 3.2.9.1 Legal and institutional framework

3.81. The use and application of contingency measures (anti-dumping, countervailing and safeguard measures) are governed by: the LCE<sup>83</sup> and its implementing regulations<sup>84</sup>; and by the relevant WTO Agreements. At the bilateral level, the use and application of such measures are also governed by the trade agreements signed by Mexico. Virtually all its FTAs and PSAs contain provisions on the application of safeguards, while the provisions on countervailing and anti-dumping measures are mainly found in the FTAs.

<sup>74</sup> Tenth Amendment to the SE Decision issuing General Rules and Criteria for Foreign Trade, published in the Official Journal of 29 December 2008.

<sup>75</sup> Decree regulating the definitive import of used motor vehicles, published in the Official Journal of 1 July 2011. The Decree entered into force upon publication and will remain in effect until 31 January 2013.

<sup>76</sup> Tenth Amendment to the SE Decision issuing General Rules and Criteria for Foreign Trade, published in the Official Journal of 29 December 2008.

<sup>77</sup> Article 5 of the Decree regulating the definitive import of used motor vehicles, published in the Official Journal of 1 July 2011.

<sup>78</sup> Decree determining the criteria for the definitive import of used motor vehicles, published in the Official Journal of 22 August 2005.

<sup>79</sup> Tariff headings: 1702.40.99, 1702.60.01, 1702.60.02 and 1702.60.99.

<sup>80</sup> Sixth amendment to the SE Decision issuing General Rules and Criteria for Foreign Trade, published in the Official Journal of 11 April 2008.

<sup>81</sup> The procedure and the requirements were published in the Official Journal of 12 June 2012 in the Thirteenth Amendment to the SE Decision issuing General Rules and Criteria for Foreign Trade.

<sup>82</sup> Article 17 of the Permits Decision and Rule 2.2.6 of the SE Decision issuing General Rules and Criteria for Foreign Trade.

<sup>83</sup> Titles V-VII, which include Articles 28-89F.

<sup>84</sup> Titles IV-VIII, which include Articles 37-176.

3.82. The LCE's provisions on anti-dumping measures, countervailing duties and safeguards have been amended once since the previous Review. This was in 2006 with the objective of complying with the rulings of the Dispute Settlement Body in the dispute DS295 (Mexico - Anti-Dumping Measures on Rice). The amendment modified aspects relating to general procedures (Article 53), procedures specific to anti-dumping and countervailing measures ("*cuotas compensatorias*") (Articles 64, 65A and 68), special procedures (Article 89D), and violations and administrative penalties (Articles 93 and 97).<sup>85</sup>

3.83. At the administrative level, the SE's International Trade Practices Unit (UPCI) remains responsible for dumping, subsidies and safeguards investigations. It is in charge of conducting and completing such investigations, and for determining the necessary countervailing and anti-dumping measures. Another of the UPCI's responsibilities is to assist Mexican exporters affected by such measures adopted by other countries.

3.84. Over the period 2007-2010 (June), Mexico initiated 15 dumping investigations, three subsidies investigations and one safeguards investigation (Table 3.6). At 30 June 2012, Mexico had 38 anti-dumping measures in force. At the same date, it had not imposed any safeguard measure or countervailing duty.<sup>86</sup>

**Table 3.6 Investigations initiated by type of procedure, 2007-2012 (June)**

	Anti-Dumping	Subsidies	Safeguards
2007	3	0	0
2008	1	0	0
2009	2	0	0
2010	2	0	1
2011	6	3	0
2012 <sup>a</sup>	1	0	0
<b>Total</b>	<b>15</b>	<b>3</b>	<b>1</b>

a At 30 June.

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

3.85. In accordance with its multilateral commitments, Mexico has continued to submit half-yearly reports on the anti-dumping and countervailing measures adopted to the competent WTO Committees (see Table A2.1).<sup>87</sup>

### 3.2.9.2 Anti-dumping measures

3.86. Over the period 2007-2012 (June), Mexico made much less use of anti-dumping measures compared to previous years. Between 2007 and 2011, Mexico initiated 14 anti-dumping investigations, one third of them between 2002 and 2006, and only applied four new definitive measures, in other words, almost eight times fewer than between 2002 and 2006. During the first half of 2012, it only initiated one new investigation and applied one further definitive measure. The new investigations during the period 2007-2012 (June) mainly concerned products from China (ten cases), although there were also investigations into products from the United States (two cases), India (one case), Brazil (one case) and the United Kingdom (one case) (Table 3.7).

3.87. Of the 15 investigations initiated, eight cases were resolved during the review period; in six cases, the investigation is ongoing; and in one the request for an investigation was withdrawn. Of the cases resolved, five led to the imposition of a definitive anti-dumping measure. Of the cases still being investigated, preliminary resolutions were issued in four of them, three of these imposing a provisional measure.

<sup>85</sup> Decree amending, supplementing and repealing various provisions in the LCE, published on 21 December 2006.

<sup>86</sup> Statistics on the Mexican System of Trade Remedies. Online information from the Advisory Committee on International Trade Practices. Viewed at: <http://www.ccpci.economia.gob.mx/swb/es/upci/home> [June 2012].

<sup>87</sup> WTO documents in the series G/ADP/N/\*/MEX and G/SCM/N/\*/MEX.

3.88. According to the notification to the WTO, at 30 June 2012, Mexico had 38 definitive anti-dumping measures in force on imports from: China (12), the United States (7), the Russian Federation (4), Brazil (3), France (1), Japan (1), Kazakhstan (1), the United Kingdom (1), Romania (1), Ukraine (4), the Bolivarian Republic of Venezuela (1), Chile (1) and Korea (1). The measures mostly concerned the following: metal products; textiles, chemicals; plastics; agricultural and paper products.<sup>88</sup> This is just over half the number reported for the previous Review, when 70 measures were in force.

**Table 3.7 Anti-dumping investigations initiated between 2007 and June 2012 (in chronological order) and their outcome**

Exporting country	Product	Initiation of the investigation (decision published in the Official Journal)	Outcome of the anti-dumping investigation
China	Children's bicycles (8712.00.02 and 8712.00.04)	05/03/2012	<b>Investigation ongoing.</b>
Brazil	Bond paper (4802.56.01)	11/10/2011	<b>Investigation ongoing.</b>
China	Amoxicillin (2941.10.12)	12/07/2011	<b>Case abandoned</b> following the notification of withdrawal published in the Official Journal of 20 October 2011.
India	Amoxicillin (2941.10.12)	12/07/2011	<b>Preliminary resolution</b> published in the Official Journal of 8 June 2012 imposing a provisional anti-dumping duty ( <i>ad valorem</i> duty of 72.9%). <b>Investigation ongoing.</b>
China	Coaxial cables (8544.20.01, 8544.20.02 and 8544.20.99)	08/06/2011	<b>Preliminary resolution</b> published in the Official Journal of 30 December 2011 imposing provisional anti-dumping duties ( <i>ad valorem</i> duties of 312.85% and 343.42% depending on the exporter). <b>Investigation ongoing.</b>
United States	Monobutyl ether of ethylene glycol (2909.43.01)	11/03/2011	<b>Preliminary resolution</b> published in the Official Journal of 9 April 2012 imposing a provisional anti-dumping duty ( <i>ad valorem</i> duty of 37.91%). <b>Investigation ongoing.</b>
United States	Chicken legs and thighs (0207.13.03 and 0207.14.04)	08/02/2011	<b>Preliminary resolution</b> published in the Official Journal of 19 January 2012 on continuing the investigation without imposing provisional anti-dumping duties. <b>Investigation ongoing.</b>
China	Graphite electrodes for furnaces (8545.11.01)	01/09/2010	<b>Preliminary resolution</b> published in the Official Journal of 31 May 2011 imposing a provisional anti-dumping duty ( <i>ad valorem</i> duty of 23%). <b>Final resolution</b> published in the Official Journal of 1 March 2012 imposing definitive anti-dumping duties ( <i>ad valorem</i> duties of 38% and 250% depending on the exporter).
China	Denim fabric (5209.42.01, 5209.42.99, 5211.42.01 and 5211.42.99)	21/04/2010	<b>Preliminary resolution</b> published in the Official Journal of 28 December 2010 on continuing the investigation without imposing provisional anti-dumping duties. <b>Final resolution</b> published in the Official Journal of 21 October 2011 on conclusion of the investigation without imposing definitive anti-dumping duties.
China	Seamless steel tubing (7304.19.02, 7304.19.99, 7304.39.06 and 7304.39.99)	04/09/2009	<b>Preliminary resolution</b> published in the Official Journal of 25 May 2010 and the clarification published on 2 September 2010, imposing provisional anti-dumping duties using the lesser duty rule (specific duty corresponding to the difference between a reference price and the customs value). <sup>a</sup> <b>Final resolution</b> published in the Official Journal of 24 February 2011 on conclusion of the investigation and imposing anti-dumping duties using the lesser duty rule (specific duty corresponding to the difference between a reference price and the customs value). <sup>b</sup>

<sup>88</sup> WTO document G/ADP/N/223/MEX of 12 March 2012.

Exporting country	Product	Initiation of the investigation (decision published in the Official Journal)	Outcome of the anti-dumping investigation
China	Nuts of carbon steel, black or coated (7318.16.03 and 7318.16.04)	03/02/2009	<b>Preliminary resolution</b> published in the Official Journal of 5 March 2010 on continuing the investigation without imposing provisional anti-dumping duties. <b>Final resolution</b> published in the Official Journal of 2 August 2010 and the clarification published on 4 November 2010 on conclusion of the investigation and imposing a definitive anti-dumping duty ( <i>ad valorem</i> duty of 64%).
United Kingdom	Carbon steel tubing with longitudinal seams (7305.11.01)	18/07/2008	<b>Preliminary resolution</b> published in the Official Journal of 26 May 2009 imposing a provisional anti-dumping duty ( <i>ad valorem</i> duty of 8.42%). <b>Final resolution</b> published in the Official Journal of 5 January 2010 on conclusion of the investigation and imposing a definitive anti-dumping duty ( <i>ad valorem</i> duty of 5.91%).
China	Plastic atomizers and valves without caps (9616.10.01)	17/10/2007	<b>Preliminary resolution</b> published in the Official Journal of 17 December 2008 on continuing the investigation and imposing a provisional anti-dumping duty ( <i>ad valorem</i> duty of 114%) on plastic atomizers. No provisional anti-dumping duty was imposed on valves without caps. <b>Final resolution</b> published in the Official Journal of 21 April 2009 on conclusion of the investigation and imposing a definitive anti-dumping duty ( <i>ad valorem</i> duty of 86%) on plastic atomizers. No definitive anti-dumping duty was imposed on valves without caps.
China	Steel plate in sheets (7208.51.01, 7208.51.02, 7208.51.03 and 7208.52.01)	26/03/2007	<b>Preliminary resolution</b> published in the Official Journal of 24 March 2008 imposing a provisional anti-dumping duty ( <i>ad valorem</i> duty of 29.27%). <b>Final resolution</b> published in the Official Journal of 6 October 2008 on conclusion of the investigation without imposing definitive anti-dumping duties.
China	Door knob locks (8301.40.01)	29/01/2007	<b>Final resolution</b> published in the Official Journal of 14 October 2008 (without any preliminary resolution) on conclusion of the investigation without imposing definitive anti-dumping duties and eliminating the duties imposed by the 1995 Resolution.

- a For imports of seamless steel tubing whose price is lower than the reference price of US\$1,561/tonne, an anti-dumping duty corresponding to the difference between the export price and the reference price is applied. The amount of the anti-dumping duty determined in this manner must not exceed 36% *ad valorem* of the customs value.
- b For imports of seamless steel tubing whose price is lower than the reference price of US\$1,772/tonne, an anti-dumping duty corresponding to the difference between this reference price and the customs value of the goods imported in dollars is applied, multiplied by the number of metric tonnes in the shipment covered by each import declaration. The amount of the anti-dumping duty determined in this manner must not exceed 56% *ad valorem* of the customs value.

Source: WTO Secretariat based on information in the UPCI's international trade practices information system.

### 3.2.9.3 Countervailing measures

3.89. Over the period 2007 to 2012 (June), Mexico initiated three subsidies investigations into imports of antibiotics from India and China. The first investigation was initiated in February 2011 and concerned subsidies affecting imports of dicloxacillin from India.<sup>89</sup> The two other investigations were initiated in July 2011 and related to subsidies affecting imports of amoxicillin from India and China.<sup>90</sup> In October of the same year, the request for an investigation into imports of amoxicillin

<sup>89</sup> The resolution declaring the initiation of an anti-subsidy investigation into imports of dicloxacillin sodium (heading 2941.10.08) originating in India was published in the Official Journal of 24 February 2011.

<sup>90</sup> The resolution declaring the initiation of an anti-dumping and anti-subsidy investigation into imports of amoxicillin trihydrate (heading 2941.10.12) originating in China and India was published in the Official Journal of 12 July 2011.

from China was withdrawn.<sup>91</sup> In April and June 2012, the preliminary resolutions in the investigations into dicloxacillin and amoxicillin were published. In both investigations, provisional (*ad valorem*) countervailing duties were imposed.<sup>92</sup>

3.90. According to Mexico's notification to the WTO, it did not have any definitive countervailing measure in force at 30 June 2012.

#### 3.2.9.4 Safeguard measures

3.91. Over the period 2007 to 2012 (June), Mexico initiated only one investigation for safeguard reasons, concerning imports of certain steel pipes and tubes<sup>93</sup> from India, China, Japan, Iraq, the Democratic People's Republic of Korea and the Russian Federation. The investigation was initiated in 2010 and concluded in 2012 without the imposition of any safeguard measure.<sup>94</sup>

3.92. Mexico continues to reserve the possibility of utilizing the special safeguard measure provided in the Agreement on Agriculture in respect of 293 (four-digit) tariff headings<sup>95</sup>, but did not apply it to any during the period under review.

3.93. The Decision regulating the application of transitional safeguard measures for specific products originating in China remains in effect until December 2013.<sup>96</sup>

3.94. Several of Mexico's trade agreements also include provisions on the use of bilateral safeguards, for example, those with the United States, Canada, Japan and Peru. The authorities have indicated that, at 30 June 2012, Mexico had not made use of these safeguard measures.

#### 3.2.10 Technical regulations and standards

##### 3.2.10.1 Legal and institutional framework

3.95. Mexico's standardization system (drafting and implementation of standards), as well as conformity assessment matters, are governed by the Federal Law on Metrology and Standardization (LFMN)<sup>97</sup> and its implementing regulations<sup>98</sup>; by the Decision on NOMs<sup>99</sup>; and by the WTO Agreement on Technical Barriers to Trade (TBT Agreement).

3.96. The main administrative bodies concerned are still the Directorate-General of Standards (DGN) and the National Standardization Commission (CNN). Both bodies work under the SE.

<sup>91</sup> Notification of withdrawal declaring the conclusion of the anti-dumping and anti-subsidy investigation into imports of amoxicillin trihydrate (heading 2941.10.12) originating in China was published in the Official Journal of 20 October 2011.

<sup>92</sup> The preliminary resolution in the anti-dumping and anti-subsidy investigation into imports of amoxicillin trihydrate originating in India was published in the Official Journal of 8 June 2012. The preliminary resolution in the anti-subsidy investigation into imports of dicloxacillin sodium from India was published in the Official Journal of 2 April 2012.

<sup>93</sup> Resolution accepting the request from an interested party and declaring the initiation of a safeguards investigation into imports of spiral-welded steel pipes (heading 7305.19.01), published in the Official Journal of 2 July 2010.

<sup>94</sup> The Resolution declaring the initiation of a safeguards investigation into imports of spiral-welded steel pipes (heading 7305.19.01) was published in the Official Journal of 28 March 2012.

<sup>95</sup> WTO document G/AG/NG/S/9/Rev.1 of 19 February 2002.

<sup>96</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>97</sup> Published in the Official Journal of 1 July 1992 and last amended on 9 April 2012.

<sup>98</sup> Published in the Official Journal of 14 January 1999.

<sup>99</sup> Also known as the Decision identifying tariff headings in the tariff schedule in the LGIE classifying goods subject to compliance with NOMs upon entry into and exit from Mexico. This Decision was published in the Official Journal of 6 July 2007 and has been amended 13 times. The latest amendment was published in the Official Journal of 3 September 2012; the other amendments were published on 3 September 2007; 1 April and 8 May 2009; 26 March, 17 August, 11 November and 28 December 2010; 18 March, 26 August, 20 October, 21 December 2011; and 12 June 2012. This Decision can also be found in Annex 2.4.1 to the SE's Decision issuing General Rules and Criteria for Foreign Trade and can be viewed at: <http://www.aduanas-mexico.com.mx/claa/ctar/leyes/anexo241.html>.

- **The DGN** is responsible for applying the LFMN and its implementing regulations and for coordinating the standardization, conformity assessment, accreditation and verification system. It also has the task of preparing, issuing, amending and annulling Mexican standards (NMXs) and NOMs. The DGN acts as the Technical Secretariat for the CNN and coordinates its collaborating bodies.<sup>100</sup> It is also the enquiry point for the TBT Agreement.<sup>101</sup>
- **The CNN** is responsible for coordinating standardization policy and for action by the departments of the Federal public administration involved in standardization.<sup>102</sup> It is also in charge of approving the National Standardization Programme (PNN) published annually in the Official Journal<sup>103</sup>, which lists all the proposals for NOMs, NMXs and reference standards (NRs) each year.

3.97. Mexico's standardization system comprises three types of standard:

- **Technical regulations** (called NOMs in Mexico). These are mandatory and their purpose, *inter alia*, is to determine the features or specifications to be met by products, services or production processes in order to guarantee the safety of persons, human, animal and plant health, and to conserve natural resources and the environment (Article 40 of the LFMN).<sup>104</sup> In addition to technical regulations, the list of NOMs includes sanitary, and plant and animal health measures (see Chapter 3.2.11). NOMs are only issued by Government agencies.
- **Standards** (termed NMXs in Mexico). These are voluntary, except in those cases specified in the legislation, and are prepared by a private national standardization body or the DGN. The NMXs determine the quality specifications for products and services in order to protect and guide consumers. These standards may under no circumstances contain specifications that are less stringent than those determined in the NOMs (Articles 51A and 54 of the LFMN).
- **Reference standards** (NRs). These are drawn up by Federal public administration departments to be applied to the goods or services they procure, lease or commission if the NMXs or international standards do not meet their requirements or their specifications are deemed to be obsolete or inapplicable. The public administration departments which issue NRs include Petroléos Mexicanos (PEMEX) and the Federal Electricity Commission (CFE) (Article 67 of the LFMN).

3.98. The DGN keeps two catalogues, one for NOMs and another for NMXs.<sup>105</sup> The list of NRs in effect can be viewed on the website of PEMEX and the CFE.<sup>106</sup>

### 3.2.10.2 Technical regulations

3.99. There has been no change to the procedure for preparing, issuing or revising NOMs since the previous Review. To issue a NOM, the Ministries (of the Federal Government) draw up a preliminary draft NOM, previously listed in the PNN or in the supplement thereto. This preliminary draft is submitted to the Federal Regulatory Improvement Commission, accompanied by a

<sup>100</sup> Section 1.2.2 of the Manual on the general organization of the SE, published in the Official Journal of 8 July 2011.

<sup>101</sup> WTO document G/TBT/2/Add.14 of 19 July 1996.

<sup>102</sup> Articles 58 and 60 of the LFMN.

<sup>103</sup> The latest PNN was published in the Official Journal of 13 April 2012.

<sup>104</sup> The NOMs' other objectives include determining the commercial, health, quality, safety and hygiene information and the requirements concerning information for consumers or users to be included on labels, containers, packaging and advertising for products and services, together with the specifications and/or procedures relating to the containers and packaging.

<sup>105</sup> The NOMs catalogue can be viewed at: <http://www.economia-noms.gob.mx/noms/inicio.do>; the NMXs catalogue can be viewed at: <http://www.economia-nmx.gob.mx/normasmx/index.nmx>. Both these catalogues were viewed in August 2012.

<sup>106</sup> The NRs issued by PEMEX can be viewed at: <http://www.pemex.com/index.cfm?action=content&sectionID=5&catID=254&contentID=25875> and <http://www.pemex.com/index.cfm?action=content&sectionID=5&catID=254&contentID=25884>. Those issued by the CFE can be viewed at: <http://lapem.cfe.gob.mx/normas>.

regulatory impact assessment (MIR)<sup>107</sup>, and simultaneously to the competent National Advisory Committee on Standardization (CCNN) so that it can draw up the final draft standard.<sup>108</sup> Once the draft has been finalized, it is published in the Official Journal for public consultation over a period of 60 days; it is notified to the WTO<sup>109</sup> and to those countries with which Mexico has a bilateral notification commitment. At the expiry of this period, the CCNN examines the comments received and amends the draft within a period of 45 days. The responses to comments and the amendments are also published in the Official Journal. When the final text of the draft NOM has been approved by the CCNN, it is published in the Official Journal (Articles 44-47 of the LFMN).

3.100. NOMs have to be reviewed every five years as of their entry into force. The outcome of this review must be notified to the CNN's Technical Secretariat. 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). In cases of emergency, the competent agency may draw up a NOM directly, without the need for a preliminary draft or a draft.<sup>110</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).

3.101. Over the period 2007 to 2012 (October), Mexico published 217 NOMs and 212 draft NOMs in the Official Journal; at 15 October 2012, 777 NOMs were in force.<sup>111</sup> The Ministries which issued the largest number of NOMs during this period were the Ministry of Health (54 in all), the Ministry of Communications and Transport (42) and the Ministry of Energy (33) (Chart 3.5).

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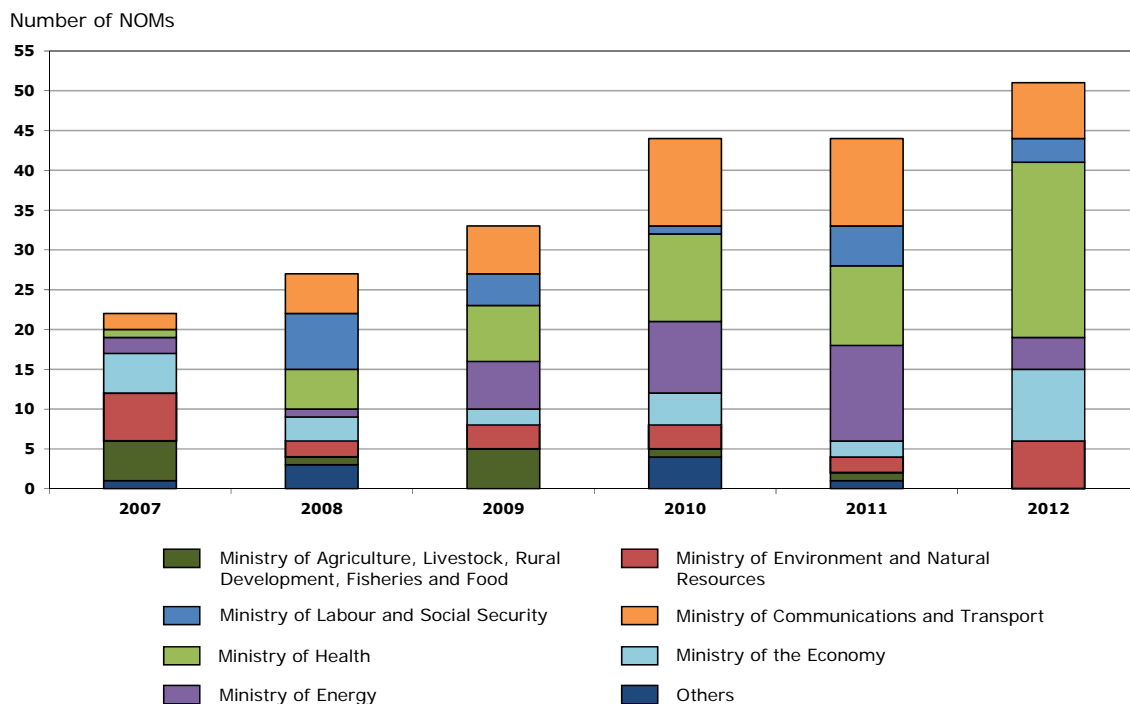
<sup>107</sup> MIRs include a description of the standard, its special features, its advantages and disadvantages and its cost/benefit in monetary terms (Article 31 of the implementing Regulations for the LFMN).

<sup>108</sup> The Advisory Committee is composed of persons and organizations from the public and private sectors (Article 62 of the LFMN).

<sup>109</sup> WTO documents G/TBT/N/MEX/\*.

<sup>110</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).

<sup>111</sup> Mexico also had three emergency NOMs in force: NOM-EM-003-SECRE-2012; NOM-EM-001-SSA1-2012 and NOM-EM-003-SSA2-2008. The former concerns systems for storing liquefied petroleum gas in a deposit or supply facility directly linked to transport or distribution networks. NOM-EM-001-SSA1-2012 concerns requirements for the sanitary control of biopharmaceuticals and biotechnology medicines; and NOM-EM-003-SSA2-2008 covers general monitoring, prevention, protection and control aspects applicable to the six diseases listed and specific aspects of each of them. Information provided by the authorities and catalogue of NOMs.

**Chart 3.5 Mexican Official Standards by Ministry, 2007-2012 (October)**

Source: Catalogue of Official Mexican Standards.

3.102. Over the same period (January 2007 to 15 October 2012), Mexico notified a total of 123 technical regulations<sup>112</sup> to the WTO's TBT Committee, of which three concerned emergency measures and two draft conformity assessment procedures.<sup>113</sup>

3.103. The requirements for importing medicines remain the same as those reported for the previous Review, except as regards sanitary registration of the imported product. In order to import medicines into Mexico, importers must comply with the following: (a) be domiciled in Mexico or have a legal representative there; (b) possess a sanitary import permit (issued by the Ministry of Health); and (c) obtain sanitary registration for the imported product.<sup>114</sup> Until 2008, both Mexican and foreign manufacturers had to have a plant or laboratory in Mexico in order to obtain sanitary registration.<sup>115</sup> This requirement has subsequently been lifted gradually (depending on the type of medicine) for foreign manufacturers, which may obtain sanitary registration if they are in possession of a licence, certificate or document attesting that the company has a permit to manufacture medicines, issued by the competent authority in the country of origin.

### 3.2.10.3 Conformity assessment and certification

3.104. Under Mexican law, all domestic or imported products must comply with the relevant technical regulations (Articles 52 and 53 of the LFMN and Article 26 of the LCE).

3.105. To import a product subject to a NOM and in order to prove compliance, a NOM certificate or authorization issued by the competent agency or an accredited certification body has to be obtained (Article 53 of the LFMN). This certificate (a copy or the original) must be attached to the import declaration (Article 36 of the Customs Law). The list of products subject to compliance with

<sup>112</sup> This figure does not include the addendums, corrigendums or supplements to the notifications submitted. A total of 185 documents was submitted over the period January 2007 to 15 October 2012 according to the WTO's TBT Information Management System, <http://tbtime.wto.org/Default.aspx?Lang=1>.

<sup>113</sup> Notifications of these two drafts can be found in WTO documents G/TBT/N/MEX/124 and G/TBT/N/MEX/125 of 8 June 2007.

<sup>114</sup> Articles 204, 295 and 285 of the General Law on Health and 131 of the Regulations on Health-Related Inputs.

<sup>115</sup> Decree amending Articles 168 and 170 of the Regulations on Health-Related Inputs, published in the Official Journal of 5 August 2008.



a NOM issued by the SE contains 3,846 tariff headings (Decision on NOMs). These NOMs are of various types: product standards; standards for commercial information to be included on labels; metrological standards; business practice standards; and appellation of origin standards.

3.106. Conformity assessment for a NOM<sup>116</sup> and the issue of certificates are the responsibility of the competent agencies or private accredited bodies. The latter may be certification bodies, verification units or testing or calibration laboratories (Articles 53 and 68 of the LFMN). To be able to operate, these bodies must be accredited by the Mexican Accreditation Entity (EMA)<sup>117</sup> and approved by the competent agency (Articles 68 and 69 of the LFMN).<sup>118</sup> According to the authorities, in October 2012, Mexico had 121 certification bodies, 1,054 testing laboratories, 436 calibration laboratories, 1,472 verification units and two verification/validation bodies for the emission of greenhouse gases.

3.107. In order to obtain a NOM certificate, an importer has to send samples to an accredited laboratory and, if it is found that the product complies with the NOM, the competent agency or private accredited certification body issues the certificate in the name of the importer. For NOMs that are the responsibility of the SE, the certificate is issued by the DGN if there is no certification body for the product.<sup>119</sup> If there is no NOM, the competent agencies may require that the products to be imported indicate the international specifications with which they comply, those of the country of origin or, in their absence, those of the manufacturer (Article 53 of the LFMN).

3.108. NOMs subject to commercial information requirements do not have to be certified. This means that the importer is responsible for ensuring that the products meet the requirements laid down in this type of standard, except where there is a high sanitary, plant or animal health, ecological, nutritional, safety or consumer protection risk. In such cases, the competent agency may require a laboratory analysis in order to ascertain the veracity of the information specified on the product (Article 50 of the implementing regulations for the LFMN).

3.109. Conformity assessment procedures may be general or specific to a standard. They are still drawn up by the competent Ministries, following consultation with interested parties and in accordance with the LFMN, its implementing regulations and international guidelines (Articles 73 of the LFMN and 80 of its implementing regulations). Once they have been finalized, the procedures are published in the Official Journal, first for public consultation (unless they are included in the corresponding NOM) and then in a final version. The general conformity assessment guidelines issued by the SE were published in 1997 and were last amended in 2004.<sup>120</sup>

3.110. Mexico has mutual recognition agreements (MRAs) on:

- **Accredited assessment bodies.** Mexico has, for example, agreements with certain bodies in the United States (three) and Canada (three) for electrical and electronic products, and the safety of data-processing equipment under which Mexican bodies recognize the results of their conformity assessment.<sup>121</sup> There are also MRAs with

<sup>116</sup> Conformity assessment is aimed at determining the degree of compliance with NOMs or conformity with NMXs, international standards or other specifications. Assessment procedures include sampling, testing, calibration, certification and verification (follow-up visits).

<sup>117</sup> A private self-governing body.

<sup>118</sup> The authorities have indicated that the Mexican Government remains jointly responsible for accreditation as it maintains approval for official purposes.

<sup>119</sup> Article 1 of the Policies and procedures for conformity assessment. Procedures for certification and verification of products subject to compliance with NOMs for which the SE is responsible, published in the Official Journal of 24 October 1997. The latest amendment was published in the Official Journal of 27 July 2004. For NOMs that are the responsibility of the SE, the certificates are issued by product or by category, by type or model and are only granted to Mexican importers, manufacturers and traders and nationals of other countries with which the Mexican Government has signed a free trade agreement or treaty. The NOM certificate is only valid for the holder, but the DGN or the relevant certification body may be requested to broaden it (Article 6 of the Policies and procedures for conformity assessment. Procedures for certification and verification of products subject to compliance with NOMs for which the SE is responsible).

<sup>120</sup> The "Policies and procedures for conformity assessment; Procedures for certification and verification of products subject to compliance with NOMs for which the SE is responsible" were published on 24 October 1997; the latest amendment was published in the Official Journal of 27 July 2004.

<sup>121</sup> Article 5 of the Decision on NOMs.

institutions in Colombia; China; Hong Kong, China; Thailand; the Netherlands; Norway and Singapore.<sup>122</sup>

- **Accreditation bodies.** The EMA has MRAs through: (a) International Laboratory Accreditation Cooperation (ILAC) for the accreditation of calibration and testing laboratories; and (b) Asia-Pacific Laboratory Accreditation Cooperation (APLAC) for the accreditation of verification units and testing, calibration and clinical laboratories. The EMA also has MRAs with: (a) the International Accreditation Forum (IAF) for the accreditation of certification bodies for quality management, environmental management and product certification systems; (b) Pacific Accreditation Cooperation (PAC) for the accreditation of certification bodies for quality management, environmental management and product certification systems; and (c) InterAmerican Accreditation Cooperation (IAAC) for the certification of quality management systems, the accreditation of product certification bodies and environmental management systems (since 2008), the accreditation of testing, calibration and clinical laboratories (since 2009) and the accreditation of verification units (since 2010).<sup>123</sup>
- **Governments.** Mexico has MRAs with the Governments of the United States (since 2011) and Canada (since 2012) on conformity assessment of telecommunications equipment.<sup>124</sup>

3.111. Mexico also has equivalence agreements with the United States and Canada on the certification of three NOMs concerning electronic appliances and data processing equipment.<sup>125</sup> Under these agreements, Mexico accepts in place of the NOM certificate the documents or certificates proving compliance with the technical regulations or standards of these two countries, provided that they have been issued by accredited certification bodies in these countries.

#### 3.2.10.4 Labelling and marking

3.112. Pursuant to the Official Mexican Standard of 2004 on General Labelling of Products (NOM-050-CFI-2004), 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.<sup>126</sup> This requirement applies to all products, with the exception of: (a) products subject to commercial information provisions contained in other NOMs or regulations; (b) products in bulk; (c) live animals; (d) books and other publications, magnetic and compact disks, tapes and similar articles, and other audiovisual 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. The Decision on NOMs contains a list of 824 tariff headings to which the provisions on information on instructions, operating manuals and guarantees contained in the relevant NOM do not apply.

3.113. Some agricultural products and manufactures are also subject to NOMs with special requirements on the commercial or sanitary information that must appear on their labels or packaging (see Table 3.8). The products with the largest number of tariff headings subject to a

<sup>122</sup> Information provided by the authorities.

<sup>123</sup> Online information from the EMA (July 2012). Viewed at: [http://www.ema.org.mx/ema/ema/index.php?option=com\\_content&task=blogcategory&id=106&Itemid=129](http://www.ema.org.mx/ema/ema/index.php?option=com_content&task=blogcategory&id=106&Itemid=129).

<sup>124</sup> Mutual Recognition Agreement between the Government of the United Mexican States and the Government of Canada on Conformity Assessment of Telecommunications Equipment, published in the Official Journal of 28 May 2012; and Mutual Recognition Agreement between the Government of the United Mexican States and the Government of the United States of America on Conformity Assessment of Telecommunications Equipment, published on 28 July 2011.

<sup>125</sup> The NOMs are: (a) NOM-001-SCFI-1993, Electronic appliances - electronic equipment for household use powered by different sources of electric power - safety requirements and testing methods for approving the model; (b) NOM-016-SCFI-1993, Electronic appliances - electronic equipment for office use powered by different sources of electric power - safety requirements and testing methods; and (c) NOM-019-SCFI-1998, Safety of data processing equipment. The three decisions accepting as equivalents NOM-001-SCFI-1993, NOM-016-SCFI-1993, NOM-019-SCFI-1998 and the results of the conformity assessment, the technical regulations and conformity assessment procedures in the United States of America and Canada were published in the Official Journal of 17 August 2010.

<sup>126</sup> NOM-050-SCFI-2004, Commercial information - general labelling of products, published in the Official Journal of 1 June 2004.

special NOM are: (a) textiles, clothing and household linen; (b) electronic, electrical and household electrical appliances; (c) pre-packaged food and non-alcoholic beverages; and (d) toys.

**Table 3.8 Products subject to a special NOM on commercial or sanitary information requirements for labelling and packaging**

Product	Number of tariff headings (8 digits)	Official standard	Publication in the Official Journal
Textiles, clothing and their accessories, and household linen	1,191	NOM-004-SCFI-2006	21/06/2006
Products in general	824	NOM-050-SCFI-2004	01/06/2004
Electronic, electrical and household electrical appliances	396	NOM-024-SCFI-1998	15/01/1999
Pre-packaged food and non-alcoholic beverages	376	NOM-051-SCFI/SSA1-2010	05/04/2010
Toys	293	NOM-015-SCFI-2007	17/04/2008
Leather articles, natural tanned hides and synthetic or artificial materials of the same appearance	124	NOM-020-SCFI-1997	27/04/1998
Alcoholic beverages	28	NOM-142-SSA1-1995	09/07/1997
Paints, colours, varnishes, lacquers and enamels	26	NOM-003-SSA1-2006	04/08/2008
Pre-packaged perfumery and cosmetic products	18	NOM-141-SSA1-1995	18/07/1997
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	08/12/1994
Lubricating oils for petrol or diesel engines	3	NOM-116-SCFI-1997	04/05/1998

Source: WTO Secretariat based on the Decision identifying tariff headings of the tariff schedule in the LGIE classifying goods subject to compliance with NOMs upon entry into and exit from Mexico (Article 3), published on 6 July 2007. The latest amendment was published in the Official Journal of 3 September 2012. This Decision is contained in Annex 2.4.1 (NOMs Decision) to the SE Decision issuing General Rules and Criteria for Foreign Trade.

3.114. Since the previous Review, the major change as regards labelling has been for pre-packaged food and non-alcoholic beverages. In January 2011, the information to be included on labels was amended<sup>127</sup>; labels must now indicate, *inter alia*, nutritional information, the list of ingredients or additives that cause hypersensitivity and the date of expiry or the date to be consumed by. Since then, the requirement for a Spanish translation of ingredients that can be expressed in the International Nomenclature of Cosmetic Ingredients (INCI) has no longer applied to perfumery and cosmetics products.<sup>128</sup> In September 2012, the requirements on commercial information for grapes, avocados and mangoes were lifted.<sup>129</sup>

<sup>127</sup> In January 2011, standard NOM-051-SCFI-1994, which governed the requirements, was replaced by standard NOM-051-SCFI/SSA1-2010. The latter, on general specifications for the labelling of pre-packaged food and non-alcoholic beverages and on the commercial and sanitary information, published in the Official Journal of 5 April 2010, replaced standard NOM-051-SCFI-1994, published in the Official Journal of 24 January 1996. NOM-051-SCFI/SSA1-2010 came into force on 1 January 2011. For the purposes of verification and monitoring compliance with the specifications on commercial information, application of the standard was extended until 1 June 2011 for certain products (Notification of extension, for the purposes of verification and monitoring, of the application of Mexican Official Standard NOM-051-SCFI/SSA1-2010 [...], concerning product-specific NOMs, issued by the SE, published in the Official Journal of 13 December 2010).

<sup>128</sup> "Decree amending the third paragraph of Article 25 and adding an Article 196 *bis* to the Regulations for Sanitary Control of Products and Services", published in the Official Journal of 26 January 2011. These Regulations were published in the Official Journal of 9 August 1999. The latest amendment was published on 9 October 2012. The Mexican authorities have indicated that the purpose of this amendment is harmonization with relevant international practices.

<sup>129</sup> Thirteenth Amendment to the SE Decision issuing General Rules and Criteria for Foreign Trade published on 6 July 2012, published in the Official Journal of 3 September 2012.

### 3.2.10.5 Standards

3.115. There has been no change to the procedure for preparing NMXs since the previous Review. As in the case of NOMs, NMXs must be included in the PNN, and based on international standards (unless these are inappropriate) and on consensus among the sectors participating in the advisory committee. NMXs must be published by means of a notification in the Official Journal so that the public may consult them for a minimum period of 60 days before the final version of the NMX is published. The review, updating or annulment of NMXs follows the same procedure as their preparation. Like NOMs, NMXs must be reviewed or updated within five years of their entry into force (Article 51-A of the LFMN). If the outcome of the review or updating is not notified to the CNN, the latter orders annulment of the standard. The SE, either ex officio or at the request of another agency, may also issue an NMX if the subject matter is not covered by national standardization bodies or if the standards they have issued do not reflect the interests of the sectors concerned.

3.116. At October 2012, 4,414 NMXs were in force and there were 494 draft standards. The standards mainly applied to the electricity, iron and steel, automotive and textiles sectors, *inter alia*.<sup>130</sup>

### 3.2.11 Sanitary and phytosanitary measures

#### 3.2.11.1 Legal and institutional framework

3.117. The drafting and implementation of sanitary and phytosanitary measures are governed by several laws and decisions at the national level (see Table 3.9), and by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). Pursuant to the SPS Agreement, Mexico has notified that the SE's DGN is its enquiry/notification point.

**Table 3.9 Principal laws and decisions composing Mexico's legal framework for sanitary and phytosanitary measures**

Legislation	Publication in the Official Journal	Latest amendment published in the Official Journal
<b>General legislation</b>		
<ul style="list-style-type: none"> <li>▪ Federal Law on Metrology and Standardization (LFMN)</li> <li>▪ Implementing regulations for the Federal Law on Metrology and Standardization</li> <li>▪ General Law on Health</li> <li>▪ Federal Plant Health Law</li> <li>▪ Federal Animal Health Law</li> <li>▪ Implementing regulations for the Federal Animal Health Law</li> <li>▪ General Law on Sustainable Forestry Development (LGDFS)</li> </ul>	1 January 1992 14 January 1999  7 February 1984 5 January 1994 25 July 2007 21 May 2012 25 February 2003	9 April 2012 -  7 June 2012 16 November 2011 7 June 2012 - 4 June 2012
<b>Decisions determining the tariff headings subject to regulation</b>		
<ul style="list-style-type: none"> <li>▪ Decision on the import of goods subject to regulation by SAGARPA through the National Health, Food Safety and Agrifood Food Quality Service.<sup>a</sup></li> <li>▪ Decision determining the classification and coding of goods whose import is subject to regulation by the Ministry of the Environment and Natural Resources.</li> <li>▪ Decision determining 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.</li> <li>▪ Decision determining the classification and coding of goods whose import or export are subject to regulation by the agencies composing the Interministerial Commission on control of the processing and use of pesticides, fertilizers and toxic substances .</li> </ul>	3 September 2012  30 June 2007  27 September 2007  26 May 2008	-  27 August 2010  23 March 2012  19 August 2010

<sup>130</sup> Information provided by the authorities.

Legislation	Publication in the Official Journal	Latest amendment published in the Official Journal
<b>Decisions determining the means for consultation of requirements</b> <ul style="list-style-type: none"> <li>▪ Decision establishing the module for health requirements for the import of aquatic species, their products and byproducts, and biological, chemical, pharmaceutical or food products for use or consumption by such species.</li> <li>▪ Decision determining the module for phytosanitary requirements for the import of goods regulated by SAGARPA in relation to plant health.</li> <li>▪ Decision determining the means for consulting the requirements for the import into national territory of goods regulated by SAGARPA in relation to animal health.</li> <li>▪ Decision notifying the procedure for obtaining import and export certificates for agricultural, livestock, aquaculture and fisheries goods using electronic means.</li> </ul>	25 May 2012  7 February 2012  13 October 2010  9 August 2012	-  -  -  -

- a This Decision replaced the Decision determining the classification and coding of goods whose import is subject to regulation by SAGARPA, which was published in the Official Journal of 30 June 2007 and whose latest amendment was published on 18 June 2010.

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

3.118. At the administrative level, the following are the main Federal bodies for sanitary and phytosanitary matters:

- **National Health, Food Safety and Agrifood Quality Service (SENASICA)** for plant, animal, aquaculture and fisheries products. This decentralized body of SAGARPA is responsible for implementing and monitoring compliance with the provisions on health, safety and agrifood quality. Its tasks including issuing NOMs, decisions and other legal provisions applicable in order to prevent, control and combat pests and diseases that affect plant, animal, aquaculture and fisheries species, and to determine the requirements, quarantine regulations and sanitary safety measures (Article 49 of SAGARPA'S Rules of Procedure). SENASICA is composed of six Directorates-General (DG), of which the DG of Plant Health, the DG of Animal Health, the DG of Agrifood, Aquaculture and Fisheries Safety, and the DG of Plant and Animal Health Inspection are the main ones.
- **Federal Commission for Protection against Health Risks (COFEPRIS)** for products presenting health risks. This agency, a decentralized body of the Ministry of Health, is responsible for sanitary regulation, control and monitoring of products that present potential risks for human health, including medicines, food, beverages, cosmetics and household cleaning products, tobacco, pesticides, additives and plant nutrients, and for their export and import (Articles 17 *bis* and 17 *bis* 1 of the General Law on Health).<sup>131</sup>
- **Ministry of the Environment and Natural Resources (SEMARNAT)** for forest and wildlife products. Through its General Legal Coordination Unit, this Ministry is responsible for Mexico's policy on forestry and wildlife health, including the issue of NOMs on forestry and the soil, in the terms laid down in the LFMN.<sup>132</sup> The Forestry and Soil Management DG in the Ministry is responsible for implementing the legislation on protection of forestry and soil resources and for issuing the phytosanitary documents needed for the movement, import or export of forestry products or byproducts (Section 712 of SEMARNAT's Manual of General Organization).

3.119. Mexico has signed bilateral agreements with other countries on animal and plant health. At August 2012, it had signed 13 bilateral agreements on phytosanitary cooperation, together with 41 work programmes for the import of radicchio, witloof chicory, liatris bulbs, quince, seed potatoes and fresh potatoes, avocados, fresh garlic, cocoa beans, mangoes, dessert grapes, kiwis,

<sup>131</sup> Published in the Official Journal of 7 February 1984. The latest amendment was published in the Official Journal of 7 June 2012.

<sup>132</sup> Article 55 of the LGDFS and Section 112 of SEMARNAT's Manual of General Organization. The Manual was published in the Official Journal of 13 August 2003.

as well as other fruit, imported from the signatory countries.<sup>133</sup> The work programmes are signed by SAGARPA and the national phytosanitary protection body in the exporting country concerned and their purpose is to facilitate trade in a specific product and ensure that phytosanitary procedures are harmonized. As regards animal health, Mexico has de facto recognition agreements with up to 15 countries under which zones in Mexico are recognized as free of Newcastle disease<sup>134</sup>, classical swine fever<sup>135</sup> and bovine spongiform encephalopathy.<sup>136</sup> De facto recognition is based on the status Mexico reports to the World Animal Health Organisation (OIE) concerning the aforementioned diseases.<sup>137</sup> Furthermore, all the FTAs signed by Mexico contain provisions on sanitary and phytosanitary measures.

3.120. Mexico is a member of the Codex Alimentarius Commission (FAO/WHO), the OIE, and the International Plant Protection Convention (IPPC), which are the reference bodies for the preparation of measures in accordance with the SPS Agreement. Mexico also participates in regional sanitary protection bodies such as the North American Plant Protection Organization (NAPPO) and the Regional International Organization for Plant and Animal Health (OIRSA).

### 3.2.11.2 Drafting and implementation of measures

3.121. Sanitary or phytosanitary measures may be contained in NOMs<sup>138</sup> or in the modules for consultation of the requirements. These modules may be viewed online and consist of a database of existing measures. The drafting and implementation of NOMs are governed by the procedures already mentioned in Chapter 3.2.10. Pursuant to the legislation on animal health, plant health and sustainable forestry development, sanitary or phytosanitary measures are based on scientific principles, international recommendations and risk analysis, as appropriate. Emergency NOMs are issued by SENASICA, SEMARNAT and COFEPRIS in accordance with the LFMN.

3.122. To be able to enter Mexico, products that present a potential risk for human, animal, plant, forestry, aquaculture or wildlife health must comply with the sanitary, phytosanitary, animal health and other measures contained in the corresponding NOM or specified in the modules for consultation of the requirements.<sup>139</sup> For products of animal or plant origin or aquatic products, the list of products subject to this type of requirement (see below) on the part of SAGARPA, through SENASICA, is to be found in the Decision determining the classification and coding of the goods concerned (hereinafter SAGARPA Decision).<sup>140</sup> The Decision also lists the products of plant origin that must undergo inspection at the point of entry. If these requirements are met, SENASICA grants the relevant import certificate (phytosanitary, animal health or aquaculture)<sup>141</sup>, which must be submitted together with the customs declaration.<sup>142</sup>

3.123. Consultation of requirements and the granting of certificates differ depending on the type of product and the requirement to be certified, whether sanitary, phytosanitary, animal health,

<sup>133</sup> Information provided by the authorities, which have also indicated that cooperation agreements and/or memorandums of understanding on phytosanitary matters have been signed with: Algeria, Argentina, Australia, Bulgaria, China, Cuba, Ecuador, India, the Netherlands, New Zealand, Peru, the United States and Uruguay. In addition, "work programmes for the import of plant products" have been agreed with Argentina, Canada, Chile, China, Cuba, Ecuador, Guatemala, Honduras, Peru, South Africa, Spain and the United States.

<sup>134</sup> De facto recognition agreements with the Plurinational State of Bolivia, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, El Salvador, Guatemala, Japan, Panama, Paraguay, the United States and the Bolivarian Republic of Venezuela.

<sup>135</sup> De facto recognition agreements with the Plurinational State of Bolivia, Canada, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, El Salvador, Guatemala, Japan, Korea, Panama, Paraguay, the United States and the Bolivarian Republic of Venezuela.

<sup>136</sup> De facto recognition agreements with the Plurinational State of Bolivia, Colombia, Costa Rica, Cuba, the Dominican Republic, El Salvador, Guatemala, Japan, Korea, Nicaragua, Panama, Paraguay, the United States and the Bolivarian Republic of Venezuela.

<sup>137</sup> The status of Newcastle disease, classical swine fever, and BSE can be viewed at: [http://www.oie.int/wahis\\_2/public/wahid.php/Countryinformation/countryhome](http://www.oie.int/wahis_2/public/wahid.php/Countryinformation/countryhome).

<sup>138</sup> In Mexico, sanitary and phytosanitary measures form part of the catalogue of NOMs.

<sup>139</sup> The requirements specified in the consultation modules vary depending on the product and its origin.

<sup>140</sup> Published in the Official Journal of 3 September 2012.

<sup>141</sup> Proof of compliance with the said requirements is obtained through inspection of the documents and/or physical inspection of the goods.

<sup>142</sup> Article 11 of the Decision determining the classification and coding of goods whose import is subject to regulation by SAGARPA, through SENASICA, published in the Official Journal of 3 September 2012.

aquaculture, etc. Since the previous Review, certain procedures have been streamlined as far as consultation of phytosanitary, animal health and aquaculture requirements is concerned. The procedures for import and obtaining certificates for the major categories of product are described below:

- **To import products of plant origin**, the phytosanitary measures in the relevant NOM or specified in the online consultation module of phytosanitary import requirements must be complied with.<sup>143</sup> This module was introduced in 2012 to replace the phytosanitary request sheet (HRF). Once the importer knows the requirements, it must prove compliance with them to SENASICA's DG of Plant and Animal Health Inspection (DGIF) at the point of entry into Mexico. If there is compliance, the importer may request an import certificate, which has to be submitted together with the import declaration. If the requirements are not specified in the NOM or in the module, they may be requested electronically. After the information has been requested, SENASICA must inform the person concerned within ten days whether the product: (a) is subject to a regulation; (b) is banned from entry because of quarantine in the country of origin or source; (c) necessitates a risk analysis; or (d) the module of phytosanitary requirements already lists the requirements applicable (Articles 1, 2 and 9 of the Decision establishing the module in respect of plant health). Packaging of plant origin is also subject to phytosanitary inspection by the DGIF.
- **To import products of animal origin**, the animal health measures specified in the online consultation module for animal health import requirements, introduced in 2010, must be complied with.<sup>144</sup> Once the importer knows the requirements, it must prove compliance with them to SENASICA's DGIF at the point of entry into Mexico. If there is compliance, the DGIF will issue the animal health import certificate, which has to be submitted together with the import declaration. If the requirements are not specified in the module, a request for an animal health requirements sheet (HRZ) for import must be submitted (either in person or by post) to the Animal Health DG or the offices designated by SAGARPA. After receiving the request, the Directorate of Imports and Exports (in SAGARPA's Animal Health DG) has five days in which to decide whether: (a) to issue an HRZ or not; (b) to refuse the HRZ because the good involves a risk of introducing diseases or pests into Mexican territory; or (c) a risk analysis of the product in question is required. If an analysis or additional information is required, the Directorate of Imports and Exports issues a final decision within 90 days of the date on which the necessary information is made available to it. In the final decision, SAGARPA must: (a) determine the requirements to be met for import; or (b) transmit a negative response (Articles 1, 10 and 11 of the Decision establishing the module in respect of animal health).
- **To import products that involve risks for aquaculture or fisheries health**, certain sanitary requirements have to be met. These may be viewed in the online module, introduced in 2012.<sup>145</sup> Online consultation has replaced the earlier requirement that these formalities be conducted in person. The requirements prescribed in the module are mandatory in order to obtain an aquaculture health certificate for import. This certificate is issued by the agricultural health services following verification by SENASICA. If the requirements cannot be found in the module, they may be requested electronically.<sup>146</sup> After the request has been made, within a period of ten days SENASICA decides whether: (a) the species is subject to regulation; (b) its import is banned; (c) a risk analysis is required; or (d) the requirements applicable already exist in the module. If a

<sup>143</sup> Decision establishing the module of phytosanitary requirements for the import of goods regulated by SAGARPA in respect of plant health. The module can be viewed at: <http://sistemas2.senasica.gob.mx/mcrfi>.

<sup>144</sup> Decision establishing the means for consultation of the requirements for import into national territory of goods regulated by SAGARPA, in respect of animal health. The module can be viewed at: <http://sistemas2.senasica.gob.mx/mcrz>.

<sup>145</sup> Decision establishing a module for health requirements for the import of aquatic species, their products and byproducts, and biological, chemical, pharmaceutical or food products for use or consumption by such species.

<sup>146</sup> The module may be viewed at: <http://sistemas2.senasica.gob.mx/mcra>. The request for the aquaculture health measures is made using the electronic form *Consulta de Medidas de Sanidad Acuicola a la Dependencia*, which can be completed at: <http://www.senasica.gob.mx/?proceso=formulario&Idformulario=4>.

risk analysis is required, once it has been conducted, SENASICA has to determine the import requirements or refuse the import (Articles 7, 8 and 9 of the Decision prescribing the requirements).

- **For wildlife species and their products, and forest products**, a forestry phytosanitary import certificate, issued by the DG of Forestry and Soil Management, is required. The Decision determining the classification and coding of goods whose import is subject to regulation by SEMARNAT identifies those products subject to: a permit or certificate under the Convention on International Trade in Wild Species of Fauna and Flora (CITES)<sup>147</sup>; an import authorization issued by the DG of Wildlife; or a phytosanitary certificate issued by the DG of Forestry and Soil Management or other SEMARNAT offices (Articles 1, 2 and 5 of the Decision). Furthermore, all the products listed in the SEMARNAT Decision must undergo physical inspection when entering Mexican territory. The provisions in these decisions do not give exemption from compliance with any other requirement or regulation to which the goods to be imported may be subject, for example, those on wooden packing or packaging.<sup>148</sup>
- **To import products involving a risk to human health**<sup>149</sup> sanitary control by the Ministry of Health is required.<sup>150</sup> The Decision determining the classification and coding of goods and products whose import, export, inward clearance and exit are subject to sanitary regulation by the Ministry of Health establishes the lists of products requiring sanitary authorization prior to import (for example, tobacco), an inward clearance authorization, a sanitary import notification, or a copy of the sanitary registration.<sup>151</sup> Importers of the products listed must present the relevant authorization together with the import declaration or prove compliance with the labelling requirements, as appropriate (Articles 1-6 of the Decision). Importers of such products must also be domiciled in Mexico.<sup>152</sup> For products that do not require a prior import permit pursuant to the General Law on Health (Article 286 *bis*), 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.

3.124. At July 2012, 54 NOMs relating to animal health were in force, 38 on plant health, eight on food safety and four on forest health.<sup>153</sup>

3.125. Between January 2007 and October 2012, Mexico submitted to the WTO SPS Committee 16 notifications relating to sanitary and phytosanitary regulations, including notifications on draft NOMs (6), emergency NOMs (4), laws and decisions (3) and amendments (3).<sup>154</sup>

### 3.2.11.3 Risk analysis and conformity assessment

3.126. Depending on the relevant legislation, the sanitary and phytosanitary measures applied by Mexico when evaluating risks for human, animal and plant life or health take into account the scientific evidence and the risk assessment techniques developed at the international level.<sup>155</sup>

<sup>147</sup> This applies to wildlife species.

<sup>148</sup> The authorities have indicated that in 2010 duplicate regulations were eliminated and the list of hazardous waste requiring the presentation of an import or export authorization was updated.

<sup>149</sup> For example, medicines, foodstuffs, beverages, perfumery, cosmetic and cleaning products, tobacco, pesticides, plant nutrients, biotechnology products, food supplements, raw materials and additives used to prepare the aforementioned products, substances that are toxic or hazardous to health, and food supplements.

<sup>150</sup> Articles 284 and 298 of the General Law on Health.

<sup>151</sup> Decision determining 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, published in the Official Journal of 27 September 2007. The latest reform was published in the Official Journal of 23 March 2012.

<sup>152</sup> Article 285 of the General Law on Health.

<sup>153</sup> In comparison with the previous Review, in August 2007 60 NOMs on animal health were in force, 41 on plant health, six on food safety and six on forest health. The NOMs on animal and plant health and food safety can be viewed on SENASICA's website: <http://www.senasica.gob.mx/?id=647>.

<sup>154</sup> Data provided by the authorities.

<sup>155</sup> Articles 15 and 164 of the Federal Animal Health Law, published in the Official Journal of 25 July 2007; the latest amendment was published on 7 June 2012. Articles 3 and 20 of the Federal Plant



3.127. SENASICA, in coordination with other competent authorities, is responsible for international trade-related risk analysis. SENASICA's objective is to design, organize and assess qualitative and quantitative risk analyses relating to animal, aquaculture and fisheries health, and to propose measures to manage the risk so as to arrive at an acceptable level. It also has the task of examining import applications in order to determine the sanitary requirements and participate in their analysis with a view to accepting or refusing import on scientific grounds.<sup>156</sup>

3.128. In assessing conformity, the authorities rely on private certification bodies, verification units, testing laboratories and outside experts approved by SAGARPA or SEMARNAT, as applicable, in accordance with the procedures laid down in the LFMN and its implementing regulations. In the forestry sector, SEMARNAT has a reference laboratory for forest parasitology analysis.

#### 3.2.11.4 Other products regulated on grounds of sanitary risk

3.129. There have been no major changes to the legislation on genetically modified organisms (GMOs) since the previous Review. The commercial release, marketing, import or export of GMOs is governed by the Law on Biosafety of Genetically Modified Organisms.<sup>157</sup> Under this Law, such activities require a permit issued by the competent authority (SAGARPA or SEMARNAT).<sup>158</sup> The marketing or import of GMOs for human use or consumption requires authorization from the Ministry of Health. Maize, cotton and soya beans were some of the biotechnology products approved in 2011 for sale in Mexico for human or animal consumption.<sup>159</sup> The Interministerial Commission on Biosafety and Genetically Modified Organisms (CIBIOGEM) is still responsible for coordinating government policy on the use of GMOs (Articles 1 and 2).<sup>160</sup>

3.130. Mexico also has regulations on the import of pharmaceutical and food products for animal use or consumption, which must be registered or authorized. Among the relevant NOMs is NOM-064-ZOO-2000, which lays down technical and scientific criteria for the classification, prescription, sale and use of the active ingredients used to produce veterinary pharmaceutical products according to their risk level.<sup>161</sup>

### 3.3 Measures directly affecting exports

#### 3.3.1 Registration and documentation

3.131. There has been no major change to the export requirements since the previous Review. All exporters must submit an export declaration to the customs, through a customs agent or in-house customs broker, accompanied by a commercial invoice and, documents proving compliance with the regulations and non-tariff restrictions on exports (Article 36 of the Customs Law). All exporters must be listed in the Federal Register of Taxpayers.

3.132. Exporters of the following products must also be enrolled in the Register of Sectoral Exporters (number of tariff headings in brackets):<sup>162</sup>

- alcohol, denatured alcohol and non-crystallized honey (6);
- beer (1);

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Health Law, published in the Official Journal of 5 January 1994; the latest amendment was published on 16 November 2011.

<sup>156</sup> For animals and animal products, SENASICA conducts this examination through the Directorate of Epidemiology and Risk Analysis and for plants through the Directorate of the National Phytosanitary Reference Centre.

<sup>157</sup> Published in the Official Journal of 18 March 2005.

<sup>158</sup> The authorities have indicated that so far permits for release into the environment have been granted for genetically modified soya beans, wheat, and cotton.

<sup>159</sup> The list of biotechnology products approved for sale may be viewed at: <http://www.salud.gob.mx>.

<sup>160</sup> CIBIOGEM is composed of those in charge of: SAGARPA; SEMARNAT; the Ministries of Health; Public Education; SHCP; SE; together with the Director-General of the National Science and Technology Council. Online information from CIBIOGEM. Viewed at: <http://www.cibiogem.gob.mx>.

<sup>161</sup> This NOM was published in the Official Journal of 27 January 2003.

<sup>162</sup> This Register is kept by the SHCP. Annex 10 to the General Foreign Trade Rules for 2012 and the Law on the IEPS (Article 19, section XI).

- tequila (1);
- fermented alcoholic beverages (wine) (14);
- distilled alcoholic beverages (liquor) (16);
- cigars and processed tobacco (9);
- energizing drinks and concentrates, powders or syrups used to prepare them (10); and
- iron ores and their concentrates (2).<sup>163</sup>

3.133. All these products, with the exception of iron ores and their concentrates, are also subject to the IEPS (see Chapter 3.3.2).

3.134. The registration requirement for energizing drinks and their inputs and for iron ores was introduced in January 2011.

3.135. Exports benefiting from preferential treatment by Mexico's trading partners must have a certificate of origin. The requirements for obtaining such a certificate in Mexico vary depending on the trade agreement. There are two official forms for certificates of origin: (a) a controlled form; or (b) a form that may be freely reproduced. Controlled form certificates must be requested from the SE. The certificate of origin may also need official endorsement by the SE and prior registration in the register of goods eligible for tariff preferences and concessions. Depending on these requirements, three types of procedure for obtaining a certificate of origin may be distinguished (Table 3.10):

**Table 3.10 Requirements for requesting a certificate of origin according to the trade agreement**

Features	Scope	Description
<b>Procedure 1</b> <ul style="list-style-type: none"> <li>▪ No registration</li> <li>▪ Freely reproducible form</li> <li>▪ No endorsement by the authorities</li> </ul>	<ul style="list-style-type: none"> <li>▪ NAFTA (United States and Canada);</li> <li>▪ Chile;</li> <li>▪ Plurinational State of Bolivia;</li> <li>▪ Costa Rica;</li> <li>▪ El Salvador;</li> <li>▪ Honduras;</li> <li>▪ Guatemala;</li> <li>▪ Nicaragua;</li> <li>▪ Israel.</li> </ul>	<p>The form of the certificate of origin can be freely reproduced and, once completed by the exporter, no certification by any authority is needed, only the signature of the exporter. After the certificate of origin has been completed, the exporter may forward it to his client to enable the latter to submit it together with his import declaration.</p>
<b>Procedure 2</b> <ul style="list-style-type: none"> <li>▪ Prior registration</li> <li>▪ Freely reproducible form</li> <li>▪ Endorsement by the authorities in the exporting country</li> </ul>	<ul style="list-style-type: none"> <li>▪ Colombia;</li> <li>▪ Peru;</li> <li>▪ Uruguay and</li> <li>▪ LAIA, (Brazil; Cuba; Ecuador; Paraguay and Uruguay).</li> </ul>	<p>The exporter must first be enrolled in the relevant register of eligible products. After authorization for registration has been obtained, the certificate of origin must be completed using a freely reproducible form, and is then endorsed by the competent authorities.</p>

<sup>163</sup> Second Resolution amending the General Foreign Trade Rules for 2011, published in the Official Journal of 11 November 2011. The Resolution came into effect on 12 November 2011.

Features	Scope	Description
<b>Procedure 3</b> <ul style="list-style-type: none"> <li>▪ Prior registration</li> <li>▪ Controlled reproduction form</li> <li>▪ Endorsement by the authorities in the exporting country</li> </ul>	<ul style="list-style-type: none"> <li>▪ European Union;</li> <li>▪ EFTA;</li> <li>▪ Japan and</li> <li>▪ GSP.</li> </ul>	<p>The exporter must first be enrolled in the relevant register of eligible products. After authorization for registration has been obtained, a request must be made to the SE for the certificate of origin, which must then be endorsed by the competent authorities.</p>

Source: WTO Secretariat, on the basis of data from the SE.

3.136. Where products are subject to registration, exporters must be enrolled in the register of goods eligible for tariff preferences and concessions before applying for a certificate of origin. There are currently two registers: (a) one for FTAs with the European Union and EFTA<sup>164</sup>; and (b) another for trade agreements with Uruguay, Peru and Japan and the LAIA and GSP agreements.<sup>165</sup> The latter is the outcome of the SE's decision of April 2010 on streamlining procedures, which amalgamated the five types of applications related to each of the aforementioned agreements into a single register.<sup>166</sup>

3.137. In the case of exports to Colombia, since early 2009 an electronic system has been used to issue, send and receive certificates of origin ([www.siicex.gob.mx](http://www.siicex.gob.mx)). As to other certificates of origin, all the procedures may be conducted through the single window.

3.138. Mexico has an authorized exporters category under which an exporter may dispense with a certificate of origin if it exports to European Union or EFTA member countries. Since April 2012, the authorized exporters category has also applied to Japan.<sup>167</sup> During the period under review, the value which a firm has to export annually in order to be considered an authorized exporter changed twice. In 2008, the threshold was lowered from US\$5 million to US\$200,000<sup>168</sup> and in November 2012 to US\$150,000.<sup>169</sup> Exporters of perishable or hand-made goods may also be eligible for the authorized exporters category (irrespective of the value of their exports); since April 2012, this has also applied to exporters under the IMMEX programme. In order to be recognized as an authorized exporter, the exporter must have authorized registration for the products to be exported.

### 3.3.2 Export taxes and duties

3.139. The types of export taxes and duties applied by Mexico remain the same as those indicated at the time of the previous Review. Mexico imposes the DTA on exports, together with an export tax on certain goods.

3.140. Exports (and imports) are subject to payment of the DTA, unless the goods are going to one of the following countries with which Mexico has a trade agreement: the Plurinational State of Bolivia, Canada, Costa Rica, Chile, Colombia, El Salvador, Guatemala, Honduras, Nicaragua and

<sup>164</sup> Register of products eligible for tariff preferences and concessions European Union and European Free Trade Association.

<sup>165</sup> Single register of goods eligible for tariff preferences of the LAIA, the free trade agreement between the United Mexican States and Uruguay (FTA Uruguay), the trade integration agreement between the United Mexican States and the Republic of Peru (Peru Agreement), the agreement on strengthening the economic association between the United Mexican States and Japan (Japan Agreement) and the Generalized System of Preferences (GSP).

<sup>166</sup> Decision amending various provisions in order to streamline procedures applied by the SE, published in the Official Journal of 22 April 2010.

<sup>167</sup> Article 39B of the Economic Association Agreement between Mexico and Japan and the Decree enacting the protocol amending the agreement strengthening the economic association between the United Mexican States and Japan, signed in Mexico City on twenty-two September two thousand and eleven, published in the Official Journal of 30 March 2012.

<sup>168</sup> Decree granting administrative facilities for customs and foreign trade purposes, published in the Official Journal of 31 March 2008, which entered into force on 14 April 2008.

<sup>169</sup> Decree amending the miscellaneous provision granting administrative facilities for customs and foreign trade purposes, published in the Official Journal of 1 November 2012.

the United States, and provided that the transaction is covered by the agreement. In September 2012, the flat rate for the DTA was Mex\$250.57 (around US\$19) per transaction.<sup>170</sup>

3.141. Mexico imposes export taxes on 25 tariff headings (Table 3.11). Neither the number of headings to which the tax applies nor the rates applied have changed since the previous Review. The rate is usually 50%, except for bitumen, asphalt and bituminous mixtures, to which a rate of 25% applies.

**Table 3.11 Goods subject to export taxes, September 2012**

HS 2012 subheading	Description	Ad valorem duty (%)
0507.90.01	Shells and claws of turtles and parts or waste thereof	50
1211.90.05	Rauwolfia heterophila root	50
1302.19.12	Rauwolfia heterophila root byproducts containing the alkaloid called reserpine	50
1302.39.03	Rauwolfia heterophila root byproducts containing the alkaloid called reserpine	50
1506.00.02	Turtle fat or oil	50
2714.90.99	Other bitumen and asphalt	25
2715.00.99	Other bituminous mixtures	25
3001.90.01	Human organs or tissue for therapeutic purposes, teaching or research	50
3001.90.02	Biological cardiac valve prostheses	50
3001.90.03	Bone substances	50
3001.90.04	Phospholipids of cerebral grey matter in powder form	50
3001.90.06	Heparinoid	50
3001.90.99	Other	50
3002.10.14	Human globular packages	50
3002.90.01	Bacteriological cultures for hypodermic or intravenous injections; lyophilized lactic bacillus	50
3002.90.02	Diphtheria antitoxin	50
3002.90.03	Human blood	50
3002.90.99	Other	50
3301.90.05	Alcoholate, extracts or tinctures derived from Rauwolfia heterophila root containing the alkaloid called reserpine	50
4301.80.03	Skins of wildcats, tiger ocelots and ocelots	50
4302.19.01	Tanned or dressed furskins of wildcats, tiger ocelots and ocelots	50
4302.20.01	Heads, tails, paws and other pieces or cuttings of wildcats, tiger ocelots and ocelots, not assembled	50
4302.30.01	Whole skins and pieces or cuttings thereof of wildcats, tiger ocelots and ocelots, assembled	50
9705.00.06	Articles of historic, palaeontological or ethnographic interest that have not been declared archaeological or historic monuments by the Ministry of Public Education	50
9706.00.01	Antiques of an age exceeding 100 years	50

Source: WTO Secretariat based on the LIGIE, published in the Official Journal of 18 June 2007. The latest reform was published in the Official Journal of 13 September 2012.

3.142. Products subject to the IEPS are exempt from its payment if they are intended for export, but they must be listed in the Register of Sectoral Exporters (with the exception of petrol and diesel fuel, which do not have to be registered).<sup>171</sup>

### 3.3.3 Export prohibitions, regulations and permits

3.143. In September 2012, Mexico banned the export of products classified in 27 tariff headings. These are the same prohibitions as those in force at the time of the previous Review.<sup>172</sup>

<sup>170</sup> Article 49 (section V) of the Federal Law on Duty (published in the Official Journal of 31 December 1981; the latest amendment was published on 9 April 2012) and Rules 5.1.1-5.1.3 of the General Foreign Trade Rules for 2012.

<sup>171</sup> Articles 8 (section II) and 19 (section XI) of the Law on the IEPS.

<sup>172</sup> The ban concerns the following HS 2007 tariff headings: 0301.9901, 0302.6902, 0303.7901, 0410.0001, 1207.9101, 1208.9003, 1209.9907, 1211.9002, 1302.1102, 1302.1902, 1302.3904, 2833.2903,

3.144. Mexico requires a prior export permit for petroleum products, diamonds in the rough and iron ores (Articles 15 and 21 of the LCE and the Permits Decision) (Table 3.12). Altogether, these products represent 21 tariff headings.<sup>173</sup> Of these products, only petroleum products required a prior export permit at the time of the previous Review.<sup>174</sup> Mexico introduced a prior export permit requirement for diamonds in the rough in June 2008.<sup>175</sup> The permit requirement for iron ores came into force in March 2011<sup>176</sup> and is scheduled to remain in effect until 31 December 2012.<sup>177</sup>

**Table 3.12 Goods subject to a prior export permit or automatic export notification by the SE, September 2012**

	HS 2012 subheading	Description
<b>Goods subject to a prior export permit</b>		
<b>Petroleum products</b>	2709.00.99	Other (other oils obtained from petroleum or bituminous minerals, crude)
	2710.12.04	Petroleum spirit, except that included in heading 2710.11.03
	2710.19.04	Gas oil or diesel oil and mixtures thereof
	2710.19.05	Fuel oil
	2710.19.07	Paraffin oil
	2710.19.08	Jet fuel (kerosene) and mixtures thereof
	2710.19.99	Other (petroleum oils)
	2711.12.01	Propane
	2711.13.01	Butane
	2711.19.01	Butane and propane, mixed together, in liquid state
	2711.19.99	Other (petroleum gas and other gaseous hydrocarbons, in liquid state)
	2711.29.99	Other (in gaseous state)
	2712.20.01	Paraffin wax containing by weight less than 0.75% of oil
	2712.90.02	Micro-crystalline wax
	2712.90.04	Waxes, except those included in headings 2712.90.01 and 2712.90.02
2712.90.99	Other (petroleum jelly, paraffin wax, petroleum wax)	
<b>Diamonds</b>	7102.10.01	Unsorted
	7102.21.01	Unworked or simply sawn, cleaved or bruted
	7102.31.01	Unworked or simply sawn, cleaved or bruted
<b>Iron ores</b>	2601.11.01	Non-agglomerated. Only: hematite; magnetite
	2601.12.01	Agglomerated. Only: hematite; magnetite
<b>Goods subject to automatic notification of export</b>		
<b>Tomatoes</b>	0702.00.01	"Cherry" tomatoes
	0702.00.99	Other. Except: husk tomatoes or green tomatoes

Source: WTO Secretariat on the basis of the Decision establishing the classification and coding of goods whose import or export is subject to a prior permit from the SE, published in the Official Journal of 6 July 2007; the latest amendment was published in the Official Journal of 3 September 2012. This Decision is contained in Annex 2.2.1 to the SE Decision issuing General Rules and Criteria for Foreign Trade.

3.145. Mexico imposes an automatic export notification requirement (permit) for tomatoes (Table 3.12). Automatic notifications are authorized the day following the submission of the request in full to the SE. Once it has been authorized, the notification may be attached to the export declaration. It is valid for four months as of its approval.<sup>178</sup>

2903.5202, 2903.5905, 2910.9001, 2931.0005, 2939.1101, 3003.4001, 3003.4002, 3003.9005, 3004.4001, 3004.4002, 3004.9033, 4103.2002, 4908.9005, 4911.9105, 9705.0005. The headings 0302.6902; 0303.7901; 2903.5202; 2903.5905 and 2931.0005 in HS 2007 were replaced by headings 0302.8901; 0303.8901; 2903.8202; 2903.8903 and 2931.9005 in the HS 2012, respectively. The new headings apply to the same products. Source: LIGIE, the latest amendment published in the Official Journal of 13 September 2012.

<sup>173</sup> With the transition to the HS 2012, only one of these headings was amended. Code 2710.11.04 in HS 2007 was replaced by heading 2710.12.04 in HS 2012 to designate the same product.

<sup>174</sup> The procedure for obtaining a prior export permit (as well as an import permit) is conducted at the SE; it is free of charge and 15 working days are required for a reply.

<sup>175</sup> Fifth Amendment to the SE Decision issuing General Foreign Trade Rules, published in the Official Journal of 16 June 2008.

<sup>176</sup> Twenty-fourth Amendment to the SE Decision issuing General Foreign Trade Rules, published the Official Journal of 18 March 2011.

<sup>177</sup> Thirty-first Amendment to the SE Decision issuing General Foreign Trade Rules, published in the Official Journal of 30 December 2011.

<sup>178</sup> Articles 8-10 of Annex 2.2.1 of the Permits Decision.

3.146. In April 2009, Mexico abolished the prior permit for exports of cement (three headings) to the United States.<sup>179</sup>

3.147. Since October 2011, Mexico has required a prior permit for the export of conventional weapons, and dual-use goods, software and technology.<sup>180</sup> Moreover, since March 2012, a prior authorization from the Ministry of Energy has been required to export (or import) nuclear materials and fuels, radioactive materials, equipment generating ionizing radiation, dual-use equipment, goods and technology in the nuclear field.<sup>181</sup>

3.148. As is the case for imports, other Ministries may impose export restrictions, including prior permits, provided that these are submitted beforehand to the Foreign Trade Commission for an opinion.<sup>182</sup>

3.149. Mexico also has export quotas under its trade agreements with the United States, Canada, Colombia, Israel, Brazil, the European Union, EFTA, Argentina and Japan for products such as sugar, maize, vehicles, textiles and clothing, footwear, flowers, *inter alia*, depending on the country.<sup>183</sup>

### 3.3.4 Tariff and tax concessions

#### 3.3.4.1 General features

3.150. Mexico has continued to promote exports by means of tariff and tax concessions, notably for the manufacturing sector. During the period under review, the main export promotion programmes remained:

- the IMMEX programme, introduced in 2006 by the Decree to promote the manufacturing, maquila and export services industry (hereinafter the IMMEX Decree)<sup>184</sup>; and
- the import tax refund (drawback) programme.

3.151. During the period under review, the IMMEX programme was amended in 2008 and 2010. The most important amendments were in December 2010<sup>185</sup> when the Export-Intensive Enterprises (ALTEX) and the Foreign Trade Enterprises (ECEX) programmes were abolished.<sup>186</sup> For

<sup>179</sup> Twelfth Amendment to the SE Decision issuing General Rules and Criteria for Foreign Trade, published in the Official Journal of 1 April 2009. The following are the HS headings: 2523.1001, 2523.2999 and 2523.9099.

<sup>180</sup> Decision by which the export of conventional weapons, their parts and components, dual-use, software and technology liable to be diverted to the manufacture and proliferation of conventional weapons and weapons of mass destruction is made subject to a prior permit issued by the SE, published in the Official Journal of 16 June 2011. The Decision came into force on 20 October 2011. The latest amendment was published in the Official Journal of 22 October 2012.

<sup>181</sup> Decision establishing the classification and coding of goods whose import or export is subject to authorization by the Ministry of Energy, published in the Official Journal of 2 March 2012; the latest amendment was published on 18 June 2012.

<sup>182</sup> Article 27 of the LCE. The products requiring export permits from other agencies may be viewed at: <http://www.siiicex.gob.mx/portalSiiicex/SICETECA/SICETECA.html>.

<sup>183</sup> The bilateral export quotas may be viewed at: <http://www.siiicex.gob.mx/portalSiiicex/SICETECA/Acuerdos/Cupos/Cupos%20x%20PRODUCTO/Cupos%20por%20producto.htm>.

<sup>184</sup> Decree amending the miscellaneous provision on the promotion and operation of the maquila export industry, published in the Official Journal of 1 November 2006. This Decree amended the Decree on the promotion and operation of the maquila export industry, including its title, which became Decree to promote the manufacturing, maquila and export services industry (IMMEX Decree). The Decree amalgamated the PITEX (Programme on temporary import for the production of goods for export) and the maquila programmes to create the IMMEX programme.

<sup>185</sup> Decree amending the miscellaneous provision on the promotion of the manufacturing, maquila and export services industry, published in the Official Journal of 24 December 2010.

<sup>186</sup> The Decrees repealed were: the Decree on the Promotion and Operation of Export-Intensive Enterprises (ALTEX) and the Decree on the Establishment of Foreign Trade Enterprises (ECEX), which had been published in the Official Journal of 3 May 1990 and 11 April 1997, respectively. These Decrees were repealed by the Fourth Transitional Article in the amendments to the IMMEX Decree of 24 December 2010.

companies benefiting from an ALTEX and/or ECEX programme, it was provided that the plan would remain in force and would continue to operate under the original terms, provided that the beneficiaries submitted an annual report on their foreign trade transactions. If they failed to do so, the respective plans would be cancelled and could not be renewed.<sup>187</sup>

3.152. Since the previous Review, Mexico has notified the WTO, under Article 25 of the SCM Agreement, that it applies subsidies in the fisheries and aquaculture sector, the forestry sector and high-technology industries.<sup>188</sup>

3.153. Mexico also has PROSEC programmes under which firms producing certain goods may import inputs to manufacture specific products at preferential tariff rates, irrespective of whether or not the final products are exported (see Chapter 3.4).

3.154. In September 2012, 5,515 and 3,504 firms benefited from the IMMEX and PROSEC programmes, respectively.<sup>189</sup>

### 3.3.4.2 The IMMEX programme

3.155. With the aim of bolstering the competitiveness of the export sector, Mexico applies the IMMEX programme, which is of considerable importance to its trade. On average, firms taking part in the IMMEX programme accounted for 66.2% of Mexico's exports and 47.2% of its imports over the period 2007 to 2011 (Chart 3.6).<sup>190</sup>

3.156. The IMMEX programme was introduced in 2006 and allows temporary import of the goods needed to produce, transform or repair goods from abroad for subsequent export and to provide export services, free of import tariffs and VAT.<sup>191</sup> The programme combined the benefits of the maquila programme and the PITEX.<sup>192</sup> Implementation started in November 2006 and was completed in January 2008.

3.157. In 2010, the ALTEX programme and ECEX registration were abolished and their benefits incorporated into the IMMEX programme.<sup>193</sup> The ALTEX programme gave administrative and tax facilities to exporters of non-petroleum goods having a certain volume of sales. ECEX registration provided administrative facilities and financial support from the development bank for companies selling a specified volume of goods abroad.<sup>194</sup> The programmes in effect up to December 2010 continue in accordance with the terms originally granted as long as the companies in the programme comply with the obligations thereunder.

3.158. To be eligible for an IMMEX programme, a company must, *inter alia*: export for an amount exceeding US\$500,000 annually or at least 10% of its total sales; have a maquila<sup>195</sup> or sales

<sup>187</sup> Fourth Transitional Article in the amendments to the IMMEX Decree of 24 December 2010.

<sup>188</sup> WTO documents: G/SCM/N/220/MEX of 16 June 2011; and G/SCM/N/95/MEX, G/SCM/N/123/MEX, G/SCM/N/155/MEX and G/SCM/N/186/MEX of 2 December 2011.

<sup>189</sup> Information provided by the authorities.

<sup>190</sup> In 2011, 63.6% of Mexico's exports and 49% of its imports were by companies benefiting from the IMMEX programme. During the period under review, these percentages only changed slightly. The share of IMMEX exports as a percentage of total exports ranged from 63.6% (2007) to 68.2% (2010), while the share of IMMEX imports ranged from 43.1% (2008) to 51.6% (2010).

<sup>191</sup> Article 29 of the Law on the Value Added Tax.

<sup>192</sup> Decree on the promotion of the manufacturing, maquila and export services industry (IMMEX), published in the Official Journal of 1 November 2006. The latest amendment was published in the Official Journal of 24 December 2010.

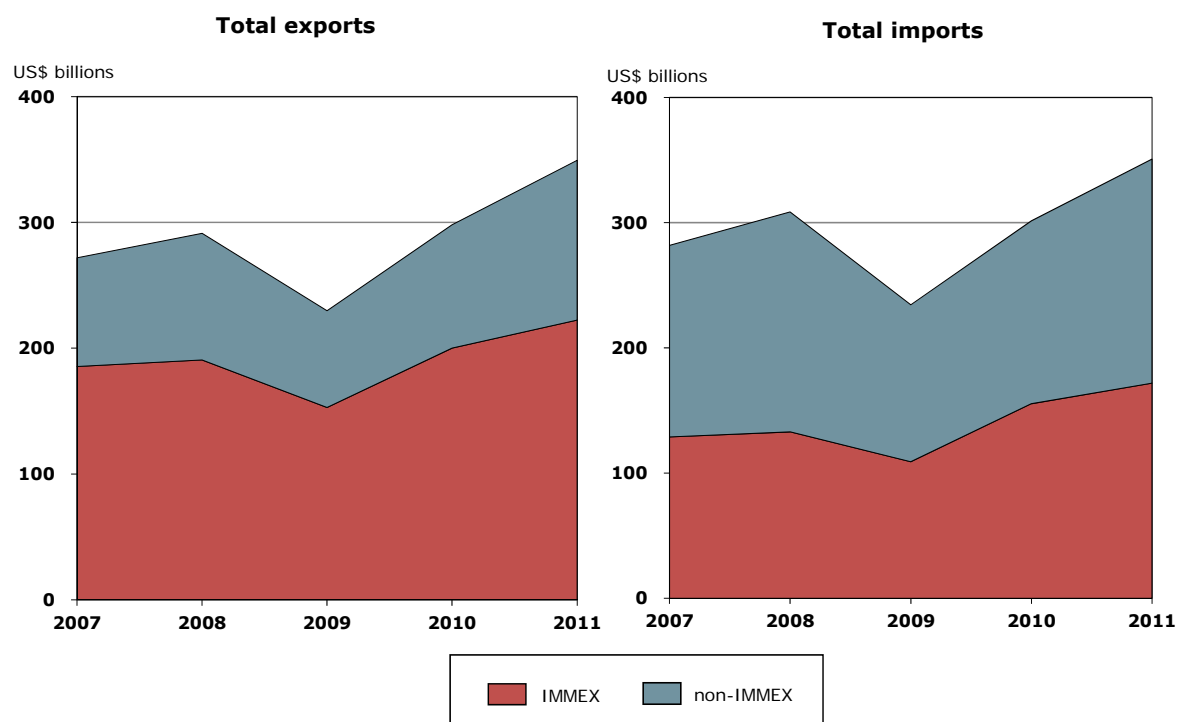
<sup>193</sup> These programmes were repealed by the Fourth Transitional Article in the amendments to the IMMEX Decree of 24 December 2010.

<sup>194</sup> Companies falling into the following categories were eligible for the programme (a) "export consolidators"; and (b) "export promoters". "Export consolidators" are defined as those whose main activity is combining and consolidating goods for export, have minimum capital of Mex\$2 million and export products from at least five producers. "Export promoters" are those whose main activity is selling goods on international markets, have minimum capital of Mex\$200,000 and export goods from at least three producers. ECEX companies also had to undertake to export a minimum value of US\$250,000 during the first fiscal year following their registration, in the case of export promoters, and US\$3 million for export consolidators.

<sup>195</sup> A maquila operation is defined as "an industrial process or service intended for the processing, transformation or repair of goods from a foreign source temporarily imported for export or to provide export services" Article 2 of the IMMEX.

contract, orders or requests proving the existence of an export plan; be listed in the Federal Register of Taxpayers; and undergo an inspection visit by the SE to the site of operations (Article 11 of the IMMEX Decree). The SE must respond to the application within 15 days.

**Chart 3.6 Mexico's exports and imports by type of regime, 2007-2011**



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

3.159. The programme has five different options authorized by the SE depending on the type of company (Table 3.13), and covers three categories of input:<sup>196</sup>

- raw materials, parts and components; fuels, lubricants and other materials; packing and packaging; labels and information sheets;
- containers and trailer boxes;
- machinery, equipment, tools, instruments, moulds and spare parts; equipment and appliances related to the production process; and equipment for administrative development.

3.160. The time-limits for remaining in Mexican territory vary depending on the type of input and have not changed since the previous Review.

<sup>196</sup> Article 4 of the Decree on the promotion of the manufacturing, maquila and export services industry, published on 1 November 2006. The latest amendment was published in the Official Journal of 24 December 2010.



**Table 3.13 Options under the IMMEX programme**

Programme option	Description
IMMEX Holding companies	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 process or transform goods intended for export.
IMMEX Services	Where services are provided for goods for export or export services are supplied, solely for the development of activities determined by the SE after seeking the opinion of the SHCP.
IMMEX Accommodation	Where one or more foreign companies provide the technology and production materials, without directly implementing the programme.
IMMEX Tertiary	Where a certified firm that does not have its own production facilities engages in manufacturing through third parties registered under the programme.

Source: Article 3 of the Decree on the promotion of the manufacturing, maquila and export services industry (IMMEX), published on 1 November 2006. The latest amendment was published in the Official Journal of 24 December 2010.

3.161. In addition to exemption from import taxes and VAT, other tax concessions concerning the ISR and the flat-rate business tax (IETU) may be granted under the IMMEX, subject to certain conditions.<sup>197</sup> Nevertheless, to obtain any of the benefits relating to the ISR or IETU there must be a double taxation treaty between Mexico and the country of residence of the foreign firm operating under the IMMEX programme. According to the authorities, this is necessary to avoid double taxation.

3.162. A company under the IMMEX programme may also concurrently benefit from a PROSEC programme, provided that it meets the necessary requirements.<sup>198</sup>

#### 3.3.4.3 Import Duty Drawback Programme for Exporters

3.163. There has been no change to the Import Duty Drawback Programme for Exporters since the previous Review.<sup>199</sup> It allows beneficiaries to obtain refund of duty paid on the import of goods or inputs incorporated into goods for export or goods that are re-exported without being transformed. The drawback request must be submitted within 90 days following export and within 12 months of the date of on which the goods were imported.

#### 3.3.5 Export financing, insurance and guarantees

3.164. The National Foreign Trade Bank (Bancomext) remains the leading institution for export financing. It is a government entity and offers a wide range of products<sup>200</sup> to companies involved or seeking to become involved in foreign trade.<sup>201</sup> Since the previous Review, Bancomext has introduced new products that are increasingly specialized according to the sector (for example, the automotive sector) or the size of the companies.

3.165. The principal instruments used by Bancomext to provide financial support are: short, medium and long-term loans; letters of credit; credit guarantees; international factoring; and export credit insurance (through its insurance branch CESCE, credit insurance) (Table A3.2). Bancomext also provides trust services. In 2011, it gave financial support amounting

<sup>197</sup> Articles 2 and 216 *bis* of the Income Tax Law, published in the Official Journal of 1 January 2002; the latest amendment was published on 25 May 2012. Article 1 of the Law on the Flat-Rate Business Tax, published in the Official Journal of 1 October 2007. Decree granting various tax benefits to the taxpayers indicated therein, published in the Official Journal of 30 October 2003. Decree granting various tax benefits in relation to income tax and the flat-rate business tax, published in the Official Journal of 5 November 2007 and the amendments thereto published in the Official Journal of 5 November 2007 and 12 October 2011. Decree compiling various tax benefits and determining measures for administrative simplification, published in the Official Journal of 30 March 2012.

<sup>198</sup> Article 7 of the Decree on the promotion of the manufacturing industry, maquila industry and export services, published on 1 November 2006. The latest amendment was published in the Official Journal of 24 December 2010.

<sup>199</sup> Decree establishing the drawback of import duty for exporters, published in the Official Journal of 11 May 1995. The latest amendment was published on 29 December 2000.

<sup>200</sup> Bancomext offers products in relation to development banking (first tier) and business (second tier).

<sup>201</sup> Organic law on the National Foreign Trade Bank, published in the Official Journal of 20 January 1986. The latest amendment was published in the Official Journal of 9 April 2012.

to US\$5,287 million, of which US\$4,839 million were for financing and US\$448 million for guarantees and security. Bancomext also offers products intended for specific activities such as the maquila industry, and activities in the automotive and vehicle parts industry, transport, logistics, tourism, electronics and energy.<sup>202</sup> In 2011, the following sectors received Bancomext financing (percentage of the total in brackets): manufacturing and services (58.5%); mining and metallurgy (18.9%); agriculture and agri-business (12.1%); and tourism (10.4%).<sup>203</sup>

3.166. The products offered by Bancomext depend on the size, characteristics and projects of the company as well as on sectoral programmes. During the period under review, Bancomext launched two financial products aimed at small and medium-sized enterprises (SMEs): international factoring and a financing programme for exporting and importing SMEs. As a general rule, the financing programmes for SMEs are for up to US\$3 million.

3.167. The authorities have indicated that the programme for exporting and importing SMEs is implemented through Mexican commercial banks. These grant financing to SMEs and Bancomext guarantees the loans.<sup>204</sup> The aim of this mechanism is to reach the largest number of companies through agencies of banks implementing Bancomext programmes.

3.168. Nacional Financiera, another Mexican development bank, also offers medium and long-term lines of credit to finance the import of raw materials, inputs, spare parts, machinery, equipment and services, and for pre-export and export operations. It also has several financing programmes to boost economic activities by businesses in general (see Chapter 3.4.1.3).<sup>205</sup>

### 3.3.6 Export promotion

3.169. ProMexico was set up in June 2007 and is the Federal body responsible for promoting foreign investment, Mexican exports and the internationalization of Mexican firms.<sup>206</sup> ProMexico provides economic and technical support to companies involved in or seeking to become involved in foreign trade. Its services include advice and training, together with economic support for market research, sending samples abroad, business trips, designing marketing campaigns, etc.<sup>207</sup> Between 2007 and 2012, ProMexico's budget rose from Mex\$800 million to Mex\$1,114 million (i.e. from US\$60.6 million to US\$84.4 million).<sup>208</sup>

3.170. In addition to ProMexico, the SE and the Joint Export Promotion Commission (COMPEX) continue to play an important role in promoting exports. COMPEX is a subsidiary commission of the Federal Executive (Article 7 of the LCE) and promotes coordination between the public and private sectors with a view to streamlining export procedures and reducing technical barriers.

3.171. The SE still implements the exportable supply programme to support and promote exports by MSMEs and large enterprises. The SE's Directorate-General of Exportable Supply is responsible for managing this programme and for coordinating COMPEX activities. One of the DG's main objectives is to disseminate information on the export process among MSMEs in Mexico. For this purpose, the SE still implements the following:

<sup>202</sup> Intended for companies in the transport and logistics sector which are directly or indirectly involved in the foreign trade chain.

<sup>203</sup> Bancomext (2012).

<sup>204</sup> These guarantees are granted to banks via various mechanisms and for different sectors when so required.

<sup>205</sup> Online information from Nacional Financiera, viewed at: <http://www.nafin.com/portalfn/content/home/home.html>.

<sup>206</sup> Decree ordering the establishment of the Public Trust, deemed to be a parastatal body, entitled ProMexico, published in the Official Journal of 13 June 2007; the latest amendment was published in the Official Journal of 29 February 2008. Organic Charter of ProMexico, published in the Official Journal of 10 March 2011.

<sup>207</sup> Viewed at: [http://www.promexico.gob.mx/es\\_mx/promexico/Servicios](http://www.promexico.gob.mx/es_mx/promexico/Servicios) (August 2012).

<sup>208</sup> Schedule for the budget authorized for the SE, its decentralized departments, the National Centre for Metrology, ProMexico, the Federal Consumer Protection Agency and the Mexican Geological Service, published in the Official Journal of 29 December 2012.

- The National Scheme for Guidance to Exporters, whose aim is to furnish a free and personalized advisory service on the export process through a network of Modules for the Guidance of Exporters (MOEs).<sup>209</sup> In November 2012, there were 62 modules.
- PYMEXPORTA centres, which are forums for business giving training and technical assistance for the participation and development of MSMEs in the export process. There were 26 PYMEXPORTA centres in Mexico in November 2012.<sup>210</sup>
- The National Export Award, which is the highest form of recognition given to businesses, institutions and organizations that have distinguished themselves in the area of international trade. This Award helps to make foreign trade-related companies and institutions more competitive by evaluating and identifying the most effective strategies and then disseminating them throughout Mexico.

3.172. Exporters are also eligible for the various business training programmes offered by the Nacional Financiera, which include courses to make the export process better known and to make recommendations on successful entry into markets.

3.173. Mexico's states also have export promotion programmes.

### **3.4 Other measures affecting production and trade**

#### **3.4.1 Incentives**

3.174. Mexico has a large number of business and sectoral support programmes. These are intended for any type of business, but mainly for MSMEs; they basically consist of financial assistance, tax incentives and technical training. There are currently various programmes offering tax and financial support managed by different Federal bodies, notably the SHCP and the SE. These include the PROSEC programmes and their tariff concessions, as well as the tax concessions concerning payment of IR and IETS, consumption of diesel fuel and the import of environmentally-friendly machinery. In addition to the Federal programmes, the states also have support programmes.

3.175. There have been several changes at the institutional level and in support programmes since the previous Review. In July 2012, the SE's Interministerial Industrial Policy Commission (CIPI) was dissolved; its task had been to coordinate and evaluate business support programmes and action by Federal Government agencies and bodies.<sup>211</sup> The CIPI was abolished as its responsibilities had been superseded by those given to the Undersecretariat of Small and Medium-sized Enterprises in the SE.<sup>212</sup> There were also changes to the PROSEC programmes. The authorities have indicated that various incentives under the Revenue Law such as credit for the cost of research and the development of technology, or the IEPS for diesel fuel for the merchant fleet, have also been eliminated.

##### **3.4.1.1 Tax incentives**

###### **3.4.1.1.1 PROSEC programmes**

3.176. Since 2002, Mexico has granted tariff concessions to specific sectors through its PROSEC programmes.<sup>213</sup> These enable firms producing specific goods to import inputs and machinery intended to produce such goods at a preferential tariff, irrespective of whether the goods are for the domestic market or export. The programme indicates the imported inputs and final products covered for each sector, together with their tariff headings.<sup>214</sup> The programmes' benefits are only granted for inputs included in the sector in question, and they cannot be used for

<sup>209</sup> The location of these MOEs can be viewed at: [www.contactopyme.gob.mx/moes](http://www.contactopyme.gob.mx/moes).

<sup>210</sup> They can be viewed at: <http://www.pyme.gob.mx/cpyme/oferta/mapa.asp>.

<sup>211</sup> Decree repealing the instruments indicated therein, published in the Official Journal of 4 July 2012.

<sup>212</sup> Law on developing the competitiveness of MSMEs, published in the Official Journal of 30 December 2002. The latest amendment was published in the Official Journal of 18 January 2011.

<sup>213</sup> Decree establishing various sectoral promotion programmes, published in the Official Journal of 2 August 2002. The latest amendment was published in the Official Journal of 26 December 2011.

<sup>214</sup> Articles 4 and 5 of the Decree establishing various sectoral promotion programmes.

other purposes. In 2007 and 2008, two new sectoral programmes were added, so that in 2012 there were 24 programmes in all. The two new programmes are for the food industry<sup>215</sup> and the fertilizer industry.<sup>216</sup> The other programmes apply to the following sectors: electricity; electronics; furniture; toys, games and sports articles; footwear; mining and metallurgy; capital goods; photography; agricultural machinery; chemicals; rubber and plastic articles; iron and steel industry; medical equipment, medicines and pharmaceuticals; transport (except for the automotive industry); paper and paperboard; wood; hides and skins; automotive industry and automobile parts; textiles and made-up articles; chocolates, confectionery and the like; coffee and various industries.

3.177. There was a certain erosion of tariff concessions granted under PROSEC programmes during the period under review. In December 2011, the tariffs applicable to PROSEC beneficiaries ranged from 0 to 10% (Table 3.14), whereas at the time of the previous Review the highest applied tariff was 5%. For the food industry, the only concessions apply to inputs for the sugar industry.

3.178. During the period under review, the sectoral programmes were revised six times.<sup>217</sup> New tariff headings were included in the programmes as part of these revisions, whilst others were removed.<sup>218</sup> The headings removed were those whose tariff was the same as or higher than the MFN tariff following the tariff reduction programme launched in 2008 so it was no longer necessary for them to remain covered by a PROSEC programme.<sup>219</sup> In December 2011, a total of 3,005 tariff headings relating to inputs were covered under PROSEC programmes, whereas in December 2007 there had been 6,185.<sup>220</sup> In September 2012, 3,533 firms had an authorized PROSEC programme.<sup>221</sup> The procedures for obtaining authorization for a programme remain the same, they are still valid for one year and are automatically renewed, provided that the beneficiary submits to the SE its annual report on the activities carried out under the programme.<sup>222</sup>

**Table 3.14 Number of tariff headings for inputs covered by the various PROSEC programmes, December 2011**

Programme	Number of tariff headings for inputs, by tariff level (%)						
	0	2.5	3	5	7	10	Total
Electricity	141	3		141			285
Electronics	606						606
Furniture	224			8		3	235
Toys, recreational games and sports articles	188						188
Footwear	14		1	24			39
Mining and metallurgy	5			43			48
Capital goods	31			54	1		86
Photography	29			3			32
Agricultural machinery	53						53
Miscellaneous industries	68	1	1	46			116

<sup>215</sup> Decree amending various tariffs in the tariff schedule in the LIGIE, Decree establishing various sectoral promotion programmes and the miscellaneous provisions establishing the general import tax rate applicable for 2007 for goods originating in certain countries with which Mexico has signed trade treaties or agreements, published in the Official Journal of 27 December 2007. The aim of the food promotion programme is to promote the dairy, meat, fisheries, oilseeds, flower-growing, fruit and vegetables, cereals and beverages industries.

<sup>216</sup> Decree amending the tariff schedule in the LIGIE and Decree establishing various sectoral promotion programmes, published in the Official Journal of 27 May 2008.

<sup>217</sup> The amending decrees were published in the Official Journals of 27 December 2007, 4 March 2008, 27 May 2008, 16 December 2009, 23 September 2010, and 26 December 2011.

<sup>218</sup> For example, the following programmes were introduced: electronics, chemicals, the automotive industry, furniture, toys, rubber and plastic (Decree amending the tariff schedule in the LIGIE, Decree establishing various sectoral promotion programmes, and the miscellaneous provisions establishing the general import tax for the northern border region and the rate of the general import tax applicable to goods originating in certain countries with which Mexico has signed trade treaties or agreements, published on 16 December 2009).

<sup>219</sup> For example, 230 tariff headings were removed under the Decree amending the tariff schedule in the LIGIE and the Decree establishing various sectoral promotion programmes, published in the Official Journal of 26 December 2011.

<sup>220</sup> Data provided by the authorities.

<sup>221</sup> *Ibid.*

<sup>222</sup> Article 7 of the Decree establishing various sectoral promotion programmes.

Programme	Number of tariff headings for inputs, by tariff level (%)						
	0	2.5	3	5	7	10	Total
Chemicals	69		2	64	8		143
Rubber and plastic articles	20			27	3		50
Iron and steel	38			36			74
Pharmaceutical products, medicines and medical equipment	15			23	1		39
Transport, except for the automotive industry and automobile parts	120			10			130
Paper and paperboard	8			10			18
Wood	6			17		3	26
Hides and skins	16		5				21
Automotive industry and automobile parts	555		115	22		1	693
Textiles and made-up articles	42		1	38	2	3	86
Chocolates, confectionery and the like	1						1
Coffee	10			5			15
Food	21						21
<b>Total</b>	<b>2,280</b>	<b>4</b>	<b>125</b>	<b>571</b>	<b>15</b>	<b>10</b>	<b>3,005</b>

Source: WTO Secretariat on the basis of data provided by the authorities. The data reflect Article 5 of the Decree establishing various sectoral promotion programmes, in line with the latest amendment published on 26 December 2011.

### 3.4.1.1.2 Other tax incentives

3.179. Mexico also grants tax incentives for: payment of the ISR and the IEPS, consumption of diesel fuel, use of environmentally-friendly machinery, *inter alia* (Table 3.15). Several programmes in existence at the time of the previous Review remain in effect. New programmes have been added such as the support for the mainstream film and audiovisual industry (2010) whilst others have been eliminated, for example, the tax incentive for research and development of technology projects (Box 3.3).<sup>223</sup>

**Table 3.15 Tax incentives for the promotion of economic activities**

Name of the programme	Description	Legal instrument
<b>Ministry of Finance and Public Credit (SHCP)</b>		
Consolidation for income-tax purposes	Holding companies resident in Mexico and owning over 50% of the shares with voting rights in another controlled company or companies may consolidate taxable income for income-tax purposes. This benefit was restricted in the 2010 tax reform by the imposition of certain obligations on the holding companies.	Article 64 (section II) of the Income Tax Law.
Reduced rate of income tax applicable to the primary and agribusiness sector	Natural or legal persons exclusively engaged in agriculture, breeding livestock, fishing or forestry are eligible for a 25% reduction in income tax.	Article 81 (sections II and V) of the Income Tax Law.
Tax incentives for adaptations to facilitate the use of facilities by persons with disabilities	Taxpayers may obtain 100% depreciation in income tax for adaptations made to facilities that involve additions or improvements to fixed assets in order to facilitate access and use of the facilities by persons with disabilities.	Article 40 (section XIII) of the Income Tax Law.
Tax incentives for generating energy from renewable sources	100% depreciation allowed for machinery and equipment used to generate energy from renewable sources.	Article 40 (section XII) of the Income Tax Law.
Tax incentives for fuel (diesel fuel)	Tax incentive for taxpayers engaged in business activities, with the exception of mining, and using diesel as a fuel for machinery in general, except for vehicles. The IEPS on the diesel fuel is credited against income tax. This incentive is available to the agricultural, livestock breeding and fisheries	Article 16 (part A, section I) of the Federation's Income Tax Law for 2012.

<sup>223</sup> In 2010, Article 219 of the Income Tax Law, which established this incentive by means of the amendment published in the Official Journal of 7 December 2009, was repealed.

Name of the programme	Description	Legal instrument
	sectors which, in addition to the credit, may also request the refund of the IEPS provided that they meet the requirements laid down.	
Exemption from payment of tariffs on imports of inputs, intermediate goods, machinery and equipment for research and development of technology.	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 (tariff heading 9806.00.03).	Decree on the General Import Tax published in the Official Journal (18/01/2003).
Incentives for public transport of passengers or freight	Tax incentive for persons purchasing diesel fuel for final consumption to be used in vehicles exclusively intended for the public or private transport of passengers or freight.	Article 16 (part A, section IV) of the Federation's Income Tax Law for 2012.
Incentives for land transport of freight or passengers	Tax incentive for persons exclusively engaged in land transport of freight or passengers and in private transport of freight or passengers.	Article 16 (part A, section V) of the Federation's Income Tax Law for 2012.
Immediate deduction for investment	Immediate income tax deduction for investment in new fixed assets outside the metropolitan areas of Monterrey, Guadalajara and the Federal District. This restriction does not apply to companies that do not require intensive use of water for their production and which use clean technology for their polluting emissions.	Article 220 of the Income Tax Law.
Tax incentives for the Mexican film industry	A tax incentive of up to 10% is granted to taxpayers investing in national film production.	Article 226 of the Income Tax Law
<b>Ministry of the Interior</b>		
Support for the mainstream film and audiovisual industry	VAT refund of up to 16% for the export of goods and services. In addition, refund of VAT on up to 7.5% of total costs in Mexico.	Budget programme

Source: Information provided by the Mexican authorities.

### Box 3.3 Incentives eliminated over the period 2008-2012

#### (a) Assets tax

- In 2008, the tax incentive for the agricultural and forestry sector consisting of crediting investment made in an amount equivalent to the tax on assets was eliminated.
- In 2007, taxpayers entering into contracts with decentralized government organizations were exempt from payment of tax on assets for the amount of the tax entered in the accounts receivable under the contract in relation to investment in infrastructure.

#### (b) Income tax

- An income tax deduction was granted for the cost of research and development of technology, but from 2009 onwards it ceased to apply inasmuch as the Income Tax Law did not determine any amount for this incentive. In 2010, the relevant article (Article 219) of the Income Tax Law was repealed.

#### (c) Federal Revenue Law

- In 2008, the tax incentive given to taxpayers buying special marine diesel fuel for use as a fuel in vessels intended for the merchant fleet's own activities was abolished.
- Taxpayers engaged in mining were excluded from the tax incentive for the IEPS on diesel fuel consumed.

Source: Information provided by the Mexican authorities.

### 3.4.1.2 Financial incentives

3.180. In addition to the financial incentives given to the export sector, Mexico still has other financial incentive programmes to promote economic activities in general. These are available to any type of business in specific sectors, as well as to SMEs irrespective of their sector of activity.

3.181. The sectors for which a financing programme exists are agriculture (see Chapter 4.2.4), information technology, and tourism. Financial support is also provided to promote clean energy and for research and development of technology (Table A3.3).

### 3.4.1.3 Other incentives

3.182. There are also training, technical assistance and advisory programmes for specified sectors or economic agents with the aim of promoting the creation of businesses, their growth, consolidation and the development of strategic alliance or links between Mexican and foreign companies.

### 3.4.1.4 Trade-related investment measures

3.183. Mexico has not made any new notification in connection with the Agreement on Trade-Related Investment Measures (TRIMS Agreement) since the previous Review.

## 3.4.2 Competition policy and price controls

### 3.4.2.1 Competition policy

3.184. Competition and monopolies are governed by Article 28 of the Constitution, the Federal Law on Economic Competition (LFCE)<sup>224</sup> and its implementing regulations.<sup>225</sup> The LFCE has been amended three times since the previous Review: twice in 2011 and once in 2012. The most important changes were made in May 2011 and were designed to give the Federal Competition Commission (CFC) greater responsibilities, facilitate compliance with the LFCE, and improve enforcement. Regarding the latter, the changes included larger fines, the imposition of criminal penalties and preventive measures, and the conduct of inspection visits.<sup>226</sup> Federal legislation is supplemented by the provisions on competition in the majority of Mexico's FTAs. There are also other relevant international instruments with several countries and between the CFC and other competition authorities. The CFC signed three new bilateral cooperation agreements on technical assistance during the period under review with the competition authorities of the Russian Federation (2011), Ecuador (2011) and Nicaragua (2011). Accordingly, by September 2012, there were 11 international cooperation agreements on competition.<sup>227</sup>

3.185. The LFCE prohibits monopolies or any other practice that restricts free competition (Articles 8-10 of the LFCE). Pursuant to the LFCE (Article 11), monopolistic practices are contrary to the law if it can be shown that the author of such a practice has substantial power in the market concerned and in relation to goods or services corresponding to this market. The practice as such is not prohibited. The LFCE (Article 4) and the Constitution (Article 28) also indicate that activities conducted exclusively by the State in the following areas do not constitute a monopoly: postal, telegraph and radio-telegraphy services; petroleum and other hydrocarbons; petrochemicals; radioactive minerals and the generation of nuclear power; and electricity, together with those activities that are specifically indicated in the respective legislation.

3.186. The following are not considered monopolies either: the privileges conferred by copyright or patents; and cooperative associations whose sales and distribution are exclusively overseas (Articles 5 and 6 of the LFCE, and Article 8 of the Constitution). The LFCE determines, however, that even these economic agents, as well as the Federal bodies, are subject to the rules concerning anti-competitive behaviour in their respective markets, unless it is specifically protected by Article 28 of the Constitution.

3.187. The CFC is a decentralized unit of the SE, and remains the body responsible for implementing the LFCE. Its main tasks include preventing, investigating and combating monopolies, monopolistic practices and cartels, as well as issuing administrative decisions, giving opinions when consulted, and imposing penalties for anti-competitive practices (Articles 23-24 of the LFCE). In relation to calls for bids, the CFC acts to determine the competition criteria to be followed in bidding for concessions or obtaining permits. Moreover, some sectoral laws give the CFC special powers, notably for determining the competition criteria in certain markets, and the approval needed in order to bid for concessions and privatization conducted by Ministries. The sectors concerned are: transport, energy, telecommunications, the financial sector, and foreign trade.<sup>228</sup>

<sup>224</sup> Published in the Official Journal of 24 December 1992; the latest amendment was published on 9 April 2012.

<sup>225</sup> Published in the Official Journal of 12 October 2007.

<sup>226</sup> Decree amending, supplementing and repealing various provisions of the Federal Law on Economic Competition, published in the Official Journal of 10 May 2011.

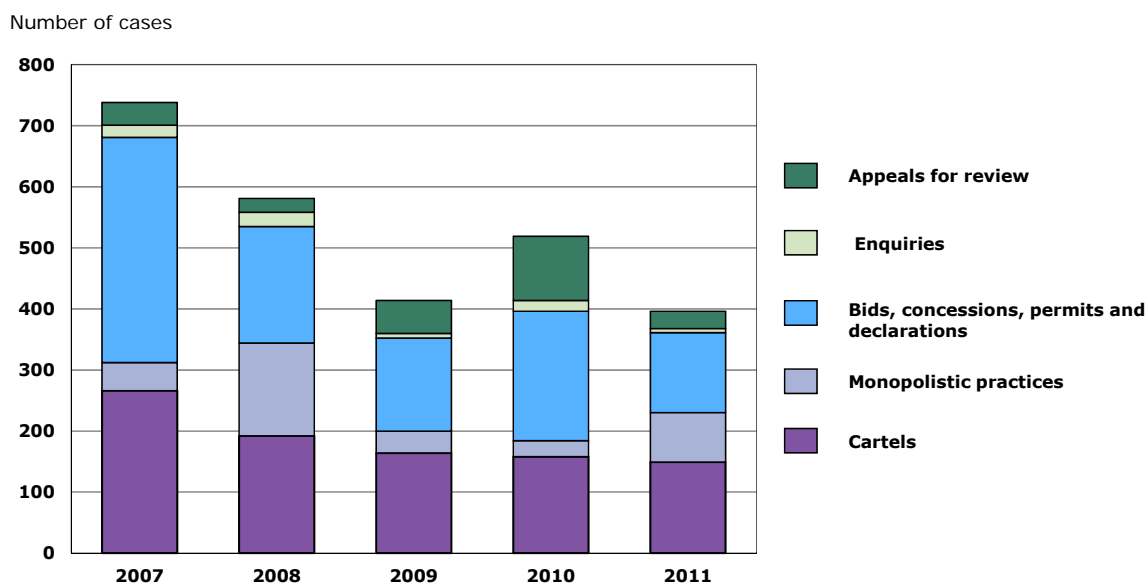
<sup>227</sup> The list of agreements can be viewed at: <http://www.cfc.gob.mx/index.php/cfc-quienes-somos/marco-juridico-cfc/tratados-y-acuerdos-internacionales-de-la-cfc>.

<sup>228</sup> Online information from the CFC, viewed at: <http://www.cfc.gob.mx/images/stories/Leyes/compendionormativo/2012/compendio-julio-2012.pdf>.

3.188. Over the period 2007 to 2011, the CFC dealt with 2,648 cases, only around half as many as during the previous five years (2002-2006) (5,383 cases). Each year, it dealt with an average of 529 cases, of which the majority concerned cartels (35% of cases on average) and bids, concessions, permits and declarations (39% of cases on average) (Chart 3.7). At December 2011, the CFC had 80 cases pending.<sup>229</sup>

3.189. There have been no notable changes to the investigation process or the procedures since the previous Review (Articles 30-34 *bis* 4 of the LFCE). The CFC may initiate an investigation ex officio or upon request. To do so, it must publish an extract of the decision by which it initiates the investigation in the Official Journal. This decision must refer to the presumed violation to be investigated and the market concerned. The investigation starts with the publication of the decision and may last from 30 to 120 days, renewable for a maximum of 480 days when this is justified (Article 30 of the LFCE). At the conclusion of the investigation, the CFC issues a definitive resolution, which concludes the procedure, gives its ruling and imposes sanctions and/or conditions, which are published in the Official Journal (Article 33 of the LFCE). The parties concerned have 30 days in which to lodge an appeal for review of the resolution contested and the rulings made. The CFC has to issue a resolution within a period of 60 days. At the end of this period, the matter contested is deemed to have been confirmed. If there is disagreement with the final resolution, the complainant has a right of appeal (*amparo*) to a District or Federal court, both as regards resolutions by the CFC and those resulting from the review (Article 39 of the LFCE). The changes that occurred during the period of review include the possibility of conducting inspection visits without prior notice (Article 31 of the CFC) and of holding oral hearings before CFC officials to clarify the arguments (Article 33 of the LFCE).

**Chart 3.7 Cases concluded by the Federal Competition Commission, 2007-2011**



Source: Federal Competition Commission, *Informe Anual 2011*.

3.190. The authorities have indicated that the CFC has taken action in sectors such as wholesale trade, information in the mass media, health and social welfare services, transport, postal and storage services, supply of gas, manufacturing, leisure, cultural and sports services, real estate services and the leasing of movable and immovable property, food, beverages, etc. The OECD, in conjunction with the CFC, has developed a toolkit to identify restrictions that hinder competition in

<sup>229</sup> CFC (2012b).



sectors such as food (basic basket), personal bank loans, pharmaceuticals, telecommunications, airports and international passenger transport.<sup>230</sup>

3.191. Despite intensified activity by the CFC, there are still some sectors where there are serious competition problems, for example, the extraction and refining of hydrocarbons, telephony, television, certain financial services, railways, and the maize-tortilla chain.<sup>231</sup>

### 3.4.2.2 Price controls

3.192. The legal framework for price controls has not changed since the previous Review. Pursuant to the Constitution (Article 28), maximum prices may be introduced by law for products and services deemed necessary for the national economy or for mass consumption. The LFCE (Article 7) also states that it is the exclusive power of the President to issue decrees on the goods and services subject to price control only where there is no effective competition in the market concerned. The CFC is responsible for determining the absence of effective competition and for issuing the relevant ruling. This ruling empowers the SE to determine the price of products on the basis of criteria that will prevent shortages. The SE may also coordinate the necessary measures with producers or distributors so as to minimize the impact on free competition. The Federal Consumer Protection Agency (PROFECO), coordinated by the SE, is responsible for inspection, monitoring and penalties in respect of such prices (Article 7 of the LFCE).

3.193. Mexico continues to impose price controls on the following:

- **Petrol and petrochemical products:** their prices are administered by the SHCP<sup>232</sup>, taking into account the views of the SE and the Ministry of Energy.<sup>233</sup>
- **Natural gas<sup>234</sup> and liquefied petroleum gas:**<sup>235</sup> the price of natural gas is determined by the Regulatory Commission for Energy, whereas that of liquefied petroleum gas is calculated monthly by the SE on the basis of presidential decrees. Price controls also apply to the distribution, transport and storage of these products.<sup>236</sup>

<sup>230</sup> Document available at:

<http://www.oecd.org/daf/competition/reducingregulatoryrestrictionsoncompetition/mexico-strengtheningthecompetitionandregulationframework.htm>.

<sup>231</sup> Maize tortillas, together with six other consumer goods, have been identified as a market where there are competition problems. *Aspectos generales de las reformas a la Ley de Competencia*, presentation by the CFC, September 2011. The presentation can be viewed at: <http://www.cfc.gob.mx/index.php/glosario/presentaciones>.

<sup>232</sup> Resolution establishing for a transitional period the terms and conditions applicable to first-hand sales of heating oil and basic petrochemicals and the methodologies for determining their prices (...) as mentioned in the Decree amending, supplementing and repealing various provisions of the Law on the Regulatory Commission for Energy, published on 28 November 2008, published in the Official Journal of 8 January 2009; and Article 3 of the Law on the Regulatory Commission for Energy, published in the Official Journal of 31 October 1995. The latest amendment was published in the Official Journal of 28 November 2008.

<sup>233</sup> Article 31 (section X) of the Law on the Organization of the Federal Public Administration, published in the Official Journal of 29 December 1976. The latest amendment was published on 14 June 2012.

<sup>234</sup> Article 8 of the Regulations on Natural Gas, published in the Official Journal of 8 November 1995. The price is calculated in accordance with the Directive on the determination of maximum prices for natural gas for first-hand sale DIR-GAS-001-2009, published on 20 July 2009.

<sup>235</sup> Decree making liquefied petroleum gas subject to maximum prices for first-hand sale and sale to final users, published in the Official Journal of 1 January 2011. The latest amendment was published in the Official Journal of 29 July 2011. Similar amendments were published in 2001, 2002, 2003, 2007, 2008, 2009 and 2010. In October 2012, the domestic prices in the 145 zones were indicated in the Decision determining the maximum price for liquefied petroleum gas for final users, corresponding to October 2012, published in the Official Journal of 1 October 2012.

<sup>236</sup> The rates for transport and storage of liquefied gas can be viewed at: [http://www.cre.gob.mx/pagina\\_a.aspx?id=41](http://www.cre.gob.mx/pagina_a.aspx?id=41). Those for transport, distribution and storage of natural gas can be viewed at: [http://www.cre.gob.mx/pagina\\_a.aspx?id=10](http://www.cre.gob.mx/pagina_a.aspx?id=10).

- **Electricity:** electric power rates are determined by the SHCP, in participation with the Ministries of Energy and the Economy, and following a proposal by the Federal Electricity Commission (see Chapter 4).<sup>237</sup>
- **Medicines with a valid patent:** maximum selling prices to the public are determined when they are intended for the private sector. These prices are administered by the SE (Article 7 of the LFCE and Article 31 of the Law on Health). For procurement by the public sector, a Coordinating Commission for the Negotiation of Prices for Medicines and Other Health Inputs was created in 2008 with the task of negotiating prices for certain patented medicines and inputs that are the subject of a direct bidding procedure.<sup>238</sup> This negotiating mechanism is administered by the Ministry of Health. The authorities have indicated that generic medicines and inputs are not subject to price controls.

### 3.4.3 State-owned enterprises

3.194. Mexico has not submitted any notification on State trading to the WTO since 2000. At that time, it notified the WTO that it did not have any State-trading enterprise according to the definition in Article XVII of the GATT 1994.<sup>239</sup>

3.195. The Constitution lists those activities that are the exclusive purview of the State and are deemed to be strategic, for example, hydrocarbons, electricity and postal services (see Table 2.2).

3.196. PEMEX is still the major State-owned enterprise, but the State has holdings in other sectors of activity.

### 3.4.4 Government procurement

#### 3.4.4.1 Legal and institutional framework

3.197. Transactions and procedures for government procurement and contracts are governed by the Constitution (Article 134), the Law on Public Sector Procurement, Leases and Services (LAASSP)<sup>240</sup>, the Law on Public Works and Related Services (LOPSRM)<sup>241</sup>, the Law on Public-Private Associations<sup>242</sup>, the Mexican Petroleum Law<sup>243</sup>, and their respective implementing regulations.<sup>244</sup> Mexico has also included a chapter on government procurement (at the Federal level) in its FTAs with EFTA, Central America, Chile<sup>245</sup>, Costa Rica, Colombia, Canada, the United States, Israel, Japan and the European Union, under which it grants national treatment to contractors from these countries.

3.198. Mexico has not signed the WTO Agreement on Government Procurement and does not participate as an observer in the WTO Committee on Government Procurement.

<sup>237</sup> Articles 30 and 31 of the Law on the Public Electric Power Service, published on 5 February 1917. The latest amendment was published in the Official Journal of 9 February 2012. The rates are calculated in accordance with the Decision authorizing the amendment of rates for the supply and sale of electric power and amending the complementary provisions for rates for the supply and sale of electric power published in the Official Journal of 28 December 2011, and the Decision authorizing amendment of the rates for the supply and sale of electric power (for household use), published on 29 June 2012.

<sup>238</sup> Decision creating the Coordinating Commission for the Negotiation of Price for Medicines and other Health Inputs, published in the Official Journal of 26 February 2008 and its amending decision published on 23 August 2012.

<sup>239</sup> The latest notification is contained in WTO document G/STR/N/6/MEX of 31 July 2000.

<sup>240</sup> Published in the Official Journal of 4 January 2000. The latest amendment was published in the Official Journal of 16 January 2012.

<sup>241</sup> Published in the Official Journal of 4 January 2000. The latest amendment was published in the Official Journal of 9 April 2012.

<sup>242</sup> Published in the Official Journal of 16 January 2012.

<sup>243</sup> Published in the Official Journal of 28 November 2008.

<sup>244</sup> The implementing regulations for the LAASSP and for the LOPSRM were published in the Official Journal of 28 July 2010. The implementing regulations for the Mexican Petroleum Law were published on 4 September 2009. The implementing regulations for the Law on Public-Private Associations were published on 5 November 2012.

<sup>245</sup> For Chile, the provision on government procurement came into force on 1 January 2009. The Protocol adding the chapter on government procurement to the FTA between Mexico and Chile published in the Official Journal of 27 October 2008.

3.199. The Ministry of Public Administration (SFP) is the Federal authority responsible for determining government procurement policies and guidelines. It is also in charge of issuing the administrative provisions necessary for compliance with the LAASSP and the LOPSRM and for promoting a clear and streamlined legal framework. For this purpose, the LAASSP has to take into account the views of the SHCP and, where appropriate, those of the SE (Article 7 of the LAASSP and Article 8 of the LOPSRM). It is also responsible for looking into irregularities and penalizing bidders or suppliers who break the law (Article 59 of the LAASSP and Article 77 of the LOPSRM).

3.200. The sections below describe the procedures for procurement, leases and services in accordance with the LAASSP. The principles for invitations to bid and government procurement laid down in the LOPSRM are the same as those contained in the LAASSP.

#### 3.4.4.2 Procurement procedures

3.201. There were a number of changes to procurement procedures during the period under review. They included amendments to: the terms for open international public bidding procedures; the maximum limit to be contracted under special procedures; the preference margin to be granted for Mexican goods when comparing bids; and the operation of the information platform for government procurement called the CompraNet. The role of Social Witness (representatives of civil society) was added in line with the principle of transparency. Social Witnesses take part in all public bidding procedures and issue a final statement containing their views and recommendations, which is published on the website of the commissioning agency and on CompraNet (Article 26 *ter* of the LAASSP). The method of decreasing bids (reverse auction), which allows for improvement in the initial price bid, was also added (Article 28 of the LAASSP).

3.202. As a general rule, the following are the stages in bidding: publication of the invitation to bid on the CompraNet website and of a summary thereof in the Official Journal; holding of at least one information session<sup>246</sup>; submission of bids; presentation and opening of bids; evaluation of bids; and issuing of the decision (Articles 26, 30, 33-37 of the LAASSP).

3.203. In accordance with the LAASSP (Article 26), Federal government agencies may procure or lease goods and commission services by means of three types of procedure: (a) a public invitation to bid; (b) an invitation to bid issued to at least three persons; and (c) direct award of the contract. The first procedure is the one generally used for awarding government contracts, while the other two apply in special cases (Articles 41 and 42 of the LAASSP), and as such their use has to be justified in writing (Article 40 of the LAASSP). Contracts under procedures (b) and (c) that are justified by the amount of the contract may not exceed 30% of the agency's or department's budget for procurement, leasing or services (Article 42 of the LAASSP). This percentage was 20% up until 2009.<sup>247</sup> There are also provisions on government procurement specific to each state.

3.204. A public invitation to bid may be one of three types (Article 28 of the LAASSP):<sup>248</sup>

- **National:** procedures in which only Mexican nationals may participate and the goods to be purchased are produced in Mexico, with a minimum of 50% national content.
- **International covered by an agreement:** procedures in which only Mexican bidders and 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 comply with the rules of origin criteria in the agreement.

<sup>246</sup> During the information session, bidders are given the opportunity to clarify and resolve any doubts or questions concerning the content of the invitation to bid (Article 33 *bis* of the LAASSP).

<sup>247</sup> Decree amending, supplementing and repealing various provisions in the LAASSP, the LOPSRM, the Federal Law on the Administrative Liability of Civil Servants and the Federal Penal Code, published in the Official Journal of 28 May 2009.

<sup>248</sup> During the period under review, Article 28 of the LAASSP was amended twice by means of Decrees published in the Official Journals of 16 January 2012 and 28 May 2009. The Decrees in question were: Decree issuing the Law on Public-Private Associations, and amending, supplementing, and repealing various provisions of the LAASSP; the LAASSP; the Law on Expropriation; the General Law on National Assets and the Federal Code of Civil Procedure (2012), and the Decree amending, supplementing and repealing various provisions in the LAASSP, the Law on Public Works and Related Services, the Federal Law on the Administrative Liability of Civil Servants and the Federal Penal Code (2009). These Decrees essentially amended the terms for international bidding procedures (either open or covered by an agreement).

- **Open international:** procedures in which any Mexican or foreign bidder may take part and the goods to be purchased or leased, or the services to be commissioned, are of any origin. Since January 2012, this procedure has applied: (a) when a national invitation to bid has been issued but has been unsuccessful; or (b) when this is specified in contracts financed by external loans granted to the Federal Government (or with its guarantee).<sup>249</sup> Prior to this date, the criterion in (a) above was different.

3.205. From 2009 onwards, the preference margin to be applied in international public invitations to bid (whether open or covered by an agreement<sup>250</sup>) rose from 10% to 15% of the cost of the goods of national origin in comparison with imported goods (Articles 14 and 28 of the LAASSP).

3.206. The submission of bids in public bidding procedures may be (Article 26 *bis* of the LAASSP):

- **In person:** bidders may only present their bids in writing at the time the bids are opened, or by post if this is specified in the invitation to bid. The information sessions and the events at which bids are presented and opened and the final decision is issued take place in the presence of the bidders.
- **Electronic:** bidders take part solely through CompraNet. The information sessions and the events at which bids are presented and opened and the final decision is issued take place through CompraNet without the presence of the bidders.
- **Mixed:** bidders may, if they choose, take part in person or electronically in the information sessions and the events at which bids are presented and opened and the final decision is issued.

3.207. Invitations to bid involving at least three persons or direct award of a contract may apply, *inter alia*, when (Article 41 of the LAASSP):

- there are no alternative or replacement goods or services or if there is only one possible bidder in the market, or if only one person has the exclusive use of the patent, copyright or other exclusive rights, or in the case of works of art;
- there is a risk to social order, the economy, public services, health, security or the environment in Mexico as a result of an event of *force majeure*;
- there are justified reasons for purchasing or leasing goods of a particular make;
- the goods to be purchased are perishable, in bulk or are staple or semi-processed foods, or livestock.

3.208. Contracts may also be awarded following invitations to bid issued to at least three persons or directly if the amount of each operation (contract) does not exceed the ceilings determined in the Federation's Expenditure Budget. The amount of these operations may not, however, exceed 30% of the budget for procurement, leasing or services of the agency or department (Article 42 of the LAASSP).

3.209. In 2011, government procurement registered on CompraNet amounted to Mex\$293,939 million (Table 3.16). Of this amount, 48% corresponded to national public

<sup>249</sup> Decree issuing the Law on Public-Private Associations and amending, supplementing and repealing various provisions in the Law on Public Works and Related Services; the LAASSP; the Law on Expropriation; the General Law on National Assets and the Federal Code of Civil Procedure, published in the Official Journal of 16 February 2012.

<sup>250</sup> This means that the amount of the national bid taken into account for the purposes of comparing the bids with domestic goods or foreign goods is the cost of the domestic good minus 15%, or put another way, it is the cost multiplied by 0.85. Source: Decree amending, supplementing and repealing various provisions in the LAASSP, the LOPSRM, the Federal Law on the Administrative Liability of Civil Servants and the Federal Penal Code, published in the Official Journal of 28 May 2009; and Rules for applying the preference margin to the cost of goods of national origin in comparison with the cost of imported goods in open international procurement procedures by agencies and departments of the Federal Public Administration, published in the Official Journal of 28 December 2010.

invitations to bid, 18% to international public invitations to bid, and the remainder to invitations to bid to at least three persons or direct award of a contract.

**Table 3.16 Amounts and number of contracts by type of bidding procedure registered by CompraNet, 2007-2011**

(Mexican pesos millions)

	Contracts									
	2007		2008		2009		2010		2011	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
<b>Public invitation to BID</b>	<b>54,248</b>	<b>442,803</b>	<b>51,231</b>	<b>401,266</b>	<b>42,838</b>	<b>590,196</b>	<b>36,395</b>	<b>386,658</b>	<b>25,117</b>	<b>195,266</b>
National	35,906	159,104	35,572	201,400	29,167	344,851	26,125	296,421	18,729	140,778
International	18,342	283,699	15,659	199,866	13,671	245,345	10,270	90,237	6,388	54,488
Open	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	3,804	12,428
International covered by an agreement	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	2,584	42,060
<b>Invitation to at least 3 persons</b>	<b>7,872</b>	<b>9,470</b>	<b>9,294</b>	<b>98,367</b>	<b>8,880</b>	<b>22,312</b>	<b>10,657</b>	<b>15,444</b>	<b>11,463</b>	<b>23,028</b>
<b>Direct award of the contract</b>	<b>27,398</b>	<b>53,572</b>	<b>30,575</b>	<b>164,339</b>	<b>40,548</b>	<b>357,806</b>	<b>60,728</b>	<b>120,334</b>	<b>49,625</b>	<b>75,645</b>
<b>Total</b>	<b>89,518</b>	<b>505,845</b>	<b>91,100</b>	<b>663,972</b>	<b>92,266</b>	<b>970,314</b>	<b>107,780</b>	<b>522,436</b>	<b>86,205</b>	<b>293,939</b>

Source: Information provided by the Mexican authorities.

3.210. During the period under review, new functions were added to the CompraNet electronic system. This system compiles all the information concerning government procurement, for example: the annual procurement programmes of each agency or department; invitations to bid and amendments thereto; invitations to bid to a least three persons; direct award of contracts; a single register of suppliers; a register of approved suppliers.<sup>251</sup> Since July 2010, there has been a new version of CompraNet (version 5.0), which allows all procurement procedures to be conducted electronically in accordance with the LAASSP, unlike the previous version 3.0.<sup>252</sup> Since July 2011, all invitations to bid involving amounts exceeding 300 times the current minimum wage have had to use the new version of CompraNet (version 5.0).<sup>253</sup> Version 3.0 remains purely for consultation purposes. CompraNet is the responsibility of the Ministry of Public Administration through its Government Procurement Policy Unit (UPCP) and consultation is free of charge (Article 2 of the LAASSP).

3.211. The CompraNet system enables bidding to be monitored from publication of the invitation to bid up to the final decision. In order to register and use this system, companies must, *inter alia*, have a FIEL, issued by the SAT. Foreign bidders use the electronic means of identification determined by the Ministry of Public Administration.

#### 3.4.4.3 Incentives to participate in government procurement

3.212. In January 2009, at the initiative of the President, the government procurement programme was launched with the aim of encouraging participation by MSMEs in invitations to bid for procurement by all Federal Government agencies and departments.<sup>254</sup> Under this programme, MSMEs that are, or wish to become, suppliers to the Federal Government receive training and financing. This initiative is part of a legal framework to encourage government procurement from MSMEs. Pursuant to the Law on the Development of the Competitiveness of Micro, Small and

<sup>251</sup> Decree amending, supplementing and repealing various provisions in the LAASSP, the LOPSRM, the Federal Law on the Administrative Liability of Civil Servants and the Federal Penal Code, published in the Official Journal of 28 May 2009.

<sup>252</sup> Decision issuing the Administrative Manual for General Application in relation to Government Procurement, Leases and Services, published in the Official Journal of 9 August 2010.

<sup>253</sup> Article 4 of the Decision determining the provisions to be respected for use of the Government's electronic public information system called CompraNet, published in the Official Journal of 28 June 2011.

*CompraNet 5.0: Preguntas Frecuentes*, viewed in September 2012 at: <http://www.contraloria-oaxaca.gob.mx/contenido/compranet/contenido/DudasCompraNet5.pdf>.

<sup>254</sup> Section 2.6 of the Sixth Report of the Government, 2012.

Medium-Sized Enterprises, such procurement must gradually reach a minimum level of 35% (Article 10).<sup>255</sup>

3.213. Also in January 2009, the Interministerial Commission on Procurement from SMEs was created to be responsible for issuing recommendations and proposing measures to all Federal agencies and departments in order to increase participation by MSMEs.<sup>256</sup> The Decision creating this Commission also determined that the objective of Federal agencies and departments for 2009 would be to procure from MSMEs 20% or more of their procurement which such enterprises could provide (Second Transitional Article). This percentage should gradually rise to reach 35%. According to the data furnished by the authorities, this target was reached and even exceeded. In 2010 and 2011, government procurement from MSMEs was, respectively, Mex\$61,451 million and Mex\$83,433 million, equivalent to 41.5% and 42.7% of the total which such enterprises could supply. The value of government procurement from MSMEs in 2011 was almost five times more than in 2009 (Mex\$17,660 million).

3.214. In 2010, the government procurement website for MSMEs was launched, providing information on current invitations to bid, business opportunities, training and financing possibilities, *inter alia*.<sup>257</sup>

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

#### 3.4.5.1 Legal framework

3.215. Mexico continues to make considerable efforts to protect copyright and industrial property by legislating on the rights of authors, the regulation and granting of patents, and the registration of other forms of IPRs. This progress has made Mexico a more attractive market for holders of IPRs. In 2010, Mexico was the Latin American country with the highest number of patents in effect and the 17<sup>th</sup> worldwide.<sup>258</sup>

3.216. Mexico's intellectual property regime is governed by various national laws and regulations (Table 3.17) and by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), implemented since 1 January 2000. Mexico is a party to several agreements under the framework of the World Intellectual Property Organization.

3.217. Mexican legislation to a large extent reflects the provisions in the TRIPS Agreement (Table A3.4), although it differs in some respects. For example, Mexico grants rights that exceed the minimum terms specified in the TRIPS Agreement for industrial designs, trademarks, copyright and related rights.

3.218. During the period under review, there were changes to the Industrial Property Law, the Federal Copyright Law, and their respective implementing regulations, and to the Federal Law on New Plant Varieties (Table 3.17). As regards the Industrial Property Law, in 2010 the procedure for obtaining a patent was amended. Provisions were also added on applications and renewal of registration and licensing of trademarks. In 2011, the implementing regulations for the Industrial Property Law were amended as regards requirements for the registration of trademarks.<sup>259</sup>

<sup>255</sup> Published in the Official Journal of 30 December 2002. The latest amendment was published on 18 January 2012. The percentage was originally set at 10% in 2002.

<sup>256</sup> Decision creating a permanent Interministerial Commission for Federal Public Administration Procurement and Works from Micro, Small and Medium-Sized Enterprises, published in the Official Journal of 15 January 2009.

<sup>257</sup> The website can be viewed at: <http://www.comprasdegobierno.gob.mx/>.

<sup>258</sup> The latest year for which information is available is 2010. WTO Secretariat estimates based on online data from WIPO and the WTO. Viewed in November 2012 at: <http://www.wipo.int/ipstats/es> and <http://stat.wto.org/Home/WSDBHome.aspx?Language=E>.

<sup>259</sup> Article 56 of the implementing regulations provides that trademarks consisting of a commercial name or slogan must be in letters or words of the Roman alphabet and western Arabic numerals, and their spelling must assist proper reading of them. A trademark consisting of a name identifies a product or service on the basis of one or more words that can be distinguished phonetically.

**Table 3.17 Legal framework for intellectual property, June 2012**

<b>Instrument</b>	<b>Publication in the Official Journal</b>	<b>Latest amendment published in the Official Journal</b>
<b>Principal laws</b>		
Industrial Property Law	27 June 1991	9 April 2012
Implementing regulations for the Industrial Property Law	23 November 1994	10 June 2011
Federal Copyright Law	24 December 1996	27 January 2012
Implementing regulations for the Federal Copyright Law	22 May 1998	14 September 2005
Federal Law on New Plant Varieties	25 October 1996	9 April 2012
Implementing regulations for the Federal Law on New Plant Varieties	24 September 1998	-
Customs Law (Articles 143, 144, 146 to 149)	15 December 1995	9 April 2012
Federal Labour Law (Article 163)	1 April 1970	9 April 2012
Federal Code of Penal Procedure (Article 194)	30 August 1934	14 June 2012
Commercial Code (Article 6 <i>bis</i> )	7 October 1889	17 April 2012
Federal Penal Code (twenty-sixth title)	14 August 1931	28 June 2010
<b>Legislation on appellations of origin</b>		
General Declaration on Protection of the Appellation of Origin "Tequila"	13 October 1977	26 June 2000
Resolution granting the planned protection for the appellation of origin "Mezcal", to be applied to the alcoholic beverage of the same name	28 November 1994	3 March 2003
Resolution granting the planned protection for the appellation of origin "Olinalá", to be applied to these wooden handicrafts	28 November 1994	-
Resolution granting the protection planned in Articles 157, 158 and other applicable articles in the Industrial Property Law for the appellation of origin "Talavera de Puebla", to be applied to handicrafts from Talavera	17 March 1995	16 October 2003
General Declaration on Protection of the Appellation of Origin "Bacanora"	6 November 2000	-
General Declaration on Protection of the Appellation of Origin "Ámbar de Chiapas"	15 November 2000	-
General Declaration on Protection of the Appellation of Origin "Café Veracruz"	15 November 2000	-
General Declaration on Protection of the Appellation of Origin "Sotol"	8 August 2002	-
General Declaration on Protection of the Appellation of Origin "Café Chiapas"	27 August 2003	-
General Declaration on Protection of the Appellation of Origin "Charanda"	27 August 2003	-
General Declaration on Protection of the Appellation of Origin "Mango Ataulfo del Soconusco de Chiapas"	27 August 2003	-
General Declaration on Protection of the Appellation of Origin "Vainilla de Papantla"	5 March 2009	-
General Declaration on Protection of the Appellation of Origin "Chile Habanero de la Península de Yucatán"	4 June 2010	-
General Declaration on Protection of the Appellation of Origin "Arroz del Estado de Morelos"	13 February 2012	-

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

3.219. Since 2009, Article 22 *bis* of the General Law on Health has included general principles for the market in biosimilar medicines.<sup>260</sup> The implementing regulations setting out the criteria and procedures for applying this Article were adopted in 2011.<sup>261</sup>

<sup>260</sup> Decree adding an Article 222 *bis* to the General Law on Health, published in the Official Journal of 11 June 2009. Viewed at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5094117&fecha=11/06/2009](http://dof.gob.mx/nota_detalle.php?codigo=5094117&fecha=11/06/2009) [August 2012]. Biosimilar medicines are non-innovative biotechnology medicines. In other words, biotechnology medicines seeking to enter a market once the patent for the original innovative medicine has expired.

3.220. In 2010, the National Supreme Court of Justice (SCJN) decided that the Mexican Industrial Property Institute should include in its Industrial Property Gazette patented medicines that constitute a pharmaceutical composition and not only patents for medicines whose claims protect a substance, ingredient or active ingredient.<sup>262</sup> The SCJN noted that the purpose of the list in the Gazette is to create a link between the health and industrial property authorities so that COFEPRIS rejects any sanitary registration that infringes rights protected by valid patents.<sup>263</sup>

3.221. In 2011, COFEPRIS authorized the first four sanitary registrations of biotechnology medicines sought by international firms, as a follow-up to the lifting of the requirement to have a pharmaceutical plant in Mexico in order to obtain such registration.<sup>264</sup> This requirement was gradually lifted between 2008 and 2010 depending on the type of medicine.<sup>265</sup> As already mentioned, one of the previous COFEPRIS requirements for obtaining sanitary registration was to establish a plant or laboratory for medicines in Mexican territory so in practice only manufacturers with a plant in Mexico could obtain authorization to import or sell medicines.

### 3.4.5.2 Institutional framework

3.222. The principal bodies in relation to IPRs remain:

- **The Mexican Industrial Property Institute (IMPI)** is a decentralized government body of the SE whose task it is to foster inventive activity and disseminate global technological know-how protected by IPRs. It is also responsible for legal protection of industrial property and copyright through the granting of IPRs, investigating conduct liable to infringe IPRs, imposing penalties and issuing decisions on distinctive signs. In addition to imposing penalties, IMPI may declare the registration of inventions, trademarks or other distinctive signs annulled, expired or cancelled through "administrative declaration procedures".<sup>266</sup> IMPI takes part in negotiations on drawing up international industrial property treaties and in bilateral, regional and multilateral meetings and forums. It has signed technical cooperation agreements with various industrial property organizations and offices in several countries.<sup>267</sup> It has also

<sup>261</sup> The new legal framework for biosimilar medicines includes the following elements: classification of biotechnology medicines into innovative and biosimilar; provisions on labelling; requirements for the release of imported biotechnology medicines; requirements for obtaining sanitary registration for biotechnology medicines; types of study needed to prove the efficacy and safety of a product, together with the place in which they are to be conducted; pharmaceuticals monitoring to be carried out by holders of sanitary registration; time-limits for decisions on sanitary registration; possibility of submitting applications for biosimilar medicines and carrying out the corresponding studies after 12 years have expired since the inventor filed the patent (authorization may only be granted after the patent has expired).

<sup>262</sup> Case decision 7/2010. Approved by the Second Chamber of this High Court sitting in private on twenty January two thousand and ten. Viewed at: <http://ius.scjn.gob.mx/paginas/Tesis.aspx> [August 2012].

<sup>263</sup> COFEPRIS is the Ministry of Health body responsible for administering the system for approving medicines.

<sup>264</sup> Three sanitary registrations were by the United States company Amgen de México, S.A. de C.V., and one by the Japanese firm Takeda Pharmaceutical Company Limited. Ministry of Health, Press Release No. 137, 26 April 2011. Viewed at: [http://www.salud.gob.mx/ssa\\_app/noticias/datos/2011-04-26\\_5161.html](http://www.salud.gob.mx/ssa_app/noticias/datos/2011-04-26_5161.html) [August 2012]

<sup>265</sup> Decree amending Articles 168 and 170 of the Regulations on Health Inputs, published in the Official Journal of 5 August 2008. Viewed at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5055332&fecha=05/08/2008](http://dof.gob.mx/nota_detalle.php?codigo=5055332&fecha=05/08/2008) [August 2012].

<sup>266</sup> In 2011, IMPI handled all requests for administrative declarations submitted in accordance with the Industrial Property Law and the Federal Copyright Law, issuing 30,563 official letters. Pursuant to these two Laws, in 2011, IMPI conducted a total of 3,963 inspection visits in order to ascertain compliance with the regulatory provisions, of which 3,025 were made ex officio and 938 at the request of a party (data provided by the authorities).

<sup>267</sup> These include the European Patent Office, the African Regional Intellectual Property Organization, the World Intellectual Property Organization, the African Intellectual Property Organization, the Ecuadorian Institute of Intellectual Property, the State Intellectual Property Office of the People's Republic of China, the National Office of Industrial Property of the Dominican Republic, the National Register of the Republic of Costa Rica, the National Institute of Industrial Property of the Argentine Republic, the National Institute of Industrial Property of the Federative Republic of Brazil, the Canadian Intellectual Property Office, National Institute of Industrial Property of Chile, the Supervisory Authority for Industry and Trade of the Republic of Colombia, the Cuban Industrial Property Office, the Spanish Patent and Trademark Office, the Federal Service for Intellectual Property of the Russian Federation, the National Institute of Industrial Property of France, the Directorate-General of Intellectual Property of the Republic of Honduras, the Ministry of Industry and Trade of the Republic of Paraguay, the Intellectual Property Office of the United Kingdom of Great Britain and



cooperated with various offices responsible for industrial property matters.<sup>268</sup> IMPI is the competent authority for dealing with administrative infringement of IPRs, including copyright.

- **The National Copyright Institute (INDAUTOR)**<sup>269</sup> is a decentralized body of the Ministry of Public Education, responsible for protecting authors' rights and promoting knowledge of them through registration, advice, conciliation, cooperation, promotion and collaborative activities. INDAUTOR seeks to foster creativeness and cultural development, encouraging international cooperation and exchanges with institutions responsible for the registration and protection of copyright and related rights. In 2012, INDAUTOR signed cooperation agreements on copyright and related rights with the National Copyright Directorate of Colombia, the National Copyright Directorate of Paraguay and the National Institute for the Defence of Competition and the Protection of Intellectual Property of Peru. Previous to these, it had also signed agreements with the Administrative Board of the National Register of Costa Rica (2011), the Intellectual Property Register of the Republic of Guatemala (2010) and the Ecuadorian Institute of Intellectual Property (2010).
- **The National Seed Inspection and Certification Service (SNICS)** is a decentralized body of SAGARPA, responsible for legal protection of the rights of breeders of new varieties of plants through breeders' rights.

3.223. In 2008, the Federal Tribunal of Fiscal and Administrative Justice created a Regional Chamber for Intellectual Property Matters with responsibility throughout Mexico for settling cases brought against decisions taken on the basis of the laws and regulations governing intellectual property. This Chamber's responsibilities extend to cases concerning the implementation of international agreements, including the TRIPS Agreement. The Chamber has heard cases concerning patents, trademarks, well-known marks, etc.

3.224. As to enforcement, in 2007, a National Anti-Piracy Decision was published in the Official Journal. It should be noted that "piracy" (in its broadest sense) has a serious impact on Mexico's production facilities.<sup>270</sup> The purpose of this Decision is to develop permanent and sustainable strategies to protect copyright, related rights and industrial property so as to eradicate the offences in this respect and try to recover the market lost as a result of these unlawful acts. In this connection, the authorities have indicated that, among other things, the Decision establishes three lines of action to combat counterfeiting and piracy: (a) promoting public awareness; (b) restructuring the market; and (c) combating illegal acts. Based on these strategies, campaigns have been waged to raise awareness among children; training on IPRs has been given to customs authorities, in coordination with the private sector; consumer surveys have been conducted in several cities to promote awareness of the prejudice caused by consuming counterfeit goods and to identify the reasons for their consumption; and a database of trademarks has been created, in coordination with the AGD, to detect and withhold goods imported by unauthorized persons.<sup>271</sup> Interinstitutional coordination for carrying out joint operations has also been stepped up.

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Northern Ireland, the Korean Intellectual Property Office, the National Directorate of Industrial Property of the Oriental Republic of Uruguay, the Japan Patent Office, the Office for Harmonization in the Internal Market of the European Union, the National Registration Centre, the Belize Intellectual Property Office, the Franklin Pierce Center for Intellectual Property of the United States, the Organization of American States and the Europe-Asia Patent Organization (information provided by the authorities).

<sup>268</sup> Including the American Patent and Trademark Office, the Canadian Intellectual Property Office, the Korean Intellectual Property Office and the National Institute for the Defence of Competition and the Protection of Intellectual Property of Peru.

<sup>269</sup> INDAUTOR replaced the Directorate-General of Copyright (DGDA) following the amendment of the Copyright Law, published in the Official Journal of 24 December 1996, seventh and eighth transitional articles. It has, however, not been notified to the WTO as the enquiry point under Article 69 of the TRIPS Agreement (WTO document IP/N/3/Rev.11 of 4 February 2010 and addendums thereto).

<sup>270</sup> Official Journal of the Federation, Tuesday, 6 March 2007. Viewed at: <http://pirateria.pgr.gob.mx/Docs/DOF-ACUERDO%20NAC%20VS%20PIRATERIA.pdf>. [August 2012].

The Decision was signed by IMPI, INDAUTOR, the Attorney General's Office, several Ministries, the government of the state of Sinaloa and various representatives of the private sector.

<sup>271</sup> Since it came into effect on 3 January 2012, the authorities have indicated that over 3,619 trademarks with 4,335 registrations have been recorded.

3.225. In July 2012, Mexico also signed the Anti-Counterfeiting Trade Agreement (ACTA). On that occasion, IMPI indicated that ACTA aimed to set up an overall international framework to halt illegal trade in pirated and/or counterfeit goods.<sup>272</sup>

### 3.4.5.3 Participation in the WTO and other international initiatives

3.226. Mexico has applied the TRIPS Agreement since 1 January 2000. The authorities have indicated that, on 11 October 2012, under the TRIPS Agreement, Mexico notified the amendments made to its intellectual property legislation between 2008 and October 2012.

3.227. In 2008, Mexico accepted the Protocol amending the TRIPS Agreement.<sup>273</sup> The Protocol confirms the decision taken by the Members in 2003 to establish the system envisaged in paragraph 6, which offers additional flexibility in order to facilitate access to medicines in accordance with the provisions in the TRIPS Agreement. In accordance with the Protocol, it will come into force for Mexico after it has been accepted by two thirds of the Members.

3.228. Since 1995, Mexico has been a third party in four disputes concerning the TRIPS Agreement heard under the WTO's dispute settlement mechanism, the most recent being during the period under review.<sup>274</sup> Mexico has never been either a complainant or a defendant in the dispute settlement mechanism with regard to matters relating to the TRIPS Agreement.

3.229. Mexico has signed 16 of the treaties administered by WIPO.<sup>275</sup> As mentioned at the time of the previous Review, Mexico signed the Singapore Agreement on the Law on Trademark Registration in 2006, but it has still not been ratified by the Senate. During the previous Review, it was indicated that Mexico was reviewing the possibility of acceding to the Madrid Protocol for the International Registration of Marks. On 25 April 2012, the Mexican Senate approved Mexico's accession to this Protocol.

3.230. Mexico has also undertaken commitments on IPRs under its FTAs (Table A3.5).

3.231. In March 2011, the IMPI and the United States Patent and Trademark Office (USPTO) set up a first pilot programme on accelerated patent procedure (Patent Prosecution Highway - PPH). This programme became permanent on 1 September 2012. The PPH allows applicants, *inter alia*, to obtain a patent rapidly from the Office of Second Filing in a country on the basis of prior claims that have previously been determined as patentable by the Office of First Filing in another country. Likewise, the IMPI has developed pilot programmes on the PPH with the Japan Patent Office, the Korean Intellectual Property Office, the Spanish Patent and Trademark Office and the State Intellectual Property Office of the People's Republic of China.

### 3.4.5.4 Trend in intellectual property-related activities

3.232. Table 3.18 shows the trend during the period under review in the number of applications for patents, utility models, industrial designs and trademarks, as well as the number of patents and registrations granted.

**Table 3.18 Industrial property applications and registrations, 2006-2012**

	2006	2007	2008	2009	2010	2011	2012 <sup>a</sup>
<b>Patents</b>							
Applications	15,500	16,599	16,581	14,281	14,576	14,055	3,949
of which, PCT patents	12,926	13,902	14,160	12,055	11,926	11,000	2,959
Granted	9,632	9,957	10,440	9,629	9,399	11,485	3,731

<sup>272</sup> IMPI, Press Release, 11 July 2012. Viewed at:

[http://www.impi.gob.mx/work/sites/IMPI/resources/LocalContent/3388/4/IMPI\\_010\\_2012.pdf](http://www.impi.gob.mx/work/sites/IMPI/resources/LocalContent/3388/4/IMPI_010_2012.pdf).

<sup>273</sup> WTO document WT/LET/620 of 27 May 2008.

<sup>274</sup> The cases were (date of receipt of the request to hold consultations between brackets): DS174, European Communities - Trademarks and Geographical Indications (1 June 1999); DS290, European Communities - Trademarks and Geographical Indications (17 April 2003); DS362, China - Intellectual Property Rights (10 April 2007); and DS434, Australia - Certain Measures concerning Trademarks and other Plain Packaging Requirements applicable to Tobacco Products and Packaging (13 March 2012).

<sup>275</sup> Including the WIPO Convention. The list of WIPO treaties to which Mexico is party can be viewed at: [http://www.wipo.int/treaties/es/ShowResults.jsp?search\\_what=C&country\\_id=123C](http://www.wipo.int/treaties/es/ShowResults.jsp?search_what=C&country_id=123C).

	2006	2007	2008	2009	2010	2011	2012 <sup>a</sup>
<b>Utility models</b>							
Applications	386	482	434	535	610	581	147
Registrations granted	179	154	142	187	179	207	50
<b>Industrial designs</b>							
Applications	3,023	2,882	3,183	2,930	3,540	4,149	1,062
Registrations	2,226	2,695	2,444	2,568	2,645	2,443	768
<b>Trademarks</b>							
Applications	68,975	77,065	77,467	75,250	87,477	92,671	24,963
Registrations granted	55,173	49,746	57,713	57,836	57,657	62,988	15,070

a First quarter.

Source: IMPI en Cifras 2012, viewed at: [http://www.impi.gob.mx/wb/IMPI/impi\\_en\\_cifras2](http://www.impi.gob.mx/wb/IMPI/impi_en_cifras2) [August 2012].

3.233. The number of patent applications in Mexico fell by 9% between 2006 and 2011<sup>276</sup>, reflecting a reduction in the number of PCT applications. Despite this decrease, PCT-type applications accounted for around 78.2% of all patent applications in Mexico in 2011. There was an increase of slightly over 19% in the number of patents granted over the same period.<sup>277</sup> There were also noticeable increases in the number of applications and concessions for utility models and industrial designs (Table 3.18).

3.234. Trademarks are an area of IPRs that is particularly active in Mexico. In terms of the number of trademarks in force, Mexico is ranked ninth in the world and first in Latin America.<sup>278</sup> Between 2006 and 2011, the number of applications for registration of trademarks rose by just over 34%, while the number of trademarks granted increased by 14% (Table 3.18). This growth was attributable in part to the dynamism of the Mexican alcoholic beverages industry, which makes intensive use of trademarks and geographical indications, and has been one of Mexico's most dynamic export industries.

3.235. Mexico's statistics on trade in IPR royalties and licence fees are only available up to 2009 for exports and up to 2006 for imports (Table 3.19). These figures show that Mexico is a large importer of IPRs. This has enabled it to acquire foreign know-how and IPRs for its development and become better integrated into the global economy. It should also be emphasized that one reason for this is the improvements made by Mexico to its regime for the protection of IPRs. Table 3.19 indicates that, as of 2008, Mexico had also become an important exporter of IPRs, and in 2009 it became one of the major economies as far as earnings from IPR royalties and licence fees and their payment are concerned.<sup>279</sup>

**Table 3.19 Mexico: IPR royalties and licence fees, 2000-2011**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Exports	43	41	48	84	92	70	171	120	440	656
Imports	407	418	720	608	805	111	503	..	..	..

.. Not available.

Source: OECD Statistics on International Trade in Services.

3.236. The high value of imports (outgoings) on royalties and IPR licence fees is consistent with the high percentage of IPRs in Mexico which are under the control of non-residents. According to data from WIPO, around 98% of the 82,017 patents in effect in Mexico in 2010 were held by non-residents, of which approximately one half were domiciled in the United States.<sup>280</sup>

3.237. The recent rise in the value of exports (earnings) from royalties and licence fees shown in Table 3.19 is notable given the modest level and trend in IPRs registered overseas by Mexican residents. For example, Mexican residents owned a total of only 1,300 patents granted by

<sup>276</sup> Data since 2006 have been analysed as this was the latest year taken into account in the Secretariat Report for the previous Review of Mexico.

<sup>277</sup> The authorities have indicated that this increase stemmed from higher productivity on the part of substantive examiners as well as the recruitment of personnel.

<sup>278</sup> Secretariat estimates based on online data from WIPO. Viewed at: <http://www.wipo.int/ipstats/en>.

<sup>279</sup> See WTO, International Trade Statistics 2011, Table III.31. Viewed at: <http://www.wto.org>.

<sup>280</sup> Based on online data from WIPO. Viewed at: <http://www.wipo.int/ipstats/es> [August 2012].

foreign jurisdictions.<sup>281</sup> Some 60% of these patents had been granted in the United States, with Brazil and Canada far behind.

3.238. Trade in royalties and licence fees between Mexico and the United States is of particular interest, not only because of the extent of the bilateral flow of goods, services and capital (see Chapter 1), but also because a large percentage of IPRs in Mexico originate in the United States and many of the registrations of IPRs abroad by Mexican owners are in the United States. The data available indicate that the nominal value of trade between the two countries fell when their economies slowed down between 2007 and 2009, but made a marked recovery in 2010, the most recent year for which information is available (Table 3.20).

3.239. Table 3.20 shows that, in 2010, Mexico earned a total of US\$379 million from royalties and licence fees, while it paid out a considerably larger amount of US\$2,526 million under the same heading. The table also shows that the majority of Mexico's bilateral imports of IPRs are by companies operating in Mexico as subsidiaries of United States firms, whereas the majority of its exports are by companies not affiliated to United States firms. These figures suggest that the subsidiaries of United States firms in Mexico acquire technology actively from the United States, but export little technology developed in Mexico to their country of origin.

**Table 3.20 Royalties and licence fees, Mexico-United States, 2006-2010**

(US\$ millions)

	2006	2007	2008	2009	2010
<b>Mexican imports (outgoings)</b>	<b>2,011</b>	<b>2,449</b>	<b>2,371</b>	<b>2,247</b>	<b>2,526</b>
By type of affiliation					
Companies affiliated to US firms	1,355	1,794	1,652	1,457	1,600
Non-affiliated companies	655	654	719	790	925
<b>Mexican exports (earnings)</b>	<b>319</b>	<b>274</b>	<b>266</b>	<b>244</b>	<b>379</b>
By type of affiliation					
Companies affiliated to US firms	<sup>a</sup>	42	38	37	145
Non-affiliated companies	<sup>a</sup>	232	228	207	235

a Withheld in order not to disclose data on individual firms.

Source: United States Department of Commerce, Bureau of Economic Analysis, United States International Services, viewed at: [http://www.bea.gov/international/international\\_services.htm#detailedstatisticsfor](http://www.bea.gov/international/international_services.htm#detailedstatisticsfor) [August 2012].

3.240. It should be noted that the statistics on trade in royalties and licence fees shown in Tables 3.19 and 3.20 are not consistent. For example, the total value of Mexico's imports in Table 3.19 is much less than the value of Mexican imports from the United States in Table 3.20. For the purposes of this Review, the Mexican authorities have indicated that the data on trade in royalties and licence fees have been affected by changes in coverage. They also confirmed that they do not have any breakdown of this trade, neither by partner nor by type of IPR. Nevertheless, they have indicated that they are developing a new methodology to provide better coverage of the variables in question.

### 3.4.5.5 Incentives

3.241. Spending on research and development (R&D) in Mexico remains modest: in 2011, it accounted for around 0.4% of GDP, placing it much lower than the average for OECD countries (2.2% of GDP).<sup>282</sup> Roughly half of this spending is funded by the Government, which is a high proportion in comparison with other OECD members.<sup>283</sup>

3.242. Mexico has been granting various types of incentive to boost increased private-sector participation in R&D. For example, inputs for research by scientific and technological institutions can be imported duty free. Likewise, financial support is given both from technological innovation

<sup>281</sup> Secretariat estimates based on online data from WIPO [<http://www.wipo.int/ipstats/es>].

<sup>282</sup> Online information from the OECD, *Science and technology: Key tables from OECD*, viewed at: [http://www.oecd-ilibrary.org/fr/science-and-technology/science-et-technologie-tableaux-cles-de-l-ocde\\_20758448](http://www.oecd-ilibrary.org/fr/science-and-technology/science-et-technologie-tableaux-cles-de-l-ocde_20758448) [August 2012].

<sup>283</sup> Based on data for 2007, the latest year for which information on Mexico is available. Online information from the OECD, *Gross domestic expenditure on R-D by sector of performance and source of funds*, viewed at: [http://stats.oecd.org/BrandedView.aspx?oecd\\_by\\_id=strd-data-en&doi=data-00189-en](http://stats.oecd.org/BrandedView.aspx?oecd_by_id=strd-data-en&doi=data-00189-en) [August 2012].

funds and sectoral or mixed funds. In addition, there is the programme to encourage research, technological development and innovation, under which economic incentives are given to companies to develop such activities. According to the authorities, this programme has provided support for 543 projects for a total of Mex\$2,325 million and has strengthened the academia-business link; in 2011 related projects accounted for 84% of the total.

3.243. Recognizing that Mexico has been unable to give R&D an importance that corresponds to the size of its economy and in order to establish an integral strategy for promoting R&D that boosts investment by private companies under this heading, in 2008 Mexico adopted the Special Science, Technology and Innovation Programme for 2008-2012 (PECITI). This Programme stems from the obligation contained in the National Development Programme to implement programmes that deal with sectoral problems. The 2008-2012 PECITI is associated with the budget estimate annexed to the Federal Expenditure Budget, in which a total of Mex\$57,600 million was earmarked for scientific and technological activities in 2011.

3.244. As far as copyright and related rights activities are concerned, Mexico grants tax incentives for cinemas that show Mexican films or help to diversify the supply of foreign films.<sup>284</sup> There is also a Fund for Cinema Investment and Incentives to promote the Mexican film industry.<sup>285</sup> Mexico's creative efforts have also been given support through the 100-year protection given for economic rights. This term of protection was adopted to prevent unfair competition, including piracy. The official support given to the film industry may have contributed to its development. Over the past six years, an average of 70 Mexican films have been produced each year and from 2007 up to the end of 2011, average annual cinema attendance has been over 12 million.<sup>286</sup>

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<sup>284</sup> Articles 31 and 32 of the Federal Law on the Film Industry, which provide, *inter alia*, for tax incentives to companies that promote the production, distribution, showing and/or marketing of Mexican films; those which copy, subtitle or dub in Mexico; or producers which take part in international film festivals and receive awards. Tax incentives are also available to those investing in building or rehabilitating cinemas or help to diversify the supply of foreign cinematographic material. The authorities have indicated that currently there is only one tax incentive for Mexican film production and a programme to support the mainstream film and audiovisual industry. Other incentives include trust funds to support production (FIDECINE and FOPROCINE); the programme in support of creators; support for short films; support for the distribution of films with low commercial prospects; support for the distribution of Mexican films in public cinemas (EPROCINE); and grants for festivals and cinematographic events. The regulations of each scheme can be viewed at: <http://www.imcine.gob.mx/apoyos.html>.

<sup>285</sup> Article 33 of the Federal Law on the Film Industry.

<sup>286</sup> Data provided by the authorities.

## 4 TRADE POLICIES BY SECTOR

### 4.1 Overview

4.1. The contribution of the agricultural sector (fishing and forestry included) to total GDP in constant terms decreased during the review period, falling from 3.6% in 2007 to 3.3% in 2011. However, Mexican exports of agricultural products (WTO definition) increased by almost 50% during the same period, amounting to US\$21,725 million in 2011. The main export products include beer, avocados, tequila, sugar, coffee, chewing-gum, tomatoes, onions and other fresh vegetables, fruit, wheat, food preparations and canned products. Mexico has a deficit on its agricultural trade balance; in 2011, the total value of imports of these products amounted to US\$26,200 million. The main agricultural imports include maize, soybeans, oilseeds, poultry meat, beef, pork, wheat, cotton, and milk in powder.

4.2. Mexico maintains several programmes for promoting and supporting the agricultural and fishing sectors. The rules of operation of these programmes are determined annually. In 2012, the average MFN tariff for agricultural products (WTO definition) was 20.9%, less than the 23% recorded in 2007 but much higher than the average tariff applied to non-agricultural products, which was 4.6% in the same year.

4.3. According to OECD estimates, the support for Mexican agricultural producers associated with government programmes (Producer Support Estimate (PSE)) amounted to some Mex\$76,871 million (some US\$6,189 million) in 2011 or 11.6% of farm income. The PSE has fallen substantially over the last 20 years and stands at less than half the average for the OECD countries (25.9% for 2006-2010).

4.4. Manufacturing accounted for 17.3% of national GDP in 2010, close to the average for the first decade of the century. In 2011, exports of manufactured goods represented 70.7% of Mexico's total exports (WTO definition of non-agricultural products). The main exports are automotive industry products, office machinery and telecommunications equipment, and electrical and non-electrical machinery. The tariff protection for manufacturing is relatively low, with an average MFN tariff of 4.6% in 2012. During the review period, the average tariff decreased by more than 50%, from 9.9%. Mexico maintains unilateral import quotas for certain manufactured goods, including infant-care products, polyester filament, new and used vehicles and toys. The maquila and manufacturing industries play a vital role in the Mexican economy. Manufacturing companies that operate under the IMMEX programme exported more than 90% of total manufacturing exports in 2011.

4.5. In 2011, the energy sector accounted for 8.1% of Mexico's GDP, as well as for 16% of the value of its total merchandise exports. Despite the fact that total investment in the sector grew at an average annual rate of 13.4% between 2007 and 2010, primary energy production, with hydrocarbons contributing a little over 90%, contracted at an annual rate of 3.5% during the same period. Although Mexico continued to be one of the world's main petroleum producers during the review period, crude oil production recorded a cumulative fall of 17% between 2007 and 2011, while the production of petroleum products fell by 5.5% during the same period. Domestic production of refined petroleum products is not sufficient to meet the demand, so Mexico is currently a net importer. Nevertheless, a process of modernization and reconfiguration of the existing refineries has been set in motion and a new refinery is to be built.

4.6. During the review period, the legal framework of the hydrocarbons sector was reformed. The new *Petróleos Mexicanos* Law of 2008 governs the operation of the State oil company *Petróleos Mexicanos* (PEMEX), confirming it as the entity used by the State for carrying out the activities for which it has exclusive responsibility in the strategic areas of petroleum, other hydrocarbons and basic petrochemicals. The above-mentioned 2008 reform established a specific contractual regime for PEMEX to carry out substantive activities of a productive nature; thus, the company can sign contracts with private concerns for the provision of services related with hydrocarbon exploration and production, in which the consideration is determined by means of a formula linked with the contractor's performance, while the State retains exclusive ownership and control of the hydrocarbons (incentivized contracts).

4.7. Mexico's electricity sector is divided into two subsectors, the public service and private consumption subsectors, respectively. The public electricity service is provided by the Federal Electricity Commission (CFE), a decentralized public body which operates most of the generating plants (except for those of the independent energy producers that sell electricity to the CFE) and the entire transmission network. The private sector participates in the arrangements for generating electricity for own consumption and for export.

4.8. The Ministry of Finance and Public Credit (SHCP) is the federal agency responsible for the regulation and supervision of the financial sector and for establishing the capital requirements of the majority of its participants, through the work of three specific subordinate regulatory bodies. At the same time, the Bank of Mexico regulates the currency and derivatives markets, financial operations and the payments system. Foreign investors can participate in the provision of banking services in Mexico through subsidiaries of foreign financial institutions, provided they come from countries with which Mexico has a free trade agreement with a financial services chapter. Subsidiaries of foreign banks set up on Mexican territory can offer the same services as local commercial banks, unless the treaty or international agreement with the country of origin establishes some restriction, and provided that the foreign financial institution offers similar services in its country of origin. In addition, foreign investors from any country may hold up to 100% of the shares representing the capital of a banking institution, but require authorization to acquire shares representing more than 5% of the capital.

4.9. Insurance companies are divided into two groups depending on whether the capital is wholly or majority-owned by Mexicans or by foreigners. In the first case, foreign natural and legal persons may, in general, acquire shares representing the capital, but Mexican investors must continue to exercise effective control, retaining 30% or more of the shares representing the capital of the institution. Foreign-capital institutions may operate only as subsidiaries of a foreign financial institution.

4.10. In general, although some telecommunications services subsectors have gradually opened up, others are still very highly concentrated. For example, one operator controls 80% of the fixed telephony market, while the second largest operator has barely 5%. Similarly, in mobile telephony, 70% of users are served by one operator, as compared with 22% for the next largest operator. The Mexican legislation does not oblige operators to unbundle the subscriber's local loop. The cost of the services is still relatively high in international terms.

4.11. To provide scheduled domestic air transport services (cabotage) it is necessary to have a concession, which is reserved for enterprises that are at least 75% Mexican-owned. Under the Airports Law, private investors may build, manage, operate and economically exploit airport terminals. Concessions are for an initial term of 50 years and may be extended one or more times for identical periods, provided that security, investment and other requirements are met. The legislation envisages three service categories within overall airport activity: airport services, ancillary services and commercial services. In all three categories, concessionaires can provide services either directly or through third parties, provided the latter are companies set up in Mexico. The Constitution requires air navigation services to be provided solely and exclusively by the State. Foreign investors may hold up to 49% of total equity in companies holding concessions or permits for public service airfields.

4.12. Foreign investment in the maritime transport sector is limited to a maximum of 49% of total equity in port management companies and in companies that operate commercial inland waterway and cabotage services. Cruising and some port operations such as dredging are not subject to this rule, while foreign companies offering port services for inland waterway operations may exceed the 49% limit with the approval of the National Foreign Investment Commission. Nevertheless, the 2006 Shipping and Maritime Trade Law allows temporary permits to be granted to Mexican ship-owners with a foreign vessel under bare-boat charter, or failing that to Mexican ship-owners with a foreign vessel under any charter arrangement, but not directly to foreign ship-owners. The temporary permits are valid for a maximum of three months and can be renewed on up to a maximum of seven occasions, after which the vessel must be registered in Mexico.

4.13. Foreigners may register diplomas obtained abroad and apply for a licence to practise a profession, provided that there is a reciprocal agreement between Mexico and their country of origin. Some professional and technical services occupations are reserved for Mexican citizens,

such as aircraft pilot, ship's pilot, ship's captain, ship's engineer, ship's mechanic, member of the crew of a Mexican-registered vessel or aircraft, customs clearing agent, airport manager, harbour pilot, and train crew member.

## 4.2 Agriculture

### 4.2.1 Main features

4.14. The GDP of the Mexican agricultural sector (livestock farming and forestry included) grew by 0.6 real percentage points during the period from 2007 to 2011. The sector's share of total GDP remained constant in current terms, at about 3.6%, but decreased in constant terms, from 3.6% in 2007 to 3.3% in 2011. However, the annual results are mixed: whereas it remained stable in 2008 and 2009, the sector's contribution increased in 2010 and fell in 2011. The breakdown of agricultural production by activity shows that in 2011 crop farming accounted for 54.5% of agricultural GDP (58.6% in 2007); livestock farming for 36.2% (32.7% in 2007); and other activities (forest management, hunting and fishing, and agriculture and forestry-related services) for 9.3% (8.9% in 2007).<sup>1</sup>

4.15. The percentage of the population employed in the agricultural sector remained stable between 2007 and 2011, at around 13.5%. In recent years, the Government has implemented various economic (agricultural and for other economic activities) and social development strategies in rural areas under the Special Concurrent Programme for Sustainable Rural Development (PEC). Information for 2010 indicates that 17 million people in rural areas are living in poverty.<sup>2</sup>

4.16. The value of agricultural production in 2011 was Mex\$354,657 million (around US\$28,617 million). Maize for human consumption was the main basic product, accounting for 20.3% of the total value of agricultural production, followed by sugar cane (8.6%), sorghum (6.3%), avocado (5.1%), and fodder (4.8%).<sup>3</sup> In 2011, the value of livestock production amounted to Mex\$264,245 million (around US\$21,322 million).<sup>4</sup> Cereal and oilseed production (in tonnes) accounted for 21.8% of the total, followed by fruit (9.1%) and the main vegetables (5.5%).<sup>5</sup>

4.17. In 2011, Mexican exports of agricultural products (WTO definition) amounted to US\$21,725 million.<sup>6</sup> The main export products include beer, avocado, tequila, sugar, coffee, chewing-gum, tomatoes, onions and other fresh vegetables, fruit, wheat, food preparations and canned products. Mexico is a net importer of agricultural products; the total value of imports of these products amounted to US\$26,200 million in 2011. The main agricultural imports include maize, soybeans, oilseeds, poultry meat, beef, pork, wheat, cotton, and milk in powder. Agrifood exports, as defined by SAGARPA, totalled US\$21,825 million. In 2011, the agricultural and agrifood balance recorded a deficit of US\$2,832 million.<sup>7</sup>

### 4.2.2 Policy objectives

4.18. Mexico's agricultural policy, which is the responsibility of the Ministry of Agriculture, Livestock, Rural Development, Fishing and Food (SAGARPA), was reorganized between 2007 and 2012 and now has five basic objectives: (i) to raise the level of human and material development of the rural population; (ii) to supply the domestic market with high-quality food; (iii) to improve the incomes of agricultural producers by increasing their presence in global markets and linking them into value-added processes and the production of bio-energy crops;

<sup>1</sup> National Institute of Statistics, Geography and Information Technology (INEGI) and Office of the President of the Republic (2011).

<sup>2</sup> Office of the President of the Republic (2012).

<sup>3</sup> SAGARPA, *Sistema de Información Agroalimentaria y Pesquera (SIAP). Estadísticas básicas*. Viewed at: <http://www.siap.gob.mx/>.

<sup>4</sup> *Sistema de Información Agroalimentaria y Pesquera (SIAP)*. Viewed at: [http://www.siap.gob.mx/index.php?option=com\\_wrapper&view=wrapper&Itemid=369](http://www.siap.gob.mx/index.php?option=com_wrapper&view=wrapper&Itemid=369).

<sup>5</sup> Office of the President of the Republic (2011a), *Anexo Estadístico*.

<sup>6</sup> Calculated by the WTO Secretariat on the basis of United Nations Statistics Division Comtrade data.

<sup>7</sup> Office of the President of the Republic (2011b).



(iv) reversing the deterioration of the ecosystems; and (v) managing the harmonious development of the rural market.<sup>8</sup>

4.19. According to SAGARPA's Activity Report for 2011, the most important legacy of the 2007-2012 administration is the Strategy for the Sustainable Modernization of Traditional Agriculture (MasAgro), which is aimed at providing access to agricultural technologies tailored to the new environment and thus ensuring food security for Mexican families.

4.20. Section 2.7 (Rural Sector) of the National Development Plan 2007-2012 states that the agriculture and fishing sector is of strategic importance and a priority for national development, because it provides the food eaten by Mexican families and raw materials for the manufacturing and processing industry. The Sectoral Development Programme for Agriculture and Fishing 2007-2012 defines the policies, strategies and courses of action needed to enable agriculture, aquaculture and fishing to develop jointly with other non-agricultural rural activities.

4.21. SAGARPA maintains several programmes for promoting and supporting the agricultural sector and fishing. The rules of operation of these programmes are determined annually by a decision. The rules for 2012 are contained in the Decision announcing the rules of operation of the programmes of the Ministry of Agriculture Livestock, Rural Development, Fishing and Food, published in the Official Journal of 30 December 2011 and revised on 23 July 2012. The following SAGARPA programmes are subject to rules of operation: (i) Support for Investment in Equipment and Infrastructure; (ii) Support for Agricultural Incomes: PROCAMPO for a Better Life; (iii) Risk Prevention and Management; (iv) Capacity Building, Technological Innovation and Rural Extension; (v) Sustainability of Natural Resources; and (vi) Action together with Federative Entities in the Area of Investment, Sustainability and Capacity Building.<sup>9</sup> In addition to the programmes subject to rules of operation, other programmes are also being implemented; these concern the generation of information for sustainable rural development; the promotion of agrifood products and their placement on foreign markets; market development; and planning and forecasting.

4.22. All the programmes and their components covered by the rules of operation are subject to the budget authorized in the Decree on the Federal Expenditure Budget for the corresponding fiscal year and are implemented in accordance with the priorities established in the National Development Plan 2007-2012 and in the Sectoral Development Programme for Agriculture and Fishing 2007-2012, as well as in the decisions of the Mexican Council for Sustainable Rural Development and the Interministerial Commission for Sustainable Rural Development. A special strategy of the programmes and their components is that designed to improve the competitiveness of the subsectors producing such staples as maize, beans, wheat, sorghum, rice, sugar cane, coffee, eggs, milk, beef, pork, poultry and fish.<sup>10</sup> The programmes contained in the rules of operation are applicable throughout the country, except where expressly indicated otherwise.

<sup>8</sup> SAGARPA (2011), *Introducción*.

<sup>9</sup> The Support for Investment in Equipment and Infrastructure programme has the following components: (a) Agriculture, Livestock and Fishing; (b) Protected Agriculture; (c) Fish Farm Electrification; (d) Fishing and Aquaculture Infrastructure; and (e) Ecological Marine Engine Replacement; (f) Post-Production Handling; (g) Modernization of the Fishing Fleet and Rationalization of the Fishing Effort; (h) Genetic Resources (agricultural, livestock and aquacultural); and (i) Traditional Productive Assets. The Support for Agricultural Incomes: PROCAMPO for a Better Life programme has the following components: (a) PROCAMPO for a Better Life; (b) Agricultural Diesel/Modernization of Agricultural Machinery; (c) Marine Diesel; (d) Promotion of Coffee Production; and (e) Inshore Gasoline. The Risk Prevention and Management programme has the following components: (a) Target Income and Marketing Support (including crop and livestock contract farming); (b) Response to Natural Disasters in the Agricultural and Fishing Sectors; (c) Guarantees (including guarantees for the purchase of fertilizers and fishery development); (d) Fund for Encouraging Investment in Localities with Medium, High and Very High Levels of Marginalization; and (e) Health. The Capacity Building, Technological Innovation and Rural Extension programme has the following components: (a) Support for Project Integration; (b) Capacity Building and Rural Extension, and (c) Innovation and Technology Transfer. The Sustainability of Natural Resources programme has the following components: (a) Bio-Energy and Alternative Energy Sources; (b) Conservation and Sustainable Use of Soil and Water (COUSSA); (c) Reduction of the Fishing Effort; (d) Fishery Inspection and Surveillance; (e) Fishing and Aquaculture Management; (f) Sustainable Livestock Production and Cattle and Apiculture Management (PROGAN); and (g) Restructuring of Production. The Strategic Projects programme includes: (a) the Strategic Food Security Project (PESA); (b) Arid Zone Development (PRODEZA); (c) Humid Tropics; and (d) Support for the Maize and Bean Producers' Production Chain (PROMAF).

<sup>10</sup> SAGARPA (2012a).

To obtain support under a programme and its components, those eligible for the programme must file an application with SAGARPA.

4.23. There are a number of support programmes for promoting animal health.<sup>11</sup> The level of federal support may be as high as 100%.

4.24. The general aim of the Strategic Food Security Project (PESA) is to contribute to capacity building for individuals and their family farming in rural localities with high and very high levels of marginalization, in order to increase agricultural production, introduce new farming systems, develop local markets, promote consumption of foods produced and job creation with a view to achieving food security and raising incomes. Under PESA the following levels of support are available: up to 90% of the value of the infrastructure project, equipment, plant material, animal breeding or aquacultural species or up to Mex\$25,000 per family production unit in the initial stage, Mex\$35,000 in the food production stage, and Mex\$100,000 per family production unit or Mex\$750,000 per work group or legal person incorporating at least eight family production units in the income-generating stage.

### 4.2.3 Agricultural support indicators

4.25. The OECD's estimates indicate that during the period 2006-2011 support for Mexican agricultural producers under government programmes (Producer Support Estimates (PSE)) increased by 26.6%, which is equal to an average year-on-year rate of 4.8%. In 2011, support amounted to Mex\$76,871 million (some US\$6,189 million) (Table 4.1). However, as a percentage of farm income, PSE fell from 13.2% in 2006 to 11.6% in 2011; this latter figure is substantially less than the OECD average (21.2% in 2011). It is also worth noting that PSE has been falling for the last 20 years, from 28% in 1991-1993 to 11.6% in 2011. In that year, input-related payments accounted for 54.6% of PSE, price support (measured as the difference between domestic and international prices) constituted 20%, and payments for historical entitlements that do not establish production requirements accounted for 17.5%. During the last ten years there has been a reversal in the relative contributions of price support and input support, from 56 and 16% to 20 and 54.6%, respectively).<sup>12</sup>

**Table 4.1 Agricultural support estimates, 2006-2011**

(MEX\$ million)

Item	2006	2007	2008	2009	2010	2011 <sup>a</sup>
Total value of production	417,638	470,260	528,995	531,707	580,102	603,306
Proportion of basic products subject to price support (%) <sup>b</sup>	66.6	66.2	66.8	66.5	67.7	67.8
Total value of consumption	418,572	528,652	629,753	589,052	621,707	696,736
Producer Support Estimates (PSE)	60,698	67,049	70,585	81,074	75,802	76,871
Percentage PSE (%)	13.2	13.0	12.1	13.8	11.9	11.6
General Services Support Estimates (GSSE)	8,597	10,939	9,316	10,315	9,406	10,553
Consumer Support Estimates (CSE)	-19,567	-22,768	-11,378	-19,903	-17,102	-12,431
Total Support Estimates (TSE)	72,030	83,328	86,023	95,362	88,564	90,737
Transfers from consumers	22,479	28,108	17,500	23,906	20,458	15,774
Transfers from taxpayers	52,754	63,324	72,670	71,457	71,831	75,847
Tax revenue	-3,203	-8,105	-4,147	0,000	-3,724	-0,885
Percentage TSE (share of GDP, %)	0.8	0.9	0.9	1.1	1.0	1.0

a Preliminary figures.

b The basic products receiving price support are: wheat, maize, other grains, coffee, tomatoes, rice, oilseeds, sugar, milk, beef, pork, poultry, eggs and beans.

Source: OECD StatExtracts, pse/cse, 2011. Viewed at: <http://stats.oecd.org/index.aspx?%20datasetcode=mon2011tse>.

<sup>11</sup> Support for: the operation of animal health projects; the development of phytosanitary projects; the establishment and application of promotion, dissemination, training and technical assistance measures for the prevention and diagnosis of diseases and pests of land species; monitoring of regulated plant pests; the establishment and application of promotion, dissemination, training, technical assistance and diagnostic measures for the prevention, control and, where appropriate, eradication of diseases and pests of aquatic species; sampling, the purchase of sampling equipment and inputs, and the technical and scientific exchange of methods and techniques; compliance with federal standards; monitoring of federal sanitary checkpoints and inspection points; and the slaughter of cattle in Federal Inspection Type (TIF) establishments.

<sup>12</sup> OECD, Producer and Consumer Support Estimates Database. Viewed at: <http://www.oecd.org/agriculture/agriculturalpoliciesandsupport/producerandconsumersupportestimatesdatabas e.htm>.

4.26. With regard to the Total Support Estimates (TSE), which include transfers from consumers and taxpayers and net tax revenue, the OECD notes that although they increased significantly in 2007, they then increased to a lesser extent in 2008 and 2009, and finally suffered a slight fall in 2010, before rebounding in 2011 to reach Mex\$90,735 million (approximately US\$7,180 million, at the average exchange rate for 2011) or 0.6% of GDP. In this latter year, transfers from consumers and taxpayers amounted to 27.8% and 77.9% of TSE, respectively. After falling continuously from 2002 (74.1%) to 2008 (18.2%), transfers from consumers began to increase again in 2009, but resumed their contraction in the last two years of the period, which is largely explained by a similar trend in price support.

4.27. In the latest edition of its agricultural policy study, the OECD stresses that Mexico has succeeded in lowering its agricultural trade barriers thanks to a sustained period of reform.<sup>13</sup> The study notes that between 1993 and 2011 the quantity of transfers to producers was halved, while existing transfers were reorganized to reduce distortion. The nominal protection coefficient shows that the level of price distortion in Mexico was 4% between 2008 and 2010.<sup>14</sup> Nevertheless, the report also mentions that in the last decade Mexico increased input-related payments, in particular for electricity and for price hedging contracts. Moreover, it points out that the PROCAMPO payments programme, originally envisaged as being temporary, was extended over the period from 2008 to 2012 without its objectives being properly redefined. Also according to the OECD report, despite an increase in disbursements of 61% in real terms during the period from 2007 to 2012<sup>15</sup>, the PEC, aimed at the integrated development of rural areas (including infrastructure, health, education and the environment), has failed to deliver as a horizontal planning tool.

4.28. The OECD report also states that only three products received specific payments (SCT) of more than 10%: wheat (14%), sugar (12%) and soya (12%), while the most important raw material, maize, received SCT at 7% (in 1993 it received 43%). In conclusion, the report recommends that public policy be oriented towards promoting investment in infrastructure and innovation, both in the agricultural sector and in the economy in general, with the aim of achieving a greater level of consistency between the different areas of public policy, such as agricultural production, rural development, poverty reduction and environmental protection.<sup>16</sup>

4.29. In the Uruguay Round, Mexico undertook to reduce its financial support for agricultural producers, in accordance with the definition established in the negotiations, from approximately Mex\$29 billion (1991), which was the Aggregate Measurement of Support (AMS) for the base period 1986-1988, to somewhat over Mex\$25 billion in 2004 (at 1991 prices).<sup>17</sup> From Mexico's notification of domestic support commitments for the years 1999 to 2004 it can be seen that the AMS notified by Mexico to the WTO was far below these levels, while, according to the latest notification, the total decreased from Mex\$894.6 million in 2005 to Mex\$589.3 million in 2007 (figures in constant 1991 prices).<sup>18</sup>

#### 4.2.4 Policy instruments

##### 4.2.4.1 Border measures

4.30. In 2012, the average MFN tariff for agricultural products (WTO definition) was 20.9%, below the 23% recorded in 2007<sup>19</sup>, but considerably higher than the average tariff applied to non-agricultural products, which was 4.6% in the same year (Chapter 3.2.5).

4.31. In the Uruguay Round negotiations, Mexico undertook to grant tariff quotas for various agricultural products, including milk in powder, hard and semi-hard cheese, coffee, coffee essences and concentrates, poultry meat and edible offal, animal fats, potatoes fresh or chilled,

<sup>13</sup> OECD (2011a).

<sup>14</sup> Percentage by which the price level of Mexican agricultural products exceeds world prices, according to OECD calculations. The greatest discrepancies are for sugar (15%), chicken (11%) and dairy products (6%). See OECD (2011a).

<sup>15</sup> SAGARPA (2012c).

<sup>16</sup> OECD (2011a).

<sup>17</sup> Schedule LXXVII-Mexico. Part IV. Section I.

<sup>18</sup> Figures in constant 1991 prices. WTO document G/AG/N/MEX/21 of 15 November 2010.

<sup>19</sup> In the case of products subject to tariff quotas, only out-of-quota tariffs were used to calculate the average tariff.

beans (except for seed), wheat, barley, maize (except popcorn and for seed) and products with a high sugar content (Table 4.2). For these products a bound in-quota tariff, initial and final, of 50% was established, except for milk in powder for which the tariff was set at 0%. The bound tariffs for out-of-quota imports were established at much higher rates that had to be progressively reduced over a specified transition period (1995 to 2004). Mexico did not undertake any commitment to increase the quota volume, except in the case of coffee and sugar products.<sup>20</sup>

**Table 4.2 Multilateral tariff quotas and import volume, 2012**

(US\$)

Description (HS)	Applied tariff		In-quota	Bound tariff Out-of-quota	Bound MFN quota volume (tonnes)	Import volume under quota 2011 (tonnes) <sup>a</sup>
	In-quota	Out-of-quota				
<b>Milk in powder</b>					<b>80,000<sup>b</sup></b>	<b>59,252</b>
04021001	0%	63%	0%	US\$1,044/tonne but not <125.1%		
04022101	0%	63%	0%	US\$1,044/tonne but not <125.1%		
<b>Cheese, hard and semi-hard</b>					<b>2,405<sup>c</sup></b>	<b>449</b>
04061001	50%	125%	50%	US\$1,044/tonne but not <125.1%		
04063001	50%	125%	50%	US\$1,044/tonne but not <125.1%		
04063099	50%	125%	50%	US\$1,044/tonne but not <125.1%		
04069003	50%	125%	50%	US\$1,044/tonne but not <125.1%		
04069005	50%	125%	50%	US\$1,044/tonne but not <125.1%		
04069099	50%	125%	50%	US\$1,044/tonne but not <125.1%		
<b>Coffee; coffee extracts, essences and concentrates</b>					<b>20,800</b> (60 kg sacks)	<b>214</b>
09012101	50%	72%	50%	72%		
09012201	50%	72%	50%	72%		
09019001	50%	72%	50%	72%		
09019099	50%	72%	50%	72%		
21011101	50%	140.4%	50%	US\$0.32/kg but not <140.4%		
21011102	50%	140.4%	50%	US\$0.32/kg but not <140.4%		
21011199	50%	140.4%	50%	US\$0.32/kg but not <140.4%		
21011201	50%	140.4%	50%	US\$0.32/kg but not <140.4%		
<b>Meat and edible offal</b>					<b>1,000<sup>d</sup></b>	<b>(1)</b>
02071403	50%	234%	50%	US\$1,512/tonne but not <234%		
02071404	50%	234%	50%	US\$1,512/tonne but not <234%		
02071499	50%	234%	50%	US\$1,512/tonne but not <234%		
02072601	50%	234%	50%	US\$1,512/tonne but not <234%		
02072602	50%	234%	50%	US\$1,512/tonne but not <234%		
02072699	50%	234%	50%	US\$1,512/tonne but not <234%		
02072703	50%	234%	50%	US\$1,512/tonne but not <234%		
02072799	50%	234%	50%	US\$1,512/tonne but not <234%		
02073599	50%	234%	50%	US\$1,512/tonne but not <234%		
02073699	50%	234%	50%	US\$1,512/tonne but not <234%		
<b>Animal fats</b>					<b>2,111<sup>e</sup></b>	<b>(1)</b>
02090001	50%	254%	50%	US\$837/tonne but not <254%		
02090099	50%	254%	50%	US\$837/tonne but not <254%		
15010001	50%	254%	50%	US\$837/tonne but not <254%		
15161001	50%	254%	50%	US\$837/tonne but not <254%		
<b>Potatoes, fresh or chilled</b>					<b>1,000<sup>f</sup></b>	<b>(1)</b>
07019099	50%	245%	50%	US\$318/tonne but not <245%		
<b>Beans, except for seed</b>					<b>5,000<sup>g</sup></b>	<b>(2)</b>
07133302	50%	125.1%	50%	US\$360/tonne but not <125.1%		
07133303	50%	125.1%	50%	US\$360/tonne but not <125.1%		
07133399	50%	125.1%	50%	US\$360/tonne but not <125.1%		

<sup>20</sup> Mexico's Schedule of Concessions (Schedule LXXVII-Mexico. Sections 1A1 and 1B1).

Description (HS)	Applied tariff		In-quota	Bound tariff Out-of-quota	Bound MFN quota volume (tonnes)	Import volume under quota 2011 (tonnes) <sup>a</sup>
	In-quota	Out-of-quota				
<b>Wheat</b>					<b>98,076<sup>b</sup></b>	<b>(1)</b>
10011001	50%	67%	50%	US\$90/tonne but not <67%		
10019099	50%	67%	50%	US\$90/tonne but not <67%		
<b>Barley</b>					<b>1,200<sup>d</sup></b>	<b>(1)</b>
10030002	50%	115.2%	50%	US\$144/tonne but not less than 115.2%		
10030099	50%	115.2%	50%	US\$144/tonne but not less than 115.2%		
<b>Maize</b>					<b>10,000<sup>e</sup></b>	<b>(3)</b>
1005.9003	50%	0%	50%	US\$185/tonne but not less than 194%		
1005.9004	50%	0%	50%	US\$185/tonne but not less than 194%		
1005.9099	50%	0%	50%	US\$185/tonne but not less than 194%		
<b>Sugar and products with a high sugar content</b>					<b>183,800</b>	<b>(1)</b>
17022001	50%	15%	50%	US\$0.18/kg but not <78.3%		
17023001	50%	15%	50%	US\$0.29/kg but not <117%		
04029901	50%	15% + US\$0.36/kg	50%	US\$0.18/kg but not <78.3%		
04029999	50%	20% + US\$0.36/kg	50%	US\$0.18/kg but not <78.3%		
18062001	50%	20% + US\$0.36/kg	50%	US\$0.216/kg but not less than 94%		
18063201	50%	20% + US\$0.36/kg	50%	US\$0.216/kg but not <94%		
18069001	50%	20% + US\$0.36/kg	50%	US\$0.216/kg but not <94%		
18069002	50%	20% + US\$0.36/kg	50%	US\$0.216/kg but not <94%		
18069099	50%	20% + US\$0.36/kg	50%	US\$0.216/kg but not <94%		
19019003	50%	10%	50%	US\$0.252/kg but not <109%		
19019004	50%	10%	50%	US\$0.252/kg but not <109%		
19019005	50%	109%	50%	US\$0.252/kg but not <109%		
19019099	50%	10% + US\$0.36/kg	50%	US\$0.252/kg but not <109%		
21039099	50%	20%	50%	US\$0.27/kg but not <117%		
21069001	50%	15%	50%	22.5%		
21069002	50%	15% + US\$0.36/kg	50%	US\$0.165/kg but not <71%		
22029001	50%	10%	50%	US\$0.108/kg but not <47%		
22029002	50%	20%	50%	US\$0.108/kg but not <47%		
22029003	50%	20%	50%	US\$0.108/kg but not <47%		
22029004	50%	20%	50%	US\$0.108/kg but not <47%		
22029099	50%	20% + US\$0.36/kg	50%	US\$0.108/kg but not <47%		

- (1) Mexico's imports on preferential terms exceed the amount of the WTO bound quota.  
(2) Quotas not applied. Better market access conditions (with respect to the quota) on unilateral terms.  
(3) Quotas not applied. Better market access conditions on most-favoured-nation terms.

- a Import volume includes imports under unilateral quotas.  
b Total quota: 120,000 tonnes, including 40,000 tonnes allocated to the United States.  
c Total quota: 9,385 tonnes, including 6,980 tonnes allocated to the United States.  
d Total quota: 40,543 tonnes, including 39,543 tonnes allocated to the United States.  
e Total quota: 39,623 tonnes, including 37,512 tonnes allocated to the United States.  
f Total quota: 8,340 tonnes, including 7,340 tonnes allocated to the United States.  
g Total quota: 56,500 tonnes, including 50,000 tonnes allocated to the United States and 1,500 to Canada.  
h Total quota: 604,612 tonnes, including 333,964 tonnes allocated to the United States and 172,567 to Canada.  
i Total quota: 4,742 tonnes, including 1,215 tonnes allocated to the United States and 2,317 to Canada.  
j Total quota: 2,511,000 tonnes, including 2,500,000 tonnes allocated to the United States and 1,000 to Canada.

Source: Compiled by the WTO on the basis of information provided by the Ministry of the Economy and Schedule LXXVII-Mexico.

4.32. As mentioned in the previous TPR and as will be appreciated from the footnotes to the preceding table, in Mexico's Schedule of Concessions most of the tariff quotas include access rights reserved for specified countries and are not open to other countries. For example, the United States was allocated 99.9% of the quota for maize, 97% of that for poultry meat, 94% of that for animal fats, 88% of that for beans, and 75% of that for cheese<sup>21</sup>, while Canada received a substantial share of the barley (49%) and wheat (28%) quotas. What remained of the quotas was granted to other countries. Coffee and sugar products are the only products for which reserved access rights were not stipulated in Mexico's Schedule.

4.33. Mexico's latest notification to the WTO concerning tariff quota administration and imports was submitted in September 2012 and covered the period 2008 to 2010.<sup>22</sup> As in the previous notification<sup>23</sup>, the information provided showed that the only quota used during the period was that for milk in powder (see paragraph 38), while for the remaining products there were no in-quota imports since better access conditions were available in practice. However, according to the information provided by Mexico for this Review, in 2011 quotas were opened for milk in powder, cheese and coffee (Table 4.2). In other cases, WTO quotas were not used because the products concerned could be imported on better conditions under bilateral agreements or unilateral quotas; this applies, *inter alia*, to barley, beans and coffee. In other instances, as in the case of several sugar products and maize, the applied out-of-quota tariff is lower than the in-quota one, making it unnecessary to administer these quotas.

4.34. The Ministry of the Economy (SE) administers import quotas under a certification system, in accordance with Article 24 of the Foreign Trade Law (1993)<sup>24</sup> and on the basis of the SE's Decision issuing General Rules and Criteria for Foreign Trade and the corresponding Decisions published in the Official Journal for each of the quotas in force.<sup>25</sup> These instruments lay down the following allocation procedures: competitive bidding; procedures in accordance with the international treaties signed by Mexico; or any other justified procedure established by the SE after consulting the Foreign Trade Commission. On the basis of this provision, the SE has opted for direct allocation on the "first come, first served" principle for assigning WTO tariff quotas. Since 2006, a direct allocation mechanism has been used for milk in powder quotas (see below). Quota certificates are nominative and non-transferable.

4.35. Previously, the requirements and procedures for allocating quotas were published annually in the Official Journal. However, during the review period this practice was abandoned and they are now being published multiannually. The Multiannual Decision announcing the mechanism for allocating tariff quotas established within the framework of Mexico's WTO commitments for imports of cheese and coffee was last published in May 2008.<sup>26</sup> The Decision stipulates that, in accordance with the Foreign Trade Law, allocations will be made on a "first come, first served" basis.

4.36. During the review period, the only directives published annually in the Official Journal concerning import quotas were those relating to the duty-free quotas for milk in powder. The latest update was announced in a 2012 Decision.<sup>27</sup> The out-of-quota tariff was reduced to 63% (in 2007 it was 125.1%).

4.37. In accordance with the provisions of the above-mentioned Decision, in 2012 the tariff quotas for milk in powder bound in the WTO were distributed as follows: 50% was granted directly to the State-owned enterprise (LICONSA) for its entitlement programme for supplying milk to lower-income groups at preferential prices; 47% was allocated directly to private companies that

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<sup>21</sup> In its Schedule of Concessions LXXVII, Mexico indicated that quantities had been allocated to the United States and Canada by virtue of and in accordance with the terms and conditions of the North American Free Trade Agreement.

<sup>22</sup> WTO document G/AG/N/MEX/23 of 28 September 2012.

<sup>23</sup> WTO document G/AG/N/MEX/18 of 11 March 2009. Covers the period 2000 to 2007.

<sup>24</sup> The Law was slightly amended in 2006 by a Decree published in the Official Journal of 21 December 2006.

<sup>25</sup> General Rules and Criteria for Foreign Trade issued by the Ministry of the Economy. Viewed at: <http://www.sicex.gob.mx/portalsicex/SICETECA/Rules/RulesSE.htm>.

<sup>26</sup> Decision announcing the mechanism for allocating tariff quotas for imports in 2008, with the preferential tariffs established within the framework of Mexico's commitments in the World Trade Organization, published in the Official Journal of 16 May 2008.

<sup>27</sup> Decision announcing the minimum quota in 2012 for duty-free imports of milk in powder originating in Member countries of the World Trade Organization, published in the Official Journal of 30 December 2011.

use milk in powder in their production processes; and the rest was reserved for natural or legal persons registered as a border enterprise located in Quintana Roo or in the southern border strip adjoining Guatemala. In the first two cases quotas are allocated through the Directorate-General of Foreign Trade (DGCE), under various procedures. For private companies the calculations are based on a formula that takes into account any previous allocations, the amount requested, the total consumption of dairy raw materials and the total amount available for allocation.

4.38. The milk in powder quota reserved for the private sector is subject to the production of supporting documentation, including a description of the production machinery employed, the monthly consumption of raw materials broken down by provenance (domestic or imported) and the product brands or lines in which the dairy raw materials are to be incorporated. A technical requirement is included for milk in powder, whole or skimmed. In order to promote the more efficient utilization of this tariff preference and the competitiveness of the production chain, allocations are made in two periods: the first during the month of January and the second during the month of August.

4.39. As already mentioned in Chapter 3, in order to supplement the domestic supply and avoid adverse effects on the agrifood chain Mexico maintains unilateral quotas with tariffs lower than those established in its WTO Schedule of Concessions. In 2011, the agricultural products subject to both multilateral and unilateral quotas included roasted and ground coffee, instant coffee, coffee extract, unhulled barley and beans (except for seed). Other agricultural products had unilateral quotas only: sugar, oats, Egmont cheese, preparations based on dairy products, duck, goose or guinea-fowl and malt.

4.40. In 2012, among the unilateral quotas there was also one for importing "Preparations based on dairy products with a milk solids content of more than 50% by weight, except for those of HS subheading 1901.90.04" under the preferential tariff laid down.<sup>28</sup> The 2012 Decision indicates that imports are needed to supplement the domestic supply of certain dairy products, so that the industries that use them in their production processes can have access to them under conditions similar to those that exist abroad. In this case, the quota allocated was 44,200 tonnes, with 23% for LICONSA, 27% for the private sector, 50% for industrial enterprises using these dairy raw materials as an input that had already received direct allocations in 2011, and the remaining percentage for similar enterprises that had not had previous allocations.<sup>29</sup>

4.41. According to information provided by the Mexican authorities, imports of both yellow maize and white maize have been freed of tariffs at multilateral level.<sup>30</sup> In practice, market access is better under MFN conditions (see Table 4.2). Since the last Review, the out-of-quota tariff for barley has been reduced from 155% to 115.2% and the tariff for potatoes from 254% to 245%, while the tariff for common wheat (*Triticum aestivum*) has been eliminated (previously 67%).<sup>31</sup> Similarly, the out-of-quota tariff for the line "Other" within the category "sugar and products with a high sugar content" has been reduced to 10% plus US\$0.36 per kg.<sup>32</sup>

4.42. As in the previous Review, Mexico continues to apply preferential tariff quotas for imports of specific agricultural products from countries with which it has free trade agreements, such as: Colombia (beef, milk in powder, butter, milk fat, cheese, wheat flour, groats and meal, vegetable oils, blancmange and beverages containing milk); Costa Rica (ultra-pasteurized milk and powders for preparing beverages); Israel (kosher coffee and fresh flowers); European Union and Guatemala (tuna); Uruguay (cheese, honey, preparations for baking, pastry-making and biscuit-making, and ground and powdered meat or offal); Japan (beef and poultry; oranges and orange juice, honey, bananas, tomato ketchup, juice, purée, paste and sauce, green tea, apples,

<sup>28</sup> The MFN import tariff for these products is 109%, as specified in the Law on General Import and Export Taxes.

<sup>29</sup> The product in question is classified in Harmonized System (HS) subheading 1901.90.05. "Decision announcing the quota for importing in 2012 with the tariff-quota established, preparations based on dairy products with a milk solids content of more than 50% by weight, except for those of subheading 1901.90.04", published in the Official Journal of 30 December 2011.

<sup>30</sup> Decree of 27 May 2008 "establishing various sectoral promotion programmes", published in the Official Journal of 2 August 2008.

<sup>31</sup> HS subheadings: 1003.00.99 (barley), 0701.90.99 (potatoes), 1001.90.01 (common wheat (*Triticum aestivum*)).

<sup>32</sup> HS subheading 1901.90.99.

dextrin and sorbitol); Nicaragua and El Salvador (sugar)<sup>33</sup>; and Peru (evaporated milk and caramel fudge (*dulce de leche*), beans, Cavendish banana, avocados, oranges, grapefruit and lemons, paprika, maize, cocoa beans, cocoa paste, butter and oil and cocoa powder, milk preparations and canned pimientos). There are also quotas for some Latin American countries with which Mexico has agreements within the LAIA framework, such as: Argentina (vegetable oils (sunflower and hydrogenated castor oil), plums stoned and unstoned, and peaches in syrup); Cuba (shrimp, rum, cigars, lobsters whether or not frozen, sweets, chocolate); Panama (fish fresh or frozen, shrimp whether or not frozen, fish oil, sardines, rum, fish meal).

4.43. Mexico has notified the WTO that it grants export subsidies for wheat and maize. The latest notifications cover the period from 1999 to 2007 (see Table 4.3).<sup>34</sup> Within the context of the present Review, the authorities have stated that, at November 2012, Mexico was in the process of preparing further notifications.

**Table 4.3 Export volumes for agricultural products, 1999-2007**

(Thousands of tonnes)

Product	1999	2000	2001	2002	2003	2004	2005	2006	2007
Wheat	132	335	478	440	112	193	544	439	311
Maize	0	0	0	152	0	0	0	95	228

Source: Compiled by the WTO Secretariat on the basis of documents submitted to the WTO.

4.44. Under Article 18.2 of the Agreement on Agriculture, Mexico has notified the WTO that since it joined the WTO it has not made use of the special safeguard provisions. The most recent notification covers the years 2008, 2009 and 2010.<sup>35</sup>

#### 4.2.4.2 Domestic support measures

##### 4.2.4.2.1 Institutional framework and disbursements

4.45. The institutions that support the agricultural sector were reorganized during the review period. During the last six years, SAGARPA's programme of action has been restructured and reduced to six main strategies: Support for Investment in Equipment and Infrastructure; Support for Agricultural Income; Risk Prevention and Management; Capacity Building, Technological Innovation and Rural Extension; Sustainability of Natural Resources; and Development of Agricultural and Fishery Markets and Information. Agricultural Marketing Support and Services (ASERCA), which is part of SAGARPA, is a decentralized administrative unit with responsibility for supporting the development of the agricultural sector, agricultural profitability and producer incomes. ASERCA currently operates two programmes: Promotion of Exhibitions and Fairs; and Risk Prevention and Management. Up until September 2012 ASERCA was also operating the PROCAMPO programme, described below.

4.46. The budget managed by SAGARPA in 2011 amounted to Mex\$74,927 million, while the 2012 budget envisaged expenditure of Mex\$71,378 million. At 31 July 2012, the breakdown of actual expenditure between the various programmes was as follows: Support for Investment in Equipment and Infrastructure (10.5%); Support for Agricultural Income (28.8%); Risk Prevention and Management (25.6%); Capacity Building, Technological Innovation and Rural Extension (5.2%); Sustainability of Natural Resources (11.3%); and Development of Agricultural and Fishery Markets and Information (0.7%).<sup>36</sup>

4.47. In 2010, subsidies accounted for 82% of budget implementation, with a total of Mex\$58,809 million (US\$4,746 million). The authorities granting the most subsidies were: Agricultural Marketing Support and Services, ASERCA (45%), Undersecretariat of

<sup>33</sup> The preferential quota is opened only when Mexico needs to import sugar.

<sup>34</sup> WTO documents G/AG/N/MEX/16 of 7 February 2008, G/AG/N/MEX/17 of 7 February 2008, and WTO G/AG/N/MEX/20 of 15 November 2010.

<sup>35</sup> WTO document G/AG/N/MEX/24 of 28 September 2012.

<sup>36</sup> *Anexo estadístico del Sexto Informe de Gobierno*. Viewed at: [http://www.informe.gob.mx/sexto\\_informe.html](http://www.informe.gob.mx/sexto_informe.html).



Agriculture (16.7%), General Livestock Coordination (10.1%), Undersecretariat of Rural Development (9.8%), and the Undersecretariat of Promotion of Agribusiness (5.5%).<sup>37</sup>

#### 4.2.4.2.2 PROCAMPO

4.48. Mexico continues to implement the Direct Support to Farmers Programme (PROCAMPO), instituted in 1994 and one of the most important means of providing domestic support for agriculture.<sup>38</sup> Initially, PROCAMPO was to have ended in January 2008, but the National Development Plan 2007-2012 provided for it to continue until the end of 2012. The latest amendment to the rules was published in the Official Journal of 31 March 2011, since when the programme has been called "PROCAMPO for a Better Life". PROCAMPO provides for direct payments per hectare to producers who plant any legal crop, on condition that the land continues to be used for agricultural production or for an environmental protection programme authorized by the Secretariat of the Environment and Natural Resources (SEMARNAT).<sup>39</sup>

4.49. On 18 June 2012, the Decision amending, adding and repealing various provisions of the rules of operation of PROCAMPO for a Better Life was published in the Official Journal. In accordance with this Decision, on 2 July 2012 the operation of PROCAMPO became the responsibility of SAGARPA's Directorate-General for the Operation and Exploitation of Registers.<sup>40</sup>

4.50. The support provided by PROCAMPO consists of a single payment per hectare or fraction of a hectare, in the equivalent agricultural cycle for which the eligibility of the area was confirmed at the time of registration in the PROCAMPO directory. The support is calculated on the basis of the area planted, even if two or more eligible crops are interplanted, and is delivered to producers who can show that they own or occupy in good faith or in derivative possession (lease, beneficial ownership, share-cropping) holdings with eligible areas under cultivation registered with PROCAMPO. PROCAMPO benefits both those producers who send their product to market and those who produce for their own consumption, since the payment is based on the area planted in the base period and not on the marketing of the product.

4.51. The maximum amount of support per individual beneficiary, per crop cycle, is Mex\$100,000. The amounts are paid per hectare in accordance with the following allocation (*cuota*) system. The alliance allocation (*Cuota Alianza*) (Mex\$1,300 per hectare) is paid to producers with holdings of up to 5 hectares growing spring-summer season crops. The normal allocation (*Cuota Normal*) (Mex\$963) goes to the remaining producers, irrespective of the season. In July 2011, there were 1.6 million producers receiving the alliance allocation.

4.52. With a view to giving preferential treatment to lower-income producers, holdings with an area of less than one hectare receive PROCAMPO pre-sowing support corresponding to a full hectare. It is estimated that there are around 181,000 beneficiaries (6.7% of the total) with an area of less than 1 hectare.<sup>41</sup>

4.53. During the review period, PROCAMPO was used more intensively in terms of the number of users to benefit and the land involved, but disbursements declined. Thus, between 2007 and 2010, the area cultivated and the number of farmers to benefit from PROCAMPO increased by 13.2% and 15.7%, respectively, reaching 13.6 million hectares and 2.8 million farmers. At the same time, total PROCAMPO payments fell from Mex\$15,519 million (around US\$1,420 million) in 2007 to some Mex\$14,780 million (around US\$1,193 million) in 2010.<sup>42</sup> Annual PROCAMPO programme expenditure averaged some Mex\$15,000 million during the review period, with a peak in 2009 (Mex\$16,643 million or approximately US\$1,276 million).<sup>43</sup> The budget authorized in the PEF under the item PROCAMPO for a Better Life (PROCAMPO) for the fiscal year 2012 amounted to Mex\$14,718 million; out of this total, Mex\$14,450 million (98.2%) was allocated to

<sup>37</sup> SAGARPA (2012d), p. 8.

<sup>38</sup> PROCAMPO was established by the "Decree regulating the Direct Support to Farmers Programme known as PROCAMPO", published in the Official Journal of 25 July 1994.

<sup>39</sup> ASERCA online information. Viewed at: [http://www.aserca.gob.mx/artman/publish/article\\_183.asp](http://www.aserca.gob.mx/artman/publish/article_183.asp).

<sup>40</sup> SAGARPA (2012b).

<sup>41</sup> SAGARPA (2011), p. 115.

<sup>42</sup> Office of the President of the Republic (2011a), p. 116.

<sup>43</sup> Office of the President of the Republic (2011a), *Anexo Estadístico*.

subsidies for the support of 2.7 million beneficiaries, with the rest being allocated to operating expenses.

4.54. During the review period, the initiative Alliance for Rural Areas (later called Alliance with You) was dismantled. This project, which was maintained from 1996 to 2010 for the purpose of promoting technological development and agricultural productivity, packaged together numerous programmes, including investment subsidies, agricultural services and rural development programmes. From 2010 onwards, the resources of the Alliance, together with other programmes, came under the Federal Budget.

#### 4.2.4.2.3 Programme of Support for Investment in Equipment and Infrastructure

4.55. The objective of the *Support for Investment in Equipment and Infrastructure* programme is to increase the capitalization of economic units in the agricultural, aquacultural and fishing sectors through additional support for equipment and infrastructure investment in primary production activities, value-added processes, and market access and for the construction and rehabilitation of public production infrastructure for the common good.

4.56. Under the agricultural component, the maximum amount of support for purchasing machinery and equipment, including that necessary for primary agricultural production activities, and for infrastructure and planting stock is up to 50% of the value of the project with a limit of Mex\$750,000 per natural or legal person (up to 75% for producers located in areas with high and very high levels of marginalization). In some cases the support provided is determined more specifically. For example, for new improved irrigation systems to operate within the holding or plot, even though the general limit is that mentioned above, there are also maximum amounts of support per hectare.<sup>44</sup> For tractors, the support is for up to 50% of the purchase price, with a limit of Mex\$150,000, subject to a certificate issued by the Agricultural Implements and Machinery Certification Board (OCIMA).<sup>45</sup> For investment in infrastructure and equipment under the protected agriculture system, which includes irrigation and mulching systems, the support is up to 50% of the cost of the project, with a limit of Mex\$3.6 million, per economic agricultural production unit, with account for certain maximum levels of support per hectare.<sup>46</sup> For technological packages linked with a production restructuring or production capacity recovery project, previously authorized by SAGARPA, the support is up to 30% of the cost.

4.57. There are similar incentives for livestock farming and fishing. In livestock farming, the specific objective is to increase the capitalization of the economic units of the livestock producers, through complementary support for investment in capital goods for primary production, which includes fodder production and processing, and the conservation and management of grazing areas. In fishing, the specific objective is to increase the capitalization of fishing and aquacultural economic units through complementary support for strategic capital goods investment in equipment and infrastructure, for carrying out primary production activities, including conservation and management.<sup>47</sup>

4.58. The programme also has a *Regional or State Support* component. In these cases, for infrastructure, machinery and equipment for carrying out agricultural, livestock and aquacultural production activities, including conservation and management, support is provided for up to 50% of the value of the works and equipment envisaged in the project, with a limit of Mex\$5 million per legal person or 75% for producers in localities with high or very high levels of marginalization. The

<sup>44</sup> For multi-emitters and alfalfa valves, the maximum support is Mex\$10,000 per hectare. For sprinkling the limit is Mex\$15,000 per hectare; for microsprinkling and for trickling Mex\$20,000; and for hothouses already in operation Mex\$30,000 per 2.500 m<sup>2</sup> hothouse module or *pro rata*.

<sup>45</sup> The Agricultural Implements and Machinery Certification Board (OCIMA), set up in 2003, is an agency of the National Institute for Forestry, Agricultural and Livestock Research, itself part of SAGARPA, and is responsible for certifying the quality of agricultural machinery and equipment, with the aim of supporting the farmer and guaranteeing compliance with Mexican standards (NMX) and the specifications necessary to ensure good performance. OCIMA online information. Viewed at: [http://www.inifap.gob.mx/transferecia\\_tec/ocima.html](http://www.inifap.gob.mx/transferecia_tec/ocima.html).

<sup>46</sup> Micro tunnel: fixed support equal to Mex\$100,000; macro tunnel, Mex\$200,000; shade house or netting, Mex\$400,000 per hectare, up to Mex\$2.4 million per project; hothouses, fixed support equal to Mex\$1.2 million per hectare, up to Mex\$3.6 million per project. For small producers with projects of up to 2.500 m<sup>2</sup> the support is equal to 60%, with a limit of Mex\$600,000.

<sup>47</sup> SAGARPA (2012a).

specific objective of the *Protected Agriculture* component is to promote the production of healthy high-quality food, with the focus on the value network and sustainability, through production under protected agriculture. The amount of support depends on the area and the location. Most support (60%) is granted to new producers with an area of less than 5 hectares in localities with high and very high levels of marginalization. Producers with larger holdings and a more advantageous geographical location receive support amounting to 20, 30 or 45%, subject to maxima per project or per hectare. For example, for agricultural plastic recycling plants, there is a limit of Mex\$3 million per project and Mex\$200,000 for agricultural plastic collection centres. There are also ceilings per project for the main services, for example, Mex\$100,000 for training in production, post-harvest activities and marketing and agricultural insurance, traceability, and information systems and Mex\$1 million for the development of technologies for various crops and agro-ecological zones. In the case of the *Fish Farm Electrification* component, the maximum support is 60% of the total cost of the electrification project with a ceiling of Mex\$60 million per project.

4.59. Where the *Fishing and Aquaculture Infrastructure* component is concerned, the support is up to 70% of the total value of the investment required by the project, with a maximum of Mex\$1.5 million. For fish farm electrical equipment it is up to 40% of the total value of the investment required by the project, with maxima of Mex\$1.5 million (ramps), Mex\$4 million (integral moorings and floating piers), Mex\$5 million (artificial reefs), Mex\$7 million (fish markets) and Mex\$30 million (dredging and breakwaters). For the *Ecological Marine Engine Replacement* component, the support is the lesser of 50% of the total cost of the marine engine and a ceiling of Mex\$90,000.

4.60. The *Post-Production Handling* component is divided into two main subcomponents: (a) PROVAR, whose objective is to improve the efficiency of the agriculture, livestock and fishing supply chain through modernization and increased post-production capacity, by reducing losses and adding value to the products, in the domestic and international markets; and (b) FIMAGO, whose objective is to improve the efficiency of the cereal and oilseed supply chain, through support for collection, storage, handling, monitoring and quality control equipment and infrastructure, thereby contributing to greater integration in the domestic and international markets. The coverage is national, except for PROVAR which, where coffee is concerned, operates only in the States of Chiapas, Colima, Mexico, Guerrero, Hidalgo, Jalisco, Nayarit, Oaxaca, Puebla, San Luis Potosi and Veracruz. Under FIMAGO up to 49% of the investment is supported, with a limit of Mex\$5 million, and under PROVAR up to 35% of the investment with a limit of Mex\$3 million.

4.61. The *Fishing Fleet Modernization and Rationalization of the Fishing Effort* component provides support of up to 50% of the cost with a limit of Mex\$1 million for fishing fleet restructuring. The *Genetic Resources* component supports up to 100% of the cost of projects to assess the impact of genetically modified organisms (GMOs) on agricultural genetic resources, and up to 50% in cases involving the evaluation, validation, improvement, handling, reproduction and sustainable use of genetic resources of biological or commercial importance, with a limit of Mex\$5 million. The *Agricultural Diesel/Agricultural Machinery Modernization* component serves to support up to 50% of the cost of the equipment, with a limit of Mex\$50,000, Mex\$60,000 or Mex\$110,000 depending on the type of equipment. For development projects, the support is up to 80% with a limit of Mex\$2 million. Under the *Marine Diesel* component, whose specific objective is to widen the operating margins of fish and aquacultural producers by supplying fuel at preferential prices, for fish farms a marine diesel volume of up to 2 million litres per production unit has been fixed, on the basis of the hectares to be seeded, at a price of Mex\$2.00 per litre of marine diesel.

4.62. The specific objective of the *Promotion of Coffee Production* component is to support the incomes of coffee producers and enable them to implement production practices, measures and factors that make it possible to increase production volume and marketing. Support is linked to productivity, namely, Mex\$160 per quintal, up to 10 quintals per hectare and up to 20 hectares per producer, for conventional coffee, and Mex\$410/hectare for producers with recorded marketing in one of the two previous cycles and the current cycle, up to 20 hectares per producer, for sustainable coffee.

#### 4.2.4.2.4 Risk prevention and management

4.63. The *Risk Prevention and Management* programme operated by ASERCA helps agricultural, fish, aquacultural and other rural sector producers to prevent, manage and administer risks by financial, sanitary and other means. It grants various kinds of support, each subject to a series of requirements: Supplementary Support for Target Income, Compensatory Support for the Introduction of Cereals and Oilseeds, Price Hedging Support, and Market Management (which includes subcategories relating to export, movement and contract farming).<sup>48</sup>

4.64. The *Supplementary Support for Target Income and Marketing* subprogramme guarantees the producers of certain crops a minimum income by means of a transfer per tonne marketed. Its specific objectives are to incentivize cereal and oilseed production and strengthen the agrifood production and marketing chain by giving the producer income certainty and/or the buyer cost certainty. The "supplementary support" granted is equal to the difference between the market price and the target income, provided that the former is below a minimum target income threshold. This programme is of national scope, and the eligible crops are currently maize, wheat, sorghum, rice, soya, safflower, canola, sunflower and cotton.<sup>49</sup> SAGARPA determines a "maximum marketable production volume" for the eligible products. Supplementary income support is granted per tonne produced and marketed and is the same for all of the producers of the corresponding state or region, regardless of the producer's individual selling price. The produce cannot be for the grower's own consumption. Marketing support is up to 85% of the costs inherent in the marketing process for the eligible product. Between 2007 and 2011, ASERCA's total annual expenditure under its *Supplementary Support for Target Income and Marketing* subprogramme averaged Mex\$9,851 million, reaching a maximum of Mex\$11,748 million (some US\$840 million) in 2011.<sup>50</sup>

4.65. *Price Hedging Support* is also available. This mechanism is intended to protect the anticipated income of the producers and/or the cost of purchasing agricultural products. The products eligible for agricultural price hedging support are: maize, wheat, rice, sorghum, cotton, oats, coffee, orange juice, sugar cane, cocoa, barley, oilseeds and their derivatives, beef, pork and milk. Depending on the product, the hedge may be based on another product representative of price movements. ASERCA determines the hedge, which may be basic, i.e. authorized to deal with a specific marketing problem or to protect the income of the producers, or special, i.e. designed by ASERCA to deal with recurring marketing problems. The support is for up to 85% of the total cost of the premium for the futures options contract (put and/or call) for the producer and up to 50% for the consumer and marketer (or if an equivalent direct support hedge is not purchased, up to 50% of the cost of the call/put hedge purchased by the producer). Support worth up to the equivalent of US\$8.00 is also offered to pay the commission for the hedge purchasing and administration service, together with up to 80% of the related costs of participating as a market maker, including the operating costs for joining an electronic market. Out of any profits generated by liquidation, ASERCA recovers up to 50% of its contribution. Any additional hedging profits go to the participant.

4.66. *Support for Base Compensation in Market Risk Management* is activated in those cases in which the spot price does not offset the differential between the "Physical Product Consumer Zone Base for Risk Management" and the "Standardized Consumer Zone Base for Risk Management". The support is this difference; if the result is positive, the support goes to the producer; if the result is negative, the support goes to the buyer.

4.67. The *Compensatory Support for the Introduction of Cereals and Oilseeds* subprogramme is aimed at eligible products with comparative advantages in the use of natural resources and/or in agronomic, productive, economic or market aspects, or at deficit crops with a potential demand, which help to discourage the cultivation of other crops with surpluses and/or marketing problems.

<sup>48</sup> ASERCA online information. Viewed at: [http://www.aserca.gob.mx/artman/uploads/reglas\\_de\\_operacion\\_sagarpa\\_123012\\_002.doc](http://www.aserca.gob.mx/artman/uploads/reglas_de_operacion_sagarpa_123012_002.doc).

<sup>49</sup> In 2012, the target income (per tonne) was: maize (Mex\$2,200); bread wheat (Mex\$3,040); durum wheat (Mex\$2,860); sorghum (Mex\$2,000); safflower (Mex\$4,690); canola (Mex\$4,690); raw cotton (Mex\$19,800), rice (Mex\$3,300), soya (Mex\$4,690), and sunflower (Mex\$4,690).

<sup>50</sup> The 2011 data are estimates at 31 July of the same year. Viewed at: Office of the President of the Republic (2011), *Anexo Estadístico*.

As in the previous case, the support is granted per tonne produced and marketed and is the same for all of the producers of the corresponding state or region.

4.68. The *Market Regulation* subprogramme provides support for the movement of crops with surpluses and/or marketing problems, as well as for the promotion of the conclusion of contracts between producers and buyers, and for other specific marketing schemes that contribute to market regulation. For these types of support SAGARPA publishes the necessary supplementary legislative framework in the Official Journal. This subprogramme includes: (a) Support for Access to Feed Grains (maize, sorghum, wheat, triticale, barley and oats, among others), which is determined per tonne of feed grain that the crop producer sells to the livestock producer, the processing industry for livestock use or the balanced feed manufacturer, under contracts of sale; (b) Support for Exports; and (c) Support for Contract Farming (operation in which the producer sells the buyer his product, prior to the planting and/or harvest period, under a contract of sale) for grains and oilseeds.

#### 4.2.4.2.5 Support for Contract Farming

4.69. The beneficiaries of Support for Contract Farming also have certain supplementary instruments available. Support to Supplement Income from Contract Farming is fixed per contract and in calculating it the price paid to the producer is considered to be that indicated in the invoice or, where appropriate, the weighted average invoice price. This price is determined in dollars (to be paid at the fixing dollar exchange rate on the date of invoicing), at the time when the contract is registered and validated. By means of Support for Base Compensation in Contract Farming, SAGARPA covers adverse movements that may occur during the period from contract registration and validation and to delivery of the crop. Base compensation involves paying for the movement between the Consumer Zone Base and the Standardized Consumer Zone Base (of the producer state).<sup>51</sup> Support for Exports is calculated as up to 100% of the difference between the cost of the Mexican product f.o.b. country of destination and the f.o.b. price of the Mexican product under competitive conditions in the country of destination.

4.70. The *Livestock Contract Farming* programme provides support for the producer and/or buyer to cover a percentage of the total cost of the premium paid for the futures options contract (put and/or call). The support is for up to 50% of the total cost of the premium. Support per producer is limited to the equivalent of 2,500 head of beef cattle or 5,000 head of swine. To benefit from this programme, the contract of sale must be registered with ASERCA.

#### 4.2.4.2.6 PROGAN

4.71. In 2010, the *Livestock Programme* (PROGAN), which granted direct payments to producers (depending on the number of head of cattle) to fund the profitability of beef cattle farms and promote improvements in technology and infrastructure, was replaced by the *Sustainable Livestock Production and Cattle and Apiculture Management* programme (Nuevo PROGAN). The new PROGAN's specific objective is to increase livestock productivity through the introduction of the sustainable production technologies. The support granted is Mex\$412.50 per animal unit, for producers with between four and 35 units, and Mex\$330 per animal unit, for producers with more than 35 units. The maximum per producer is support equivalent to 300 animal units. Benefits in kind are also granted. Under the new PROGAN, support has been extended to the production of cow's milk in family farms, goat and sheep production and beekeeping.<sup>52</sup> In the first half of 2012, the programme granted Mex\$3 billion to livestock producers (some US\$226 million), an increase of 60% over the same period in 2011.<sup>53</sup>

<sup>51</sup> The Consumer Zone Base is announced by SAGARPA and determined as "the price of the product in the consumer zone less the futures price on the exchange on the reference day". This is fixed in dollars and converted into pesos at an exchange rate established by SAGARPA with reference to the weighted value of the fixing exchange rate and the future value for the first 15 days of the harvest period. The Consumer Zone Standardized Base is the price that SAGARPA announces by publishing it in the Official Journal, in US\$ per tonne, in accordance with the historical trend over the previous five years, international market conditions and the supply and demand conditions affecting the local and regional markets.

<sup>52</sup> SAGARPA online information. Viewed at: <http://www.sagarpa.gob.mx/ganaderia/Programas/Paginas/PROGRAM.aspx>.

<sup>53</sup> SAGARPA online information, *Estado del Ejercicio Presupuestal al 31 de diciembre de 2011*. Viewed at: <http://www.sagarpa.gob.mx>.

#### 4.2.4.2.7 Other programmes

4.72. Under the Rural Energy Law (2002), low-income agricultural producers benefit from special electricity subsidies and preferential prices for diesel used in crop and livestock farming machinery and equipment. The last update of the corresponding energy tariffs was published in the Official Journal of 3 August 2012.

4.73. Under the *Capacity Building, Technological Innovation and Rural Extension* programme, support is granted in the form of technical assistance and training services, research projects and technology transfer. Within this programme, the *Support for Project Integration* component is aimed at improving the mechanisms for planning, communication and permanent cooperation between the economic players and those who participate in the implementation of rural development policies, plans and programmes. The support available is Mex\$500,000 to Mex\$2 million in the case of costs and 50% of the value of the project up to Mex\$5 million. The goal of the *Innovation and Technology Transfer* component is to promote and support the implementation of research and technology transfer projects in crop and livestock farming, fishing and aquaculture. Support for the implementation of specific research, validation and technology transfer projects can be up to Mex\$1 million for projects at State level and up to Mex\$20 million for projects with a regional or national impact.

4.74. The *Natural Resources Sustainability* programme is intended to contribute to the conservation, use and sustainable management of the natural resources utilized in primary production through the granting of support and services that make it possible to develop integrated systems, works, measures and sustainable practices which help to introduce a new production structure, including crops for the production of bio-energy inputs, sustainable energy supplies, and the use of alternative energy sources, as well as the conservation and sustainable use of the soil, water and vegetation of the production units. In the area of bio-energy and alternative sources, it seeks to promote the production of biofuels, biofertilizers and organic manures and the use of renewable energy. The support is for up to 30% of the cost of the technological package, with a limit of Mex\$750,000 per final beneficiary and up to a maximum of between Mex\$3 million and Mex\$5 million per project. Within this programme, guarantee support is also offered under the scheme "FONAGA Green" for bio-energy and/or renewable energy projects. The percentages and amounts of cover of the guarantee service depend on the region of the country, production line, project or type of credit. Assistance is also provided with the acquisition of assets for the same amount as the producer invests in capital, subject to a limit of Mex\$750,000 per producer or Mex\$50 million per project. Support is also provided for renewable energy projects. This varies between 30 and 50% of the cost of the system up to a limit of between Mex\$100,000 and Mex\$1 million per beneficiary, depending on the system.

#### 4.2.4.3 Financing

4.75. Two of the credit institutions of greatest importance for the Mexican agricultural sector are the Fideicomisos Instituidos en relación con la Agricultura or FIRA (Trust Fund for Agriculture) and Financiera Rural (Rural Financing), which in 2003 replaced the Rural Development Bank (Banrural). In 2011, FIRA financing reached a record level of Mex\$111 billion (US\$7,927 million), channelled mainly into crop farming (65%), livestock farming (21%) and rural financing (9%). During the period from 2006 to 2011, the amount of financing grew at a year-on-year rate of 7%. Among other things, FIRA offers microcredit, facilities specially designed for financing repairs, and others for dealing with the effects of natural disasters. FIRA channels resources through the commercial banking system and the development banks and, more recently, through non-banking financial intermediaries (NBFIs), through which it granted Mex\$18,614 million (US\$1,330 million) in 2011.<sup>54</sup>

4.76. For its part, in 2009, Financiera Rural lent an historic record of Mex\$25,041 million, although in 2011 the amount was reduced to Mex\$23,957 million, spread over approximately 286,000 producers. The institution contributed 14% of rural sector financing in 2011, channelling 48.2% of its lending through rural financial intermediaries (RFI). In the second half of 2011, a credit line at preferential rates, cofinanced by SAGARPA through the

<sup>54</sup> Office of the President of the Republic (2012).

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Financial Expansion Programme (PROFIN) and by the SE, was inaugurated. During this period Mex\$6 billion in loans was granted using this facility.<sup>55</sup>

4.77. Within the framework of the PEC, the Rural Financing and Insurance Programme allocates funds to the above-mentioned institutions (FIRA and Financiera Rural) and to the insurer AGROASEMEX, the Rural Sector Capitalization and Investment Fund (FOCIR) and the National Savings and Financial Services Bank (BANSEFI). FOCIR provides banking services for the development of agro-industrial enterprises through private capital funds, while BANSEFI promotes savings and offers financial services for groups with no banking infrastructure through people's financial and savings and loan companies.<sup>56</sup>

4.78. AGROASEMEX is the Federal Government agency responsible for developing an insurance system for the rural sector, by encouraging private sector participation. Up until 2001, it was issuing insurance at subsidized rates directly to farmers; since then it has operated mainly as a reinsurer and channels the agricultural insurance subsidy through private insurers and insurance funds. Since 2003, it has offered protection against catastrophic weather events to strata of the rural population without access to commercial insurance schemes, and in 2007 it began providing pasture insurance. In 2011, AGROASEMEX used a final budget of Mex\$1,118 million (some US\$230 million) to subsidize agricultural insurance premiums, with crop farming receiving 77.8% and livestock farming 18.5%, while the rest went towards administrative expenses.<sup>57</sup>

4.79. Mexico also has schemes for promoting insurance cover for producers and offers support in the form of guarantees. The specific objective of the *Response to Natural Disasters in the Agricultural and Fishing Sectors* component of SAGARPA's general *Risk Prevention and Management* programme, described above, is to provide the rural sector with support to deal with the impact of natural disasters on agriculture, aquaculture and fishing. This is aimed at low-income producers without any form of public or private insurance and producers who, while insured through private companies or insurance funds, wish to insure for an additional amount per hectare in the event of a natural disaster. The scheme offers support with the taking out of catastrophe insurance policies. The support has limits, per hectare and overall (up to 10 hectares can be covered per producer). For low-income producers the limit per hectare is Mex\$1,300 for seasonal crops and Mex\$2,200 for irrigated crops and perennial fruit-tree plantations and coffee and prickly pear crops. For livestock farming, the support is for up to 50 units and Mex\$600 per unit in the case of nutritional supplements, and up to five units and Mex\$1,500 per unit in the event of death. Where fishing is concerned, one vessel is covered per producer, for up to Mex\$10,000; in aquaculture, the coverage is up to 2 hectares per producer and Mex\$8,000 per hectare or aquaculture unit (Mex\$1,000 in the case of shellfish farming). The support for producers who, while having access to private commercial insurance, wish to insure for an additional amount per hectare to re-engage in their productive activity in the event of a natural disaster is 75 % of the total cost of the insurance premium, under the rules of the insurance premium subsidy programme operated by AGROASEMEX, up to Mex\$3,000 per hectare.

4.80. The *Guarantees* component of the above-mentioned programme offers guarantees of up to 100% of the outstanding balance of the loan for agricultural producers. Support is also offered with the payment of the agricultural insurance premiums for restoration of the productive activity, namely, up to 60% of the part of the insurance premium that corresponds to protection of the investments made by the producer, together with support for the constitution of venture capital, with a co-investment percentage of up to 35% of the fund. There is also support for improving access conditions (credit supply), of up to 80% of the investment in infrastructure and equipment for new service centres, and a guarantee for covering the counterparty risk in derivatives operations, of up to 50% of the risk assumed. The unit responsible for these programmes is SAGARPA's Directorate-General for Risk Management, while the implementing bodies are FIRA and Financiera Rural, for guarantees, FOCIR, for venture capital, and AGROASEMEX.

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<sup>55</sup> Financiera Rural (2011).

<sup>56</sup> Office of the President of the Republic (2011a).

<sup>57</sup> AGROASEMEX (2011).

#### 4.2.5 Fishing and aquaculture

4.81. The fishing and aquaculture sector grew at an annual rate of 1.4% between 2006 and 2011. Sardines were the main product among the 1.4 million tonnes produced by the fishing industry.<sup>58</sup>

4.82. The General Law on Sustainable Fishing and Aquaculture of 2007 is the sector's most important regulatory instrument. Its purpose is to regulate, promote and administer the development of fishing and aquaculture resources on Mexican territory.<sup>59</sup> The National Fishing Charter summarizes the diagnostic and basic assessment information for the management of the activity. Its contents are binding on the fisheries authority in its decision-making and informative where the production sectors are concerned.<sup>60</sup>

4.83. The design and implementation of Mexican fishing policy are the responsibility of CONAPESCA, a decentralized office reporting to SAGARPA, committed to legality, quality and transparency, and responsible for promoting and developing mechanisms for coordination with various bodies for the purpose of implementing policies, programmes and regulations that guide and facilitate the competitive and sustainable development of the country's fishing and aquaculture sector.<sup>61</sup>

4.84. In 2011, SAGARPA granted around Mex\$2,562 million (US\$200.2 million) to CONAPESCA by way of transfers, allocations, subsidies and other aid, which represent 4% of the total granted. The resources were used, among other things, for the modernization of smaller inshore fishing boats, as well as for the modernization or replacement of the main fishing fleet, which catches 60% of total domestic production. During the period between 2007 and 2012, around Mex\$504 million was invested in 164 infrastructure projects for the fishing and aquaculture sector.<sup>62</sup>

4.85. Apart from the support programmes described above, the fishing sector benefits from the *Reduction of the Fishing Effort* component of the *Sustainability of Natural Resources* programme, the purpose of which is to contribute to the conservation and sustainable use of fishery resources as a result of the voluntary retirement of vessels that form part of the main fleet. The support amounts to up to Mex\$1.3 million per vessel retired and is limited to enterprises or persons carrying out fishing activities under cover of a valid concession or permit for commercial shrimp fishing. The aim of the *Fishery Inspection and Surveillance* component is to seek to promote the sustainable development of fishery and aquaculture resources through the delivery of support for the implementation of preventive and operational fishery and aquaculture inspection and surveillance measures. Operating and development expenses, among others, are financed for up to Mex\$2 million per natural person or Mex\$6 million per organization. The *Fishery and Aquaculture Management* component aims to generate public policy instruments to support the regulation and administration of fishing and aquaculture activities, by encouraging the sustainable development of fishery and aquaculture resources through inshore fishing management projects. The support amounts to up to Mex\$2.5 million per local or state instrument and up to Mex\$20 million per regional instrument. The projects must be aligned on the National Sustainable Fishing and Aquaculture Framework Programme (PRNPAS) and the Sectoral Agriculture and Fisheries Development Programme 2007-2012.

4.86. The aim of the *Inshore Gasoline* scheme is to widen the operating margin of inshore fishing producers by means of an "energy allowance" at incentive prices. In 2012, this energy allowance was up to 10,000 litres per vessel at an incentive price of Mex\$2.00 per litre of inshore gasoline. CONAPESCA is the unit responsible for this programme.

4.87. In October 2008, Mexico requested consultations with the United States concerning certain provisions of United States law which establish the conditions for access to the use of a "dolphin-safe" label on tuna products, issued by the United States Department of Commerce, considering them to be discriminatory. Argentina, Australia, Brazil, Canada, Chinese Taipei, Ecuador, the European Union, Guatemala, Japan, the Republic of Korea, New Zealand, Thailand,

<sup>58</sup> CONAPESCA (2012).

<sup>59</sup> The latest update was published in the Official Journal of 7 June 2012.

<sup>60</sup> SAGARPA (2012d).

<sup>61</sup> CONAPESCA online information. Viewed at: [http://www.conafishing.sagarpa.gob.mx/wb/cona/cona\\_mision\\_y\\_vision\\_acerca](http://www.conafishing.sagarpa.gob.mx/wb/cona/cona_mision_y_vision_acerca).

<sup>62</sup> SAGARPA (2012d).



Turkey, and the Bolivarian Republic of Venezuela asked to join the consultations. A panel was established and produced a report circulated to Members on 15 September 2011, whereupon the parties decided to notify the Dispute Settlement Body of their intention to appeal certain issues. On 16 May 2012 the Appellate Body circulated its report. The two reports were adopted on 13 June 2012.<sup>63</sup> The parties to the dispute agreed that the reasonable period for implementation would be 13 months from the adoption of the reports, which means that it will expire on 13 July 2013.<sup>64</sup>

### 4.3 Manufacturing

#### 4.3.1 Main features

4.88. Mexico's manufacturing sector is large and diversified, accounting for 17.3% of GDP in 2010, a percentage very close to the average for the decade. After a phase of strong expansion in manufacturing, which contributed to Mexico's integration in the global economy, the sector performed at a level slightly below that of the rest of the economy during the period 2003-2008, growing at an average year-on-year rate of 2.9% (as compared with the general rate of 3.4%). Despite a marked fall of close to 10 percentage points in 2009, the sector recovered by the same amount in 2010. In 2011, manufacturing exports accounted for 79.7% of all Mexican exports (WTO definition of non-agricultural products), as compared with 83.6% in 2010. The main exports are automotive industry products, office machinery and telecommunications equipment, and electrical and non-electrical machinery (see Chapter 1.3). If food and beverages are included, manufacturing exports accounted for 93.7% of the total in 2011.

4.89. The recovery that started in 2010 was led by the automotive, auto parts and aerospace sectors, which reflects the increasing level of technological complexity of the Mexican manufacturing sector. According to a global survey of manufacturing sector executives, Mexico ranks seventh in terms of competitiveness in the sector.<sup>65</sup>

4.90. Manufacturing sector activity is mainly concentrated in a group of five federative entities in the centre, north and west of the country, which together contribute almost 50% of sectoral GDP: State of Mexico (14.4%), Nuevo León (10.5%), Federal District (9.7%), Jalisco (7.9%) and Guanajuato (7.2%). Conversely, there are 16 States, mainly located in the south of the country, each producing less than 2% of manufacturing GDP.<sup>66</sup>

4.91. According to information published on the ProMexico Investment and Trade website, Mexico is the world's sixth-ranking producer of auto parts and its fifth-ranking exporter, with 6% of the total. Between 2006 and 2011, the sector received investment amounting to US\$7,648 million.<sup>67</sup> In the end-stage automotive industry, Mexico ranks eighth in the world thanks to an output of 2.69 million vehicles in 2011. Some 6% of foreign direct investment (FDI) is concentrated in this sector.<sup>68</sup> For its part, the aeronautical sector almost tripled its exports between 2004 and 2011, when they reached US\$4,337 million. The industry is currently composed of some 250 enterprises employing about 31,000 workers, whereas in 2005 there were 61 enterprises and one third of the number of workers. Its production goes mainly to the United States, Canada, Germany and France. It is calculated that the potential for foreign investment in restricted technologies and dual-use goods and services is at least US\$7 billion within a period of five years.<sup>69</sup>

4.92. However, although Mexico maintained its relative importance at global level, its share of world markets for manufactured goods declined from 2.93% of total world exports in 2001 to 1.96% in 2011, mainly due to the faster growth of exports by other countries, particularly in Asia.<sup>70</sup> Between 2008 and 2011, Mexican exports of manufactured goods grew at an average rate of 4.4%, while at world level they rose by 3.4%. Thus, although up until 2007 Mexico lost

<sup>63</sup> For full details see: [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds381\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds381_e.htm).

<sup>64</sup> For full details see: [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds381\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds381_e.htm).

<sup>65</sup> Deloitte (2010).

<sup>66</sup> 2010 information viewed on the INEGI website at: <http://www.inegi.gob.mx>.

<sup>67</sup> ProMexico Business Intelligence Unit (2012a).

<sup>68</sup> ProMexico Business Intelligence Unit (2012b).

<sup>69</sup> ProMexico information. Viewed at: [http://mim.promexico.gob.mx/wb/mim/perfil\\_del\\_sector](http://mim.promexico.gob.mx/wb/mim/perfil_del_sector).

<sup>70</sup> Calculated by the WTO Secretariat on the basis of United Nations Statistics Division Comtrade data.

ground in the face of increasing international competition, in recent years the manufacturing sector has experienced a recovery. Capacity utilization in the Mexican manufacturing industry is at a high level. In June 2012, it was operating at 81.3% of capacity, as compared with an annual average of 77.9% in 2010.<sup>71</sup> A growth rate faster than the present one will require an effort to increase investment in the sector.

4.93. Nevertheless, in the face of a potential fall in demand in the United States, the main consumer of Mexican manufactures, and in other major markets, it has been recommended that, as a partial remedy, work should begin on increasing the productivity of the sector (see Table 4.4). In this connection, the authorities have noted that this effort will have to be made whether or not there is a fall in demand in the United States. At the same time, although a real depreciation of the currency could improve the terms of trade, it could also affect those manufacturers that depend on foreign suppliers. Accordingly, it has been recommended that the production chains between large exporters and medium-sized and small businesses be strengthened and made more efficient.<sup>72</sup> In addition, in recent years, the SE has been working to improve domestic supply, so that exports have a higher local content and are less dependent on foreign suppliers. An example of this is the CAPIM (Catalogue of Maquila Industry Suppliers) project, a platform for matching the supply requirements of IMMEX (manufacturing, maquila and export services industry) enterprises with the production capacities of small and medium-sized enterprises.

**Table 4.4 Productivity in the manufacturing sector in real terms, 2008-2012**

(Percentage change)

Year	Personnel employed	Average real salary per person	Average productivity per hour worked	Real unit cost of labour <sup>a</sup>
2008	-1.2	0.5	-2.6	5.7
2009	-8.6	-0.5	-5.5	-14.2
2010	3.4	-0.5	6.0	3.1
2011	3.0	0.1	2.8	2.7
2012 <sup>b</sup>	1.5	-1.7	2.8	-7.3

a In US dollars.

b Average for first half of year.

Note: Percentage changes reflect variation in salaries, productivity and labour costs after taking account of inflation.

Source: WTO Secretariat calculations based on Federal Executive (2006), *Sexto Informe de Gobierno*, September, pp. 376-377; and INEGI, Economic Information Bank. Viewed at: [www.inegi.gob.mx](http://www.inegi.gob.mx).

4.94. The growth of Mexican manufacturing exports during the 1990s and early 2000s was mainly attributable to the growth of the maquila industry, sizable inflows of FDI, and the conclusion of numerous free trade agreements.<sup>73</sup> In this respect, the authorities have drawn attention, in particular, to the reallocation of resources as an outcome of NAFTA.

4.95. The Mexican manufacturing sector is characterized by its diversity. In 2011, the main manufacturing subsector in terms of value added was metal products, machinery and equipment (35.2% of the total), followed by food, beverages and tobacco (27.9% of the total) and chemicals, plastics and petroleum products (14.1% of the total), as shown in Table 4.5. Between 2006 and 2011 growth was moderate. Only three sectors recorded year-on-year growth rates of at least 1.5%: other manufactures (1.9%), paper and related products (1.8%), and food, beverages and tobacco (1.5%). The textile sector was that which contracted the most, with an average fall of 2.4% per year during the same period, while the basic metal industries sector fell by 1.4% per year. At the same time, during recent years the production of aerospace sector manufactures has increased considerably, making that sector one of the most important generators of employment in the manufacturing industry. This is particularly evident from the increase in the production of machinery and equipment in 2010, but more especially in 2011 and the first half of 2012. During this latter period, manufacturing GDP continued the expansion already observed in 2011, with an increase in production at constant prices under almost every heading, with the exception of textiles, clothing and footwear.

<sup>71</sup> Data corresponding to the reference month for the latest data available (June 2012). The average installed capacity utilization in the first half of 2012 was 80.9%. INEGI information viewed at: <http://www.inegi.gob.mx>.

<sup>72</sup> Cuevas (2010).

<sup>73</sup> IDB (2006).

**Table 4.5 Manufacturing industry's share of GDP, 2006-2012**

(Mex\$ billion, constant 2003 prices and %)

	2006	2007	2008	2009 <sup>a</sup>	2010 <sup>a</sup>	2011 <sup>a</sup>	2012 <sup>b</sup>
<b>(Mex\$ billion, constant 2003 prices)</b>							
Food products, beverages, and tobacco	418.1	428.9	435.8	433.9	440.4	450.7	459.1
Textiles, clothing and leather	85.9	82.7	81.3	73.6	78.7	76.7	73.0
Wood and wood products	17.4	18.1	16.7	16.0	17.0	18.1	18.4
Paper, paper products, printing and publishing	45.9	46.9	48.5	47.3	50.2	50.3	52.6
Chemicals, plastics and petroleum products	236.3	239.5	235.7	225.1	225.5	227.9	233.8
Non-metallic mineral products	103.4	105.8	101.9	93.3	96.5	99.9	102.0
Basic metal industries	89.9	88.5	88.0	72.8	82.3	86.2	91.9
Metal products, machinery and equipment	504.7	516.7	507.3	400.3	508.9	568.2	598.2
Other manufacturing industries	32.3	33.4	34.0	33.7	34.6	35.6	35.6
All manufacturing	1,533.9	1,560.5	1,549.1	1,396.0	1,534.0	1,613.5	1,664.6
Total GDP	8,532.0	8,810.1	8,915.0	8,384.2	8,848.1	9,194.1	9,321.9
<b>(Index, real GDP (2003 prices), 2003=100)</b>							
Food products, beverages, and tobacco	111	114	115	115	117	119	122
Textiles, clothing and leather	99	96	94	85	91	89	84
Wood and wood products	100	104	96	92	98	104	106
Paper, paper products, printing and publishing	112	114	118	115	122	122	128
Chemicals and plastics	110	112	110	105	105	106	109
Non-metallic mineral products, excluding petroleum products	119	122	117	107	111	115	117
Basic metal industries	114	112	112	92	104	109	117
Metal products, machinery and equipment	121	124	122	96	122	136	144
Other manufacturing industries	122	126	128	127	130	134	134
All manufacturing	114	116	115	104	114	120	124

a Preliminary estimates.

b First-half average.

Source: WTO Secretariat calculations based on Office of the President of the Republic (2012), *Sexto Informe de Gobierno*, September, pp. 102 and 103.

4.96. Mexico's manufacturing sector is highly integrated into global production and supply networks, especially within North America. Inter-industry trade's share of total trade between Mexico and the United States is high. In many cases the figures for the main manufacturing imports and exports (WTO product definition) coincide: office machinery and telecommunications equipment (17.1% in both cases), electrical machinery (7.1% of imports and 7.7% of exports), and automotive industry (9.9 and 19.4%, respectively).<sup>74</sup>

#### 4.3.2 IMMEX maquila and manufacturing sector

4.97. The maquila and manufacturing industry plays a fundamental role in the Mexican economy. Since 2006 it has been covered by the IMMEX programme<sup>75</sup> (for a full description of the programme and its latest updates see Chapter 3.3.4). The manufacturing enterprises operating under the IMMEX programme reported US\$119,567 million in income from the foreign market in 2011 and US\$63,952 million in the first half of 2012. The industry provided employment for 1.9 million workers, exceeding the labour force employed at the beginning of the period, after two years of contraction (Table 4.6).

4.98. Thanks to robust recovery in 2010, exports of manufactures under the IMMEX programme grew by 8.9% year-on-year between 2008 and 2011. The geographical distribution and the degree of concentration of the manufacturing industries benefiting from IMMEX programmes remained stable during the review period. There was a slight fall in the number of establishments in

<sup>74</sup> Calculated by the WTO Secretariat on the basis of United Nations Statistics Division Comtrade data.

<sup>75</sup> The Promotion and Operation of the Maquila Export Industry and the Temporary Import for the Production of Goods for Export programmes were consolidated.

Baja California, the Mexican State with the greatest number of IMMEX enterprises. Whereas in 2007 it was home to 21.7% of the total number of IMMEX beneficiaries, it currently accommodates 19.2%. The number of industries established in Nuevo León increased from 12.3 to 13.9% of total beneficiaries in the same period. The total number of industries taking advantage of IMMEX declined with the fall in activity in 2008 and 2009, but is currently stable.

**Table 4.6 Structural indicators, manufacturing enterprises under the IMMEX regime, 2007-2012**

(US\$ million, nominal prices<sup>a</sup>)

	2007	2008	2009	2010	2011	2012 <sup>b</sup>
Establishments (number)	5,197	5,285	5,245	5,108	5,079	5,108
Total income (US\$ million)	90,459 <sup>b</sup>	186,788	138,641	186,198	210,501	128,872
Income from exports (%)	59 <sup>b</sup>	56	56	56	57	58
Exports (% of total exports) <sup>d</sup>	72.8	74.2	76.3	76.6	73.8	75.6
Imports (% of total imports)	43.0	42.1	46.1	50.6	47.8	..
Inputs (US\$ million)	88,361 <sup>b</sup>	181,365	144,403	164,309	187,083	120,443
Imported inputs (% of IMMEX imports)	76.0	76.0	76.0	71.8	70.2	69.9
Domestic inputs (% of total inputs)	24.0 <sup>b</sup>	24.0	24.0	28.2	29.8	30.1
Salaries and wages (US\$ million)	8,961 <sup>b</sup>	17,542	13,184	15,647	17,064	9,811
Persons employed (million)	1.91	1.75	1.64	1.81	1.88	1.97

.. Not available.

a Calculations in US dollars at the average official exchange rate for each period.

b In the cases indicated, the 2007 information corresponds to the period from July to December.

c The 2012 information corresponds to the period from January to July.

d Includes the exports of all the enterprises with IMMEX programmes.

Source: Information provided by the Mexican authorities.

### 4.3.3 Policy objectives and instruments

4.99. The level of tariff protection in manufacturing is relatively low, with an average MFN tariff of 4.6% in 2012 (WTO definition of non-agricultural products). During the review period, the average tariff decreased by more than half (in percentage points), from 9.9%. The industrial products with the highest tariff reductions (average) were: clothing; leather, rubber, footwear and travel goods; transport equipment; and mineral and metal products.

4.100. Mexico maintains unilateral quotas for imports of certain manufactured products, including infant products, polyester filament, new and used vehicles, and toys.

4.101. To exploit Mexico's preferential access to the world's largest importer and a significant of the main global markets, the authorities have developed programmes for gaining a greater foothold in international trade. They have also sought to liberalize on a broader basis, not confined to certain programmes. Thus, during the review period, 230 tariff items were eliminated from 21 of the 24 sectoral import promotion programmes under the PROSEC Decree, thereby eroding the preferences granted to the beneficiaries of this programme.

4.102. Three of the sectors targeted by the Bancomext priority sector support programme (see Chapter 3.3.5) correspond to manufacturing industries: the maquila export industry, the automotive and auto parts industry, and the electrical-electronics industry. As of 30 June 2012, the loan portfolio balances of these sectors were Mex\$531 million, Mex\$708 million and Mex\$296 million, respectively (US\$41.5 million, US\$55.3 million and US\$23.1 million, respectively). In 2011, total Bankmext financing under Manufactures and Services was Mex\$2,250 million (US\$160.8 million).<sup>76</sup>

4.103. ProMexico also carries out promotion activities and provides information and advice on attracting investment, particularly in a group of strategic, mainly manufacturing industries (see Chapter 3.3.6).

4.104. In 2010, reforms were introduced to consolidate the Export-Intensive Enterprise (ALTEX) and Foreign Trade Enterprise (ECEX) programmes within the Programme for the Promotion of the

<sup>76</sup> Office of the President of the Republic (2012).

Manufacturing, Maquila and Export Services Industry (IMMEX), which since 2006 has combined the Maquila and PITEX programmes in a single legal instrument (see Chapter 3.3.4).

## 4.4 Energy

### 4.4.1 Main features

4.105. In 2011, the energy sector contributed 8.3% to Mexico's GDP and 16.1% to the value of its total merchandise exports.<sup>77</sup> Between 2007 and 2010, primary energy production contracted at an annual rate of 3.5%. In 2010, it amounted to 9,250 petajoules, of which hydrocarbons accounted for 90.2%, renewables for 6.9%, biomass for 3.7% and coal for the remaining 2.2%.<sup>78</sup>

4.106. Total investment in the energy sector grew at an average annual rate of 13.4% between 2007 and 2010, reaching a value of Mex\$318,000 million in 2010 (some US\$25,000 million). The biggest increase, about 40%, took place in 2008. Out of the investment made in 2010, 85% was destined for the petroleum industry and the rest for the electricity industry. For the period 2007-2012, the Government had estimated that an annual investment of around Mex\$264,000 million would be needed to maintain a reliable energy supply. The authorities have pointed out that this investment made it possible to arrest the decline in petroleum production, stabilizing it at around 2.6 million barrels per day. Likewise, the rate of replenishment of proven reserves was greater than 100%.<sup>79</sup>

4.107. The Ministry of Energy (SENER) is the authority responsible, among other things, for establishing energy policy, managing that policy and the activities of the sector's State-owned enterprises, granting energy-related authorizations and permits, together with allocations for hydrocarbon exploration and exploitation, and issuing regulations within its area of responsibility. Since the reform of the energy sector in 2008<sup>80</sup>, new management priorities have been established, specifically: energy security and diversification, energy-saving, and environmental protection.<sup>81</sup> To grant new petroleum allocations covering exploration and production, PEMEX requires a technical report on the project, together with an opinion from the National Hydrocarbons Commission (CNH), a decentralized body set up under SENER as part of the energy sector reforms by the Law on the National Hydrocarbons Commission. SENER also seeks the opinion of the CNH on the issuing of area exploration permits.<sup>82</sup> In February of each year, SENER must submit to Congress, for ratification, a 15-year National Energy Strategy, drawn up with the participation of the new National Energy Council and its Consultative Forum.<sup>83</sup>

4.108. The Minister of Energy serves as chairman of the boards of the State-owned company Petróleos Mexicanos (PEMEX) in the hydrocarbons sector and the Federal Electricity Commission (CFE). Previously, he also presided over the governing council of Luz y Fuerza del Centro (LFC), a decentralized public entity that supplied electricity in the central area of the country and was abolished by presidential decree on 11 October 2009.<sup>84</sup>

4.109. The Regulatory Commission for Energy (CRE), a decentralized SENER agency, regulates some of the activities in the electricity sector, together with the pipeline transport and distribution of gas and the products obtained from refining petroleum and basic petrochemicals; and storage systems directly linked with pipeline transport or distribution systems or forming an integral part

<sup>77</sup> The data for the energy sector are in current money and include oil and gas extraction, electricity generation and supply and the production of petroleum derivatives and coal. Office of the President of the Republic (2011a).

<sup>78</sup> The term "renewables" includes hydraulic power, geo-energy, and solar and wind power. Energy Information System (SIE) of the Ministry of Energy. Viewed at: <http://sie.energia.gob.mx/>.

<sup>79</sup> National Infrastructure Programme 2007-2012. Viewed at: [www.infraestructura.gob.mx](http://www.infraestructura.gob.mx).

<sup>80</sup> In this connection, seven decrees were published in the Official Journal of 28 November 2008. The basic changes are explained in a document published by the Centre for Public Finance Studies. Viewed at: <http://www.cefp.gob.mx/intr/edocumentos/pdf/cefp/2008/cefp1042008.pdf>.

<sup>81</sup> Article 33 of the Law on the Organization of the Federal Public Administration (2008).

<sup>82</sup> Law published in the Official Journal of 28 November 2008. Viewed at: [http://www.cnh.gob.mx/docs/Leyes/1\\_LCNH.pdf](http://www.cnh.gob.mx/docs/Leyes/1_LCNH.pdf).

<sup>83</sup> Ministry of Energy. Viewed at: <http://www.sener.gob.mx/res/1646/EstrategiaNacionalEnergia2011-2025Enviada25Febrero2011HCongresoUnionRatificacion.pdf>.

<sup>84</sup> The full text of the Decree can be viewed at: [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5114004&fecha=11/10/2009](http://www.dof.gob.mx/nota_detalle.php?codigo=5114004&fecha=11/10/2009).

of import or distribution terminals for the products in question. Since the above-mentioned reform, it is also responsible for renewables, as far as the issuing of permits is concerned.<sup>85</sup> The Ministry of Finance and Public Credit (SHCP) incorporates the CFE's budget and annual financing programme in the consolidated annual public sector budget, which it submits to Congress for approval. The SHCP, with the participation of the Ministries of Energy and the Economy and at the proposal of the CFE, fixes tariffs and adjusts or restructures them so that they suffice to cover the financial requirements and the needs of public service expansion and rational energy consumption. The SHCP can also fix special tariffs at hours of peak demand, minimum demand or a combination of the two.

#### 4.4.2 Hydrocarbons

4.110. Although since its last TPR Mexico has remained one of the world's leading producers of petroleum, ranking seventh as a producer of crude in 2011, the sector contracted during the review period.<sup>86</sup> Thus, crude production accumulated a fall of 17.1% between 2007 and 2011, declining from 3.08 million barrels per day to 2.56 million, while petroleum product production decreased by 5.5% in the same period.<sup>87</sup> The PEMEX statistics for 2012 indicate that, between January and June of that year, the company produced an average of 2.5 million barrels per day of crude petroleum and almost 6,400 million cubic feet per day of natural gas.<sup>88</sup> PEMEX, created by a decree published on 7 June 1938, is Latin America's third largest enterprise in terms of sales, which amounted to Mex\$1,558 billion (around US\$111,735 million) in 2011.<sup>89</sup>

4.111. At 1 January 2012, Mexico's proven hydrocarbon reserves stood at 13,810 million barrels of oil equivalent (mboe), while reserves of natural gas (including condensates and liquid gas obtained in processing plants) were 17,224 billion cubic feet (bcf).<sup>90</sup> The trend in proven (1P), proven + probable (2P) and proven + probable + possible (3P) petroleum reserves is shown in Table 4.7.

**Table 4.7 Petroleum reserves, proven, probable and possible**

(Millions of barrels of oil equivalent (mboe))

Year	3P	2P	1P
2008	44,482.75	29,861.57	14,717.20
2009	43,562.57	28,824.64	14,307.71
2010	43,074.65	28,228.70	13,992.10
2011	43,046.54	28,809.11	13,796.00
2012	43,837.32	26,163.02	13,810.31

Source: PEMEX, *Las Reservas de Hidrocarburos de México*. Viewed at: <http://www.pemex.com>; and PEMEX (March 2012), *Reservas de hidrocarburos al 1 de enero de 2012*. Viewed at: [http://www.ri.pemex.com/files/content/Reservas\\_2011\\_e\\_GRI\\_1203291.pdf](http://www.ri.pemex.com/files/content/Reservas_2011_e_GRI_1203291.pdf).

4.112. In recent years the authorities have been endeavouring to stabilize the reserves. These efforts have been mainly focused on increased exploration, which has been achieved by expanding investment and intensifying PEMEX's exploration activities. Thus, public investment in hydrocarbon exploration and production increased at an average annual rate of 12.6% between 2007 and 2011.<sup>91</sup> During the period 2007-2011, investment by PEMEX in exploration totalled Mex\$1,088.727 billion (some US\$87 billion).<sup>92</sup> As a result of these efforts, the proven reserves estimated for 2012 are slightly higher than those recorded in 2011 and, for the first time in the last ten years, it has proved possible to replace each barrel consumed.<sup>93</sup> On 1 January 2012,

<sup>85</sup> CRE information viewed at: <http://www.cre.gob.mx/articulo.aspx?id=10>.

<sup>86</sup> CIA World Factbook. Viewed at: <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2173rank.html>.

<sup>87</sup> Office of the President of the Republic (2011b), 2.12: *Hydrocarburos y Electricidad*.

<sup>88</sup> PEMEX information published in the monthly report *Indicadores Petroleros*. Viewed at: <http://www.ri.pemex.com/files/dcpe/petro/indicador.pdf>.

<sup>89</sup> Annual Report of the review América Economía (2012). Viewed at: <http://rankings.americaeconomia.com/2012/las-500-enterprises-mas-grandes-de-america-latina/ranking-500-america-latina-1-50.php>.

<sup>90</sup> PEMEX (2012a).

<sup>91</sup> Office of the President of the Republic (2011b), 2.12: *Hydrocarburos y Electricidad*.

<sup>92</sup> Office of the President of the Republic (2011b), 2.12: *Hydrocarburos y Electricidad*.

<sup>93</sup> 60% of proven reserves are offshore. 34% of proven reserves are undeveloped, i.e. require wells and additional infrastructure to be produced. See PEMEX (2012a).

the rate of replenishment of proven reserves (1P) amounted to 101%, meaning that achievement of the target set in the Mexican petroleum business plan for 1 January 2013 was brought forward by one year. The rate of replenishment of 3P reserves was 107.6%, considering only new discoveries, and their average life is 32.3 years.<sup>94</sup>

4.113. On the same date, Mexico had six petroleum refineries with a total installed capacity of 1,640 thousand barrels per day. In the period from 2000 to 2011, the supply increased at a rate of only 0.1% a year, while the demand for fuel increased at an annual rate of 3.8%. As a result, Mexico is currently a net importer of refined petroleum products. In 2011, it imported an average of 678,000 barrels per day, 8.3% more than in 2010, compared with exports of 185,000 barrels per day, 4.1% less than in 2010.<sup>95</sup> To relieve the situation, PEMEX is starting up a process of modernization of its refineries and is building a new refinery in Tula Hidalgo. Altogether, this will involve an investment of Mex\$334,102 million by 2025. This investment aims to satisfy domestic demand for petroleum products.<sup>96</sup>

4.114. In 2008, in order to modernize and strengthen PEMEX and increase its profitability, a new Law on Petróleos Mexicanos was enacted (see below). The legal amendments introduced gave PEMEX greater operational flexibility by establishing budgetary and debt issuing facilities, together with a special procurement regime different from that used by other public entities, and by authorizing PEMEX to issue citizen bonds whose yield is linked with the company's economic performance and operational efficiency. All of the above is intended to enable PEMEX to operate in a way that more closely approximates the common practice of the petroleum industry at international level. Similarly, for the purpose of optimizing PEMEX's corporate governance, four non-executive directors were incorporated in the board, and seven thematic support committees were set up. Moreover, between 2007 and June 2011 a total of 36 non-commercial collaboration agreements were signed with international entities concerned with the advancement of knowledge in the field of hydrocarbon exploration and production.<sup>97</sup>

4.115. Despite the legal reforms introduced and a situation characterized by an increase in sales income at an average annual rate of 8.2% over the period 2007-2011 and by a stable gross return, PEMEX's annual losses did not fall during the same period. In fact, between 2007 and 2011 the accumulated losses amounted to Mex\$363,057 million and liabilities went on increasing. Thus, the company's equity continued to deteriorate. On 31 December 2011, PEMEX had liabilities of Mex\$1,727 billion (US\$123,461 million) and negative equity amounting to 194 billion in the same currency (equivalent to almost US\$14 billion).<sup>98</sup>

4.116. The 2011 results can be largely explained by the high tax burden on the enterprise, which continues to be equal to or greater than the annual gross return. The tax reforms in 2005, 2007 and 2008 were not successful in changing this trend. The taxes paid by PEMEX in 2011 totalled US\$62,615 million.<sup>99</sup> Petroleum resources continue to account for a substantial proportion of Federal Government revenue (between 2007 and 2011, they accounted for around 32%<sup>100</sup>), so that the enterprise is obliged to compromise its financial health in order to meet its tax bill.<sup>101</sup> The authorities have pointed out that there is still room to improve the way in which PEMEX operates, thereby raising its levels of efficiency and producing better results. Thus, changes in corporate governance are needed to make the operation and oversight of the board of directors more effective, together with greater levels of autonomy and budgetary flexibility, to bring the operation of the company more closely into line with that of private oil companies at international level.

<sup>94</sup> PEMEX (2012a).

<sup>95</sup> PEMEX (2012b).

<sup>96</sup> Ministry of Energy (2010a).

<sup>97</sup> Presidencia de la República (2011a).

<sup>98</sup> The total liabilities are composed of long-term debt (Mex\$672,275 million), labour reserves (Mex\$731,017 million), additional long-term liabilities (Mex\$70,502 million) and other short-term liabilities (Mex\$253,470 million) (approximately US\$ 51,500, 56,200, 5,500 and 19,500 million, respectively). Information viewed at: PEMEX (2012b).

<sup>99</sup> PEMEX (2012b).

<sup>100</sup> Ministry of Finance and Public Credit online information. Viewed at:

[http://www.hacienda.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/Estadisticas\\_Oportunas\\_Finanzas\\_Publicas/Informacion\\_mensual/Paginas/finanzas\\_publicas.aspx](http://www.hacienda.gob.mx/POLITICAFINANCIERA/FINANZASPUBLICAS/Estadisticas_Oportunas_Finanzas_Publicas/Informacion_mensual/Paginas/finanzas_publicas.aspx).

<sup>101</sup> Report on PEMEX's fiscal regime and allocation of surplus resources. Chamber of Deputies of the Congress of the Union. Viewed at: <http://www.diputados.gob.mx/cedia/sia/se/SE-ISS-27-09.pdf>.

4.117. The main legislation governing the hydrocarbon sector consists of Articles 25, 27 and 28 of the Constitution, the Law Regulating Article 27 of the Constitution in the Petroleum Sector and its regulations, the Law on Petróleos Mexicanos and its regulations, the Law on the Regulatory Commission for Energy<sup>102</sup>, the Natural Gas Regulations and the Liquefied Petroleum Gas Regulations.<sup>103</sup> To these should be added the Law on the National Commission for Hydrocarbons, the Law on the Utilization of Renewable Forms of Energy and the Financing of the Energy Transition, and the Law on the Sustainable Use of Energy, all enacted in 2008.

4.118. Article 27 of the Constitution and the Law Regulating Article 27 of the Constitution in the Petroleum Sector, amended in 2008, state that the nation has complete, inalienable and indefeasible ownership of the hydrocarbons throughout Mexican territory.

4.119. The Law on Petróleos Mexicanos, published in the Official Journal of 28 November 2008, is intended to regulate PEMEX's organization, functioning, control and reporting, and to establish the general conditions applicable to its subsidiary bodies. The Law confirms the role of PEMEX as the sole entity through which the State performs the activities for which it has exclusive responsibility in the strategic areas of petroleum, other hydrocarbons and basic petrochemicals. In addition, the Law stipulates that PEMEX, its subsidiary bodies and its enterprises can co-generate electrical energy and sell their surpluses to the Federal Electricity Commission.

4.120. Following the legal reforms of 2008, PEMEX can sign comprehensive contracts with private sector entities for hydrocarbon exploration and production in order to give the enterprise greater investment capacity, with the State retaining ownership and control over the hydrocarbons (incentivized contracts). The petroleum industry activities that the State can carry out through PEMEX and the possibilities for private sector participation are described in Table 4.8.

**Table 4.8 Private participation in the hydrocarbon sector**

Activity	Crude oil	Natural gas	Liquefied petroleum gas	Petrol and other petroleum derivatives	Basic petrochemicals
Exploration	No <sup>a</sup>	No	n.a.	n.a.	n.a.
Exploitation	No <sup>a</sup>	No	n.a.	n.a.	n.a.
Production/Refining	No <sup>a</sup>	n.a.	No	No	No <sup>b</sup>
Storage in oil fields and refineries	No <sup>a</sup>	No	No	No	No
Storage (other)	Yes <sup>c</sup>	Yes <sup>d</sup>	Yes <sup>d</sup>	Yes <sup>c</sup>	No
Transport by pipeline	No	Yes <sup>d</sup>	Yes <sup>d</sup>	No	No
Transport (other means)	Yes <sup>c</sup>	n.a.	Yes <sup>d</sup>	Yes <sup>c</sup>	No
Distribution	No	Yes <sup>d</sup>	Yes <sup>d,e</sup>	Yes	No
Marketing	No	Yes <sup>d</sup>	Yes <sup>d</sup>	Yes <sup>e,f</sup>	No
Import/Export	No <sup>d</sup>	Yes <sup>h</sup>	Yes <sup>h</sup>	Yes <sup>h</sup>	Yes <sup>h</sup>

n.a. Not applicable.

a Under Article 60 of the Law on PEMEX, Petróleos Mexicanos and its subsidiary bodies may contract for the works and services that their activities require to ensure optimum performance, subject to the restrictions and terms of Article 6 of the Law Regulating Article 27 of the Constitution in the Petroleum Sector.

b If in secondary petrochemical production basic petrochemicals are obtained as byproducts, they may be used in the same plant or delivered to PEMEX.

c Private participation in storage and transport by means other than pipelines is permitted after first-hand sale.

d Private participation under a system for granting permits.

e Activities reserved for Mexican nationals.

f Through the system of PEMEX franchises which can only purchase PEMEX-refined products.

g The legislation does not specifically restrict the import and export of crude petroleum, but in practice these activities are carried on exclusively by PEMEX.

h Private participation under a system for granting permits.

Note: "Yes" and "No" indicate whether or not private participation is permitted by the legislation, regardless of whether or not it exists.

Source: WTO Secretariat, based on the Mexican legislation and information provided by the authorities.

<sup>102</sup> The three laws mentioned were amended on 28 November 2008.

<sup>103</sup> The previous reforms of this legislation were published in the Official Journal of 26 June 2006, 8 January 1990, 12 January 2006, 30 April 2001, 23 January 1998, 8 November 1995 and 28 June 1999, respectively.



4.121. One of the ways in which the private sector participates in the hydrocarbon industry is through the contracts for works and services which PEMEX signs with providers of goods and services, with the State retaining exclusive ownership and control over the hydrocarbons, as described in Article 60 of the Law on Petróleos Mexicanos.<sup>104</sup> These contracts must always be remunerated in cash and neither a percentage of the products nor a share in the profits may be offered as a form of payment. In 2011, the first contracts were put out to tender under the Comprehensive Exploration and Production (EP) Contracts or "incentivized contracts" procedure, for three mature oil fields in the south of the country, and in 2012 a new invitation to tender on three more fields in the north of the country was published.<sup>105</sup>

4.122. There are no restrictions on the participation of foreign enterprises in works and services contracts concluded with PEMEX, except where national tenders are concerned. However, in international competitive bidding PEMEX may refuse to allow foreign firms to participate if a government procurement treaty has not been concluded with the country of origin of the international bidder or if that country does not grant reciprocal treatment to Mexican bidders and contractors.

4.123. Up until 2009, the investment scheme called Long-Term Productive Infrastructure Projects, also known as Projects with Deferred Impact in the Recording of Costs (PIDIREGAS), was the mechanism most frequently used for concluding works and services contracts with the private sector. Under the PIDIREGAS scheme, the works were carried out by the private sector for the account and to the order of the public entity, with own or third-party financing. The costs did not impact on the public finances during construction, being recorded only in suspense accounts; not until the project entered into operation did the payments begin and it was then that public spending was affected.<sup>106</sup> However, in 2009 the scheme was abandoned, in order to make the company's accounting statements more transparent and reduce the related administrative costs. Thus, as PEMEX was responsible for the liabilities stemming from PIDIREGAS projects, when the scheme was abandoned, those liabilities were immediately reflected in its balance sheet.<sup>107</sup>

4.124. In the case of natural gas, although PEMEX has exclusive control of the initial exploration and exploitation phases, transport, storage and distribution are open to domestic and foreign private participation through the granting of permits. As of mid-2012, the CRE had granted private consortia, with domestic and foreign participation, 22 permits for the distribution of natural gas, as well as six storage permits and 22 transport permits for serving the public.<sup>108</sup> The private sector can also participate in the development of the industry by concluding Investment Agreements under Article 65 of the Natural Gas Regulations. Under this scheme, an investor undertakes to build and commission the infrastructure for developing a natural gas transport system and the cost of the investment can be recouped by collecting from users the tariffs approved by the CRE.

4.125. The retail trade in petrol and other petroleum derivatives, which can be carried on through PEMEX franchises, and LPG distribution are reserved for Mexican natural persons and companies, with an exclusion clause for foreigners.

4.126. The production of basic petrochemical products<sup>109</sup> is reserved exclusively for PEMEX, whereas the production of other petrochemicals is free of restrictions on private investment, domestic or foreign. In 2011, petrochemical production was 5,583 Mt, which represents a fall of 8.8% as compared with 2010. During this period only the production of methane derivatives increased, while production of propylene and derivatives, ethane derivatives and aromatic chain products and their derivatives contracted. The decline in the industry was mainly due to

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<sup>104</sup> Law viewed at: <http://www.pemex.com/files/dca/LEYES/LeyPemex.pdf>.

<sup>105</sup> Pemex Press Bulletin No. 7. Viewed at: <http://www.pemex.com/index.cfm?action=news&sectionID=8&catID=40&contentID=25965>.

<sup>106</sup> Information provided by the authorities and information from the Economic Commission for Latin America (ECLAC). Viewed at: <http://www.eclac.org/ilpes/noticias/paginas/3/19803/SemPolFiscal-CasodeM%C3%A9xico.ppt>.

<sup>107</sup> PEMEX (2010).

<sup>108</sup> Regulatory Commission for Energy. Viewed at: <http://www.cre.gob.mx/permisos.aspx>.

<sup>109</sup> Methane, ethane, propane, butane, pentane, hexane, heptane, naphtha and raw material for carbon black.

maintenance operations in the Morelos Petrochemical Complex, to unscheduled stoppages in one of its plants, and the company's decision to focus on the more profitable petrochemical chains.<sup>110</sup>

4.127. The legislation gives SHCP exclusive authority to set hydrocarbon prices, using various procedures and schedules. When these prices are determined, the producer price must reflect the opportunity cost with reference to international market prices, and the consumer price must be administered on the basis of criteria designed to ensure economic efficiency or prevent supply shortfalls. The prices of natural gas, LPG, petrol and diesel are set using methodologies that have resulted in subsidies for consumers of these products.<sup>111</sup> It is estimated that, in 2011, subsidies cost PEMEX approximately Mex\$39,950 million (US\$2,925 million).<sup>112</sup>

4.128. PEMEX has the exclusive right to import and export crude petroleum. The private sector can import and export some hydrocarbons after obtaining the permission of the Ministry of the Economy. Natural gas and LPG may be imported and exported by private sector operators, but to import LPG it is first necessary to obtain a permit from the Ministry of the Economy.<sup>113</sup> In practice, however, only PEMEX, through its subsidiary PMI Comercio Internacional, can apply for LPG import permits, it having been established in the agreement subjecting LPG to a maximum final-user price that prior LPG import permits will not be issued to private sector operators. Where foreign trade in natural gas is concerned, no prior import or export permit is required.

4.129. Mexico runs a large deficit on trade in natural gas. Thus, in 2011, Mexico imported on average 791 mmcf/d of dry gas, 47.6% more than in 2010, whereas exports were practically zero.<sup>114</sup> Mexico is interconnected through 17 gas pipelines with the North American states of California, Arizona and Texas; however, ten of these belong to systems that remain isolated from the national supply. These pipelines are capable of transporting 3,295 mmcf/d. According to projections made by the Ministry of Energy, Mexico will continue finding it necessary to supplement the domestic supply of natural gas with imports to satisfy the growing demand.<sup>115</sup> Moreover, the Ministry of Energy has initiated an integrated strategy for the further development of the natural gas transport, distribution and marketing infrastructure. It is planned to increase the natural gas infrastructure (transport and distribution of gas) by 72,778 km (from 56,320 km to 129,098 km) by making a US\$10,857 million investment.

#### 4.4.3 Electricity

4.130. Mexico's electricity generating capacity rose from 59 to 61.2 GW between 2007 and 2011, which represents an average annual increase of less than 0.1%.<sup>116</sup> In 2011, 85.7% of total installed capacity corresponded to public service generators, including the Federal Electricity Commission (CFE), Luz y Fuerza del Centro (LFC, until its abolition in 2009) and independent producers, and the rest to generators with permits for other uses. By type of plant, public utility capacity can be broken down into: thermal (including coal-fired) plants (74%), hydroelectric plants (22%), and other types (remaining 4%). The use of natural gas has continued to increase

<sup>110</sup> PEMEX (2012b).

<sup>111</sup> The SHCP is responsible for establishing and reviewing the prices and tariffs for federal administration goods and services in accordance with the provisions of the Law on the Organization of the Federal Public Administration, taking into account the opinion of the Ministry of the Economy and that of the relevant agencies through their participation in a Prices Committee. Thus, SENER gives its opinion in the Committee on the prices of petroleum products, non-basic petrochemicals and natural gas, in accordance with the energy policy instruments and in compliance with the legal and administrative provisions. For its part, the Law on the Regulatory Commission for Energy authorizes the Commission to establish the methodology for determining the prices of fuel oil, natural gas and basic petrochemicals unless, in the judgement of the Federal Competition Commission, the conditions of effective competition are present or are established by Decision of the Federal Executive. Where LPG is concerned, in order to reduce the subsidization of the price of the fuel, since January 2010 there has been a weekly "slippage" in the national weighted average maximum retail price of five cents per kg in order to reduce the gap between the domestic price and the international reference price. The authorities have noted that between January 2010 and August 2012, this slippage helped to reduce the subsidy by Mex\$19 billion.

<sup>112</sup> PEMEX (2012c).

<sup>113</sup> Natural Gas Regulations (1995) and Liquefied Petroleum Gas Regulations (1999).

<sup>114</sup> PEMEX (2012b).

<sup>115</sup> Ministry of Energy (2010b).

<sup>116</sup> The 2011 data are estimates based on the indicators for January to June of that year.

in recent years, having contributed 53% to electricity generation in 2009.<sup>117</sup> Although there was a policy of replacing fuel oil with natural gas in power plants<sup>118</sup>, in the forecast for the electricity sector for the period 2010 to 2025 it is mentioned that it would be desirable to expand the use of renewables and possibly nuclear power to continue reducing the consumption of fuels derived from petroleum.<sup>119</sup> At present, 26.4% of generation comes from clean energy sources.<sup>120</sup>

4.131. In 2011, electricity sales to the public amounted to 169,383 GWh, of which 58% was consumed by industry, 25% by households, 6% by commercial establishments, 7% by agriculture and 4% by services. This breakdown has remained practically unchanged since 2005.<sup>121</sup> Total sales grew by 3% in 2010 and 7.6% in 2011, after falling in 2008 and 2009. Between 2007 and 2011, the reserve margin of the system fell from 43.3% to 32%, which reflects a better ratio of utilization to generating capacity for CFE.<sup>122</sup>

4.132. The Mexican electricity sector is organized in two subsectors, public services and private consumption. Public electricity services are provided by the CFE, a decentralized public entity which operates most of the generating plants (apart from those of the independent generators that sell electricity to the CFE) and the whole of the transmission network. All the power generated by the independent power producers (IPPs) goes to the CFE for sale. In 2011, the CFE purchased 84 GWh from IPPs, or 32% of the energy it distributed. The generating capacity of the IPPs remained unchanged between 2007 and 2011.<sup>123</sup> The private sector owns the means of generating electrical energy for own-consumption and foreign trade.

4.133. Under Article 27 of the Constitution, the State has exclusive responsibility for generating, transporting, transforming, distributing and supplying electrical energy as a public service. The legislation governing the sector includes the Law on the Public Electrical Energy Service (LSPEE) and its regulations and the Law on the Regulatory Commission for Energy (LCRE).<sup>124</sup>

4.134. The LCRE was amended as part of the 2008 energy reform programme.<sup>125</sup> The LSPEE was revised in April 2012, with a view to updating all the articles that made reference to the ministries whose names had been changed. Tariffs are proposed by the CFE and approved by the SHCP, with the agreement of the Ministries of the Economy and Energy.<sup>126</sup>

4.135. After obtaining permits issued by the CRE, the private sector can invest in generating plants for self-supply, co-generation or small-scale production (up to 30 MW) or under the IPP scheme. The latter makes it possible for the private sector to invest in generating plants with a capacity of more than 30 MW, provided that the output is reserved exclusively for sale to the CFE or exported. Moreover, the CRE may grant permits for generation for export and for the importation of electricity for own use. One of the requirements for obtaining a permit is that the applicant must be a natural person or a legal person established under Mexican law and domiciled in the national territory and must satisfy the requirements laid down in the applicable legislation. To obtain a small-scale production permit it is necessary to be a natural person of Mexican nationality or a legal person established under Mexican law and domiciled in the country.<sup>127</sup> There are no nationality or domicile restrictions for the other permits.

<sup>117</sup> International Energy Agency online information. Viewed at: [http://www.iea.org/stats/electricitydata.asp?COUNTRY\\_CODE=MX](http://www.iea.org/stats/electricitydata.asp?COUNTRY_CODE=MX).

<sup>118</sup> Office of the President of the Republic (2007a), *Anexo Estadístico*.

<sup>119</sup> SENER (2010).

<sup>120</sup> *Hidroeléctrica, otras renovables y energía nuclear*. Presidencia de la República (2011a).

<sup>121</sup> CFE statistical information. Viewed at:

[http://www.cfe.gob.mx/QuienesSomos/estadisticas/Paginas/Clientes.aspx\\_y\\_CFE\\_\(2012\)](http://www.cfe.gob.mx/QuienesSomos/estadisticas/Paginas/Clientes.aspx_y_CFE_(2012)).

<sup>122</sup> The information for 2011 is provisional. Presidencia de la República (2011a).

<sup>123</sup> Online information from the Ministry of Energy. Viewed at:

<http://www.energia.gob.mx/webSener/portal/Default.aspx?id=1430>.

<sup>124</sup> The latest reforms of this legislation were published in the Official Journal of 22 December 1993, 9 April 2012 and 28 November 2008, respectively.

<sup>125</sup> Law viewed at: <http://www.cre.gob.mx/documento/33.pdf>.

<sup>126</sup> Law viewed at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/99.pdf>.

<sup>127</sup> Law viewed at: <http://www.cfe.gob.mx/QuienesSomos/MarcoLegalNormativo/Documents/2012/LSPEEreformada09abr2012.pdf>.

4.136. In 2011, the subsidies granted by Mexico for electricity consumption amounted to Mex\$88,200 million (US\$6,300 million), as a result of an average price/cost ratio of 0.75. Out of the total, 80.6% was destined for the domestic consumer, 14% for the agricultural sector, 2.8% for industry and the rest for services. In 2007, the same indicator stood at 0.69, so that a greater percentage of the cost of electricity generation is now being recovered. In 2011, the average tariff for the country as a whole was Mex\$1.43 per kWh (some US\$0.10 per kWh), while the large industries paid an average of Mex\$1.15 per kWh (some US\$0.08 per kWh).<sup>128</sup> This represents a global increase in tariffs of 3.4% in 2011 as compared with the previous year, although the increase is different depending on the adjustment rate applied to each sector (fixed or variable).<sup>129</sup> The increase is mainly due to the rising prices of the fuels used to generate electricity and included in the adjustment clause, which on average increased by 13.2%. Improving the competitiveness of the electricity service is one of the stated strategic objectives for the sector.

4.137. There is foreign trade in electrical energy with the United States, Belize, and since 2009 with Guatemala also. With the former, trade is carried on both through nine public system interconnections (five of which operate in emergency situations) and through private lines owned by permit holders. In the case of Belize, Mexico essentially exports electricity through a single permanently operating public system interconnection. The quantity of electricity traded remained relatively stable from 2007 to 2011, when Mexico recorded a positive net balance for the ninth consecutive year, in this case 565 GWh. In 2010, in value terms, exports and imports were estimated at US\$193 million and US\$24 million, respectively.<sup>130</sup> In 2011, exports and imports totalled US\$111 million and US\$30 million, respectively; this information corresponds only to public service supplies.

## 4.5 Services

### 4.5.1 Financial services

#### 4.5.1.1 Overview

4.138. At federal level, the Ministry of Finance and Public Credit (SHCP) is responsible for regulating and supervising the financial sector and for establishing the capital requirements of most of its participants. Under the SHCP there are three specific regulatory bodies concerned with the various areas of the financial sector: the National Banking Securities Commission (CNBV), which oversees the banking sector, the securities market and other credit institutions; the National Insurance and Bonding Commission (CNSF), which oversees insurance and bonding companies; and the National Pension Fund Commission (CONSAR), which oversees privately managed pension funds (AFORE).

4.139. The Bank of Mexico, the central bank and an autonomous constitutional organ in relation to three powers of the Union, is responsible for regulating the foreign exchange and derivatives markets, financial operations and the payments system. It also serves as a reserve bank and lender of last resort for the credit institutions (multiple banking and development banking institutions) (see also Chapter 1.2.3). Due to its constitutional autonomy, no authority in the country can oblige the Bank of Mexico to grant financing (Article 28.6 of the Constitution). Among other things, the Bank of Mexico is authorized to issue general regulations concerning interest rates and the commissions charged to customers. It can also regulate the fees that market participants charge each other. These powers were strengthened in May 2010.<sup>131</sup>

4.140. In addition, the National Commission for the Protection and Defence of Financial Services Users (CONDUSEF), a decentralized public body under the Ministry of Finance and Public Credit, is responsible for dealing with the claims and complaints of users of financial services and products and for guiding, informing and financially educating the public. CONDUSEF seeks to promote an

<sup>128</sup> CFE (2012b).

<sup>129</sup> For lack of more recent information, the subsidy distribution and sectoral tariffs correspond to the first half of 2011. Presidencia de la República (2011a), *Anexo Estadístico*.

<sup>130</sup> INEGI, *Anuarios Estadísticos del Comercio Exterior de 2010*. Viewed at: [http://www.inegi.org.mx/prod\\_serv/contenidos/espanol/bvinegi/products/continuas/economicas/exterior/2010/EXP\\_DOL\\_2010/ANU\\_XD\\_1.pdf](http://www.inegi.org.mx/prod_serv/contenidos/espanol/bvinegi/products/continuas/economicas/exterior/2010/EXP_DOL_2010/ANU_XD_1.pdf).

<sup>131</sup> IMF (2012).

equitable relationship between users and financial institutions and to promote and disseminate financial transparency so that users may take informed decisions concerning the benefits, costs and risks of the products and services offered by the Mexican financial system; at the same time, it protects their interests through the supervision and regulation of the financial institutions and provides them with advice and support in the defence of their rights.<sup>132</sup>

4.141. The purpose of the CNBV is to supervise and regulate, within its sphere of competence, the entities that make up the Mexican financial system, in order to safeguard the stability and integrity of the system and promote its efficiency and development, including for the benefit of society.<sup>133</sup>

4.142. Mexico's GATS commitments cover banking, insurance and other financial services and mostly pertain to commercial presence (mode 3).<sup>134</sup> In the insurance sector, Mexico bound foreign participation at 40% of the paid-up capital and at 10% in the case of an individual holding or 20% with authorization from the SHCP. In the banking sector (specifically in the subsectors concerning acceptance of deposits and lending of all types), foreign investment is limited to 40% of the common stock capital, while individual holdings are bound at 5% of capital stock or 20% with authorization from the SHCP. In both cases, Mexican shareholders must retain effective control of the enterprise. In the schedule of commitments it is mentioned that foreign financial institutions may establish representative offices with the prior authorization of the SHCP. Likewise, the schedule indicates that foreign investment is not permitted in credit union, savings and loan companies or development banking. It should be pointed out that the regulations in force do not take into account the limits established under the GATS and that authorization currently lies within the competence of the CNBV.

4.143. In accordance with the above-mentioned GATS schedule of commitments, in the insurance sector, Mexico bound foreign participation at 40% of the paid-up capital and at 10% in the case of individual holdings, or at 20% with authorization from the SHCP. However, under the regulations in force these limits have changed.

4.144. As a result of the legal reforms adopted since 1999, access to the financial services market in Mexico is much more favourable than that specified in the country's GATS commitments. Foreign investors may hold 100% of the capital of commercial banks, financial groups and securities firms. However, the participation of foreign investment in other financial institutions such as leasing companies, factoring companies, general bonded warehouses, insurance and bonding institutions and foreign exchange brokers is limited to 49% of the paid-up capital. Where credit unions are concerned, foreign investment may amount to 10%.

4.145. Seven of Mexico's free trade agreements incorporate a financial services chapter, namely: the North American Free Trade Agreement (on which other later agreements are based), and the agreements with Colombia, the Northern Triangle (El Salvador, Honduras, Guatemala), the European Free Trade Association, the European Union, Japan and Peru. The financial services chapters of the existing agreement with Nicaragua and that with the Northern Triangle will continue in force until it is agreed to negotiate common disciplines on financial services under the Single Free Trade Agreement consolidating Mexico's three agreements with Central America into one (see Chapter 2).<sup>135</sup>

4.146. Mexico has various legal provisions relating to the financial sector. The financial sector legislation basically includes: (i) the Monetary Law of the United Mexican States; (ii) the General Law on Auxiliary Credit Organizations and Activities; (iii) the Investment Company Law; (iv) the Law on Credit Institutions; (v) the Law Regulating Financial Groups; (vi) the Law on the Bank of Mexico; (vii) the Law on Savings Systems for Retirement; (viii) the General Law on Insurance Companies and Mutual Institutions; (ix) the Law Regulating Credit Rating Companies; (x) the People's Savings and Credit Law; (xi) the Law on the National Banking Securities Commission; (xii) the Stock Market Law; (xiii) the Law for the Protection of Bank Savings; (xiv) the Federal Law on Bonding Institutions; (xv) the Law for the Protection and Defence of Financial Services Users;

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<sup>132</sup> CONDUSEF online information. Viewed at: <http://www.condusef.gob.mx/index.php/conoces-la-condusef/mision-y-vision>.

<sup>133</sup> CNBV online information. Viewed at: <http://www.cnbv.gob.mx/CNBV/Paginas/Mision.aspx>.

<sup>134</sup> WTO document GATS/SC/56/Suppl.3 of 26 February 1998.

<sup>135</sup> The Mexico-Central America FTA does not contain a financial services chapter. Viewed at: [http://www.sice.oas.org/ctyindex/MEX/MEXagreements\\_s.asp#Signed](http://www.sice.oas.org/ctyindex/MEX/MEXagreements_s.asp#Signed).

(xvi) the Law on Credit Unions; (xvii) the Law on the Transparency and Management of Financial Services; (xviii) the Law on Transparency and the Promotion of Competition in Guaranteed Credit; (xix) the Payment Systems Law; (xx) the Insurance Policy Law; and (xxi) the Law Regulating the Activities of Savings and Loan Cooperative Societies.

4.147. The amendments to the Law on Credit Institutions were among the most significant reforms implemented during the period under review. During 2008, functions previously performed by the SHCP were transferred to the CNBV, the operations that banks can carry out were made more flexible, a single procedure was established for imposing penalties, and measures were introduced for penalizing persons who unlawfully obtain information from credit card holders or engage in fraud. In 2009, CONDUSEF was given new responsibilities for transparency, handling complaints and joint supervision of the level of competition with the Federal Competition Commission (COFECO). Moreover, in the same year, limits were set on the operations that credit institutions can carry out through third parties, with the exception of third-party State entities.<sup>136</sup>

4.148. For their part, pension funds received successive authorizations to invest in a selection of three foreign currencies (US dollars, euros and Japanese yen), as well as to invest up to 10% of their portfolio in commodities.

4.149. One of the legal changes that affected the financial sector during the review period was the introduction, in 2008, of the Law on Credit Unions, for the purpose of regulating their organization and functioning and the operations they can carry out. The changes introduced also encouraged improvements in corporate governance practices and the establishment of prudential regulation systems in the sector.<sup>137</sup>

4.150. During the review period, efforts continued with a view to intensifying financial penetration, partly through the entry of new types of financial sector participants. In this connection, niche banking and correspondent banking were introduced in 2008. The people's savings and loan institutions also continued to expand. Thus, in June 2012, there were 112 such entities, or 2.5 times as many as were operating in 2007, while deposits had increased by a factor of ten. Meanwhile, following the liberalization of the limited-scope financial company (SOFOL) market via multipurpose financial companies (SOFOMES<sup>138</sup>), there are now 3,889 SOFOMES in existence.<sup>139</sup>

#### 4.5.1.2 Banks

4.151. The Mexican banking system is composed of the Bank of Mexico, the commercial banks (multiple banking institutions), the development banks (development banking institutions), the public trust funds which were set up by the Federal Government to promote economic development and which carry out financial activities, and the self-regulating banking organizations. Under the Law on Credit Institutions, banking and credit services can be provided only by credit institutions, which may be multiple banking or development banking institutions. In this connection, banking and credit services are considered to mean attracting funds from the public on the domestic market to place them with the public, through instruments that create direct or contingent liabilities, with the intermediary being obliged to cover the principal and, where appropriate, the financial incidentals of the funds attracted. Other issuers of credit include limited-scope financial companies (SOFOL) and multipurpose financial companies (SOFOMES).

4.152. At the end of September 2012 there were 42 commercial (multiple) banking entities operating in Mexico.<sup>140</sup> Four of the five main commercial banks in terms of assets are majority foreign-owned (BBVA Bancomer, Banamex-Citigroup, Bank Santander Mexicano, and HSBC).

<sup>136</sup> IMF (2012).

<sup>137</sup> Full text of the law viewed at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LUC.pdf>.

<sup>138</sup> SOFOMES are financial entities established to carry out financial leasing and/or factoring and/or credit operations for any purpose, without the need for SHCP authorization.

<sup>139</sup> As distinct from SOFOL, SOFOMES can grant loans of any type. However, there are restrictions on their ability to attract funds from the public. Office of the President of the Republic (2012), *Sexto Informe de Gobierno*. September 2012. Viewed at: <http://www.informe.gob.mx>.

<sup>140</sup> In addition to the 42 banks in operation, four more banks were authorized during July and September 2012 and were ready to commence operations in November of the same year. The four new recently authorized banks are: Banco Bicentenario, Banco Agrofinanzas, Banco Forjadores and Banco PagaTodo.

In September 2012, these institutions controlled 60.9% of all bank assets, compared with 68.9% in December 2007.<sup>141</sup> The ten largest foreign banks control 71.25% of banking activity, while Banco Mercantil del Norte (Banorte) is the largest local-capital commercial bank in Mexico and the fourth largest in the sector, with a 10.4% share in September 2012.<sup>142</sup>

4.153. Six development banks and 16 limited-scope financial companies were also operating in September 2012 (see below). In addition, the CNBV supervises the activities of 22 financial group controllers.

4.154. The distribution by sector of the credit granted by commercial banks between 2007 and 2011 was, on average, as follows (the percentage of the total credit granted is indicated in parentheses): agriculture, forestry and fishing (1.6%); mining (0.2%); manufacturing (10.8%); construction (9.1%); services and other activities (21.9%); housing (17.1%); consumption (22.3%); domestic financial sector (3.2%), government and public administration (10.8%); IPAB or Institute for the Protection of Bank Savings (0.7%); and other (1.1%).<sup>143</sup>

4.155. In 2011, bank assets increased by 11.7% in local currency and accounted for somewhat more than 40% of GDP, while the assets of the financial system declined as a proportion of GDP, from 78.5% in 2010 to 77.8 in 2011. The balance of the portfolio of active loans granted by commercial banking to the private sector grew by 48.5% between 2007 and June 2012.<sup>144</sup> The growth came despite the financial crisis, during which the Mexican banking system showed itself to be strong, preserving its liquidity, profitability and level of capitalization. In the first half of the last decade the banks were recapitalized thanks to an inflow of foreign investment and the introduction of regulatory improvements in the banking system.

4.156. The degree of financial intermediation continues to be relatively low. Overall, the figure for the credit channelled through the banking system as a proportion of Mexico's GDP was only 17.2% in June 2012.<sup>145</sup> In Mexico, lending to the private sector is below the Latin American average and below the level achieved in 1995, which underlines the need to promote the growth of the financial system to support national economic growth and financial stability.<sup>146</sup>

4.157. The trend in the financial indicators for the banking sector has been favourable in recent years. The delinquency index, i.e. loans past due as a percentage of total loans, has remained fairly stable at 2.5% (in 2011), after reaching historic minima of around 1.7% between 2005 and 2007.<sup>147</sup> The same applies to capital adequacy, measured as net capital relative to total risk assets, which in June 2012 stood at 16% as compared with 15.9% at the end of 2007. In order to maintain the relative strength of the banking sector after the financial crisis of 2008 and 2009, the Government decided to adopt the Basel III Principles for banking supervision. This means that the banks must maintain capital levels of at least 10.5% on average, a requirement that the Mexican institutions were already meeting comfortably in June 2012.<sup>148</sup> Altogether, the commercial banking institutions had an average return on assets (ROA) of 1.42% in July 2012, and an average return on equity (ROE) of 13.82%.<sup>149</sup>

4.158. During the review period, reforms to improve banking sector practices and promote competition were introduced. As part of its functions, the Bank of Mexico changed and reduced the

<sup>141</sup> SHCP, National Banking Securities Commission (2012), and [http://portafolioinfoctos.cnbv.gob.mx/Documentacion/Boletines/Portal\\_NW/BE\\_BM\\_201209.xls](http://portafolioinfoctos.cnbv.gob.mx/Documentacion/Boletines/Portal_NW/BE_BM_201209.xls).

<sup>142</sup> SHCP, National Banking Securities Commission (2012).

<sup>143</sup> Total credit includes the current, past due and discounted portfolios and the interest paid on loans, active and due. Source: Ministry of Finance and Public Credit and information from the Bank of Mexico.

<sup>144</sup> Source: Ministry of Finance and Public Credit and information from the National Banking Securities Commission (CNBV), National Pension Fund Commission (CONSAR), National Insurance and Bonding Commission (CNSF) and Institute of the National Fund for Workers' Housing (INFONAVIT).

<sup>145</sup> WTO Secretariat calculations, based on information provided by the Mexican authorities and information contained in: SHCP, National Banking Securities Commission (2012).

<sup>146</sup> Whereas in Mexico it is below 20 % of GDP, in Chile it is above 70% and in Brazil above 50%. IMF (2012).

<sup>147</sup> National Banking Securities Commission (2012c).

<sup>148</sup> IMF (2012b) and Office of the President of the Republic (2012).

<sup>149</sup> Return on Assets (ROA) relates the net profit over a particular period with total assets. It is calculated as: net profit + financing charges/total assets. Return on Equity (ROE) is calculated as: net profit/shareholders' equity.

commissions paid by account holders for various transactions, which constitute one of the main sources of income for Mexican banks. Moreover, the Central Bank was authorized to establish the formula, components and method for calculating the *Total Annual Gain*, to make it easy for those interested in placing an investment or savings to compare the returns on the various options available. At the same time, to help provide a larger segment of the population with access to banking services, in May 2010 banking institutions were required to offer a basic credit card to eligible customers and the Bank of Mexico was given powers to facilitate the movement of customers between institutions. Likewise, to promote the use of new ways for customers to access the banking system, as from August 2011 four types of accounts with different levels of service were established.<sup>150</sup> In addition, in April 2012, a provision entered into force enabling workers directly to open basic payroll accounts in the bank of their choice, without having to give instructions for balances to be transferred from accounts opened for them by the employer.

4.159. Development banking institutions play a fundamental role in the Mexican financial system. Their basic purpose is to facilitate access to financing for natural and legal persons and to provide them with technical assistance and training.<sup>151</sup> There are currently six development banking institutions, all owned by the Mexican State: Nacional Financiera (NAFIN, see Chapter 3.4.1), Banco Nacional de Comercio Exterior (BANCOMEXT, see Chapter 3.3.5), Banco Nacional de Obras y Servicios Públicos (BANOBRAS), Sociedad Hipotecaria Federal, Banco de Ahorro Nacional y Servicios Financieros (BANSEFI), and Banco Nacional del Ejército, Fuerza Aérea y Armada (BANJERCITO). In addition, Financiera Rural<sup>152</sup> provides credit for the agricultural sector. The most important player in Mexican development banking is BANOBRAS, with a 45.1% share of the sector's loan portfolio in September 2012.<sup>153</sup>

4.160. During the period from 2007 to 2012, the trend in Mexican development banking was less favourable than that in commercial banking. The delinquency index increased from 2.2% at the beginning of the period to 4.4% in 2012, while capital adequacy fell from 18.5% to 16.2% in the same period.<sup>154</sup>

4.161. To set up and operate as a multiple banking institution it is necessary to obtain the authorization of the Federal Government, which is granted on a discretionary basis through the CNBV, subject to the agreement of its governing board and the favourable opinion of the Bank of Mexico. These authorizations are non-transferable. Authorizations to set up and operate as a multiple banking institution, and any amendments, must be published in the Official Journal and in two newspapers with a wide circulation in the corporate domicile.

4.162. The law establishes certain procedures for the participation of domestic and foreign capital. Foreign investors may participate in the provision of banking services in Mexico through subsidiaries of foreign financial institutions, provided that they are from countries with which Mexico has a free trade agreement with a financial services chapter. The establishment of subsidiaries is regulated in Chapter III of the Law on Credit Institutions and in the Rules for the Establishment of Subsidiaries of Foreign Financial Institutions, and depends on the approval of the CNBV and that of its Governing Board, in consultation with the Bank of Mexico. The Rules for the Establishment of Subsidiaries of Foreign Financial Institutions include requirements relating to the ownership structure, internal and operational controls, financial projections and fitness of directors and senior management. Subsidiaries can offer the same services as commercial banks, unless the treaty or international agreement with the country of origin imposes restrictions and provided that the foreign financial institution offers similar services in its country of origin.

4.163. In any event, investors from any country may hold up to 100% of the shares representing the capital of a banking institution, subject to prior authorization by the CNBV, in consultation with the Bank of Mexico, if the holding exceeds 5% of the capital or if a guarantee is given on shares representing that percentage. Likewise, the prior authorization of the CNBV and a favourable

<sup>150</sup> Office of the President of the Republic (2012).

<sup>151</sup> Article 30 of the Credit Institutions Law. Viewed at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/43.pdf>.

<sup>152</sup> Under its organization act, Financiera Rural is a decentralized agency of the Federal Public Administration, not a domestic credit company like the development banking institutions.

<sup>153</sup> National Banking Securities Commission (2012a).

<sup>154</sup> The 2012 values are preliminary data. Office of the President of the Republic (2012).



opinion from the Bank of Mexico are required if a person or a group of persons, whether or not shareholders, seeks to acquire 20% or more of the capital of a multiple banking institution.

4.164. However, foreign legal persons that exercise functions of authority may not in any circumstances participate in the share capital of multiple banking institutions.

4.165. Multiple banking institutions may be established with up to 40% of the minimum capital required, but they can only carry out a limited number of operations. These are known as niche banks. The CNBV determines the amount of capital by regulation depending, among other things, on the operations expressly envisaged in the articles of association, the infrastructure needed for the bank's development and the markets in which it intends to participate.

4.166. There are no major restrictions on domestic banks, enterprises or consumers requesting loans from, or making deposits in, foreign banks, on the understanding that the foreign banks cannot offer these services in Mexico. Moreover, there are no major restrictions on foreign banks, enterprises or consumers requesting loans from, or making deposits in, Mexican banks. There are no provisions in the Mexican legislation that would require commercial banks to provide credit to a particular sector of the economy.

#### 4.5.1.3 Insurance

4.167. Mexico's insurance sector comprises insurance companies and mutual institutions. Insurance penetration (value of premiums as a percentage of GDP) has not changed since the last Review, amounting to 1.9% of GDP at the end of 2011. The level of penetration is below average for the OECD and in comparison with the rest of Latin America, although in recent years it has developed in line with other sectors of the economy, thanks to regulatory improvements and the inflow of foreign investment.<sup>155</sup> Mexico is the second largest insurance market in Latin America, after Brazil, with 17.5% of total premiums.<sup>156</sup>

4.168. The value of direct premiums increased moderately between 2007 and 2010, affected by the consequences of the global financial crisis, rising from Mex\$191,967 million (US\$17,695 million) in 2007 to Mex\$247,000 million (US\$19,952 million) in 2010.<sup>157</sup> Total premiums issued by the sector continued to increase in 2011: on 31 December of that year they amounted to Mex\$281,792 million (US\$20,466 million), of which 98% corresponded to direct insurance and 2% to reinsurance premiums.<sup>158</sup> At the end of June 2012, the composition of the insurance sector portfolio was as follows: life, 39.0%; motor vehicle, 19.8%; accident and sickness, 15.5%; fire and earthquake, 9.9%; pensions, 5.5%; miscellaneous, 4.8%; civil liability, 2.2%; marine and transport, 2.5%; and other branches, 2.1%. Non-life insurance accounted for 55.5% of the total insurance portfolio and life insurance for 44.5%.<sup>159</sup>

4.169. At the end of June 2012, Mexico had 103 insurance companies, of which two were mutual insurance companies and one was State-controlled, while the remaining 100 were private insurance companies.<sup>160</sup> Out of this total, 15 companies are incorporated in some financial group and 59 are majority foreign-owned. Of the latter, eight also belong to some financial group. On the same date, Mexico had 56 companies offering life insurance and 81 operating in the non-life sector. In addition, ten companies were providing pension-related insurance, 11 health insurance, three mortgage insurance and one financial guarantee insurance.

4.170. During the review period, the insurance market continued to be characterized by high concentration, although it decreased slightly between 2011 and 2012. At the end of the second quarter of 2012, the CR5 index, i.e. the sum of the five largest market shares, in direct premium terms, stood at 44.9%, 0.8 percentage points below that recorded one year earlier.<sup>161</sup> In life

<sup>155</sup> Economist Intelligence Unit (2012b).

<sup>156</sup> MAPFRE Foundation (2011).

<sup>157</sup> National Insurance and Bonding Commission (2011).

<sup>158</sup> National Insurance and Bonding Commission (2012).

<sup>159</sup> National Insurance and Bonding Commission (2012).

<sup>160</sup> National Insurance and Bonding Commission (2012).

<sup>161</sup> In total, this index consisted of the shares of the following companies: Metlife Mexico, S.A., 13.8%; Grupo Nacional Provincial, S.A.B., 11.4%; AXA Seguros, S.A. de C.V., 8.5%; Seguros BBVA Bancomer, S.A. de

insurance, the concentration is even greater, with a CR5 index of 72.0% in June 2012, 5.6 percentage points higher than the year before.

4.171. The insurance industry is governed by the General Law on Insurance Institutions and Mutual Societies of 1935 (LGISM), published in the Official Journal of 31 August 1935, the latest amended version of which was published in the Official Journal of 20 June 2008. In accordance with the General Law on Insurance Institutions and Mutual Societies, the SHCP is responsible for interpreting, applying and resolving for administrative purposes everything relating to insurance institutions and mutual societies. To this end, when it considers it appropriate, it may request the opinions of the National Insurance and Bonding Commission (CNSF) and the Bank of Mexico. The adoption of any measure relating to the creation and functioning of domestic insurance institutions is the exclusive responsibility of the SHCP. Under the Law, the SHCP must ensure the balanced development of the insurance system and competition between its component insurance institutions.

4.172. The SHCP is in charge of granting authorizations to insurance institutions to operate in the country, while the CNSF is the supervisory body. The CNSF is a decentralized unit of the SHCP, entrusted with overseeing the compliance of the insurance and bonding sectors with the regulatory framework, while preserving the solvency and financial stability of the institutions concerned to safeguard users' interests and ensure the development of these sectors.<sup>162</sup> The Law exhaustively lists the activities in which insurance institutions may engage.<sup>163</sup>

4.173. To set up and operate an insurance institution or mutual society it is necessary to obtain the authorization of the Federal Government, which is granted through the SHCP. Applications for authorizations must be dealt with by the SHCP within six months of being submitted. Authorizations are non-transferable and must relate to one or more of the following insurance operations: (a) life; (b) accident and sickness (in one or more of the following branches: personal accident; medical expenses; health); (c) casualty (in one or more of the following branches: civil liability and occupational risk; marine and transport; fire; agriculture and animals; motor vehicles; credit; housing credit; financial guarantees; miscellaneous; earthquake and other disaster insurance). Authorizations may also be granted for the exclusive practice of reinsurance, in one or more of the areas mentioned. A single institution cannot obtain authorization to sell both life insurance and casualty insurance at the same time.

4.174. Insurance related with pension or survival plans derived from social security legislation may only be offered by insurance institutions exclusively dedicated to that activity. Health insurance may only be offered by insurance institutions exclusively authorized for the purpose. Applications for authorization to set up an insurance institution to operate in the health sector must be accompanied by a provisional opinion issued by the Ministry of Health. Credit insurance, housing credit insurance and financial guarantee insurance may only be offered by insurance institutions exclusively authorized to operate in only one of these branches. The authorizations granted to insurance institutions may include rebonding operations.

4.175. Applications to set up an insurance institution or a mutual society must be accompanied by a strategic programme for the implementation of policies and regulations and by an action plan which includes the initial capital or assets, the basis of the institution's organization and internal

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C.V., Grupo Financiero BBVA Bankmer, 7.0%; and Seguros Inbursa, S.A., Grupo Financiero Inbursa, 5.8%. National Insurance and Bonding Commission (2012).

<sup>162</sup> CNSF online information. Viewed at: <http://www.cnsf.gob.mx/Paginas/somos.aspx>.

<sup>163</sup> These include: (a) insurance, reinsurance and rebonding operations; (b) financial reinsurance operations; (c) constituting and investing the reserves for which the Law provides; (d) administering the sums entrusted to them by the insured or their beneficiaries in the form of dividends or indemnities; (e) administering the reserves corresponding to insurance contracts based on pension plans; (f) acting as a trustee in transactions directly linked with their particular activities; (g) administering the reserves retained from domestic and foreign institutions corresponding to reinsurance and rebonding operations; (h) giving in administration to domestic or foreign ceding institutions the reserves constituted by retained premiums corresponding to reinsurance or rebonding operations; (i) making investments abroad for technical reserves or to meet other necessary requirements corresponding to operations carried on outside the country; (j) making deposits in foreign credit institutions and banks; (k) receiving discounted and rediscounted securities from credit institutions, auxiliary credit organizations and multipurpose financial companies, as well as from permanent economic development funds held in trust for the federal government in credit institutions; (l) granting loans or credit and issue subordinated bonds; (m) trading securities.

control, the proposed geographical coverage and market segments to be served, and the technical operation and insurance placement programmes, with respect to the operations and branches for which authorization is being requested. In addition, it is necessary to lodge a deposit equal to 10% of the statutory minimum capital. The deposit will be refunded when operations commence or if authorization is refused, with the possibility (in the latter case) of up to 10% of the deposit being retained. Authorizations to set up and operate as an insurance institution or mutual society, and any amendments thereto, are published in the Official Journal, at the expense of the interested parties. To commence operations, the insurance company must have received a favourable opinion from the CNSF, following an inspection carried out by the latter to assess the existence of the systems, procedures and administrative infrastructure necessary to offer the services the company has been set up to provide.

4.176. Insurance institutions must be established as limited companies with fixed or variable capital, in accordance with the General Law on Commercial Companies, and must have a minimum paid-up capital for each operation or branch for which they are authorized. The minimum paid-up capital required is in investment units and depends on the branches and operations for which the institutions are authorized; this is specified in the *Decision on the minimum paid-up capital that insurance institutions must allocate for each operation or branch*, published annually in the Official Journal in compliance with Article 29.I of the LGISMS.<sup>164</sup> The share capital of insurance institutions may comprise a portion represented by limited-voting shares up to an amount equivalent to 30% of the paid-up capital, subject to SHCP authorization.<sup>165</sup> The following may not participate in its paid-up capital, either directly or through an intermediary: credit institutions, mutual insurance societies, securities firms, auxiliary credit organizations, managing companies of investment companies, people's savings and loan entities, pension fund managers, and foreign exchange brokers.

4.177. Depending on the nationality of the shareholders that participate in their capital, insurance institutions may be wholly or majority Mexican-owned or wholly or majority foreign-owned, in which case they will be considered subsidiaries of foreign financial institutions. In the first case, foreign natural or legal persons may (with some exceptions) acquire shares representing the capital, but the Mexican investors must retain effective control of the institution which, according to the law, exists in the following situations: when they hold 30% or more of the shares representing the share capital of an institution; when they control the annual shareholders' meeting; when they are able to appoint a majority of the members of the board of directors; or exercise some other means of control. The authorization of the SHCP is required to acquire control or more than 5% of the paid-up capital. Persons acquiring or transferring shares equal to more than 2% of the paid-up capital of an insurance institution must notify the SHCP, within three working days of the acquisition or transfer.

4.178. Foreign-capital institutions may operate only as subsidiaries of a foreign financial institution. Access to the market is subject to conditions of reciprocity. Thus, the foreign institution must come from a country with which Mexico has signed a treaty or international agreement that permits the establishment of subsidiaries in the national territory. The Law stipulates that subsidiaries are also governed by the LGISMS and, moreover, by the provisions of the corresponding treaties or international agreements.

4.179. To establish subsidiaries, institutions must comply with the Rules for the Establishment of Subsidiaries of Foreign Financial Institutions, which include requirements relating to the ownership structure, operating and internal controls, financial projections and fitness of directors and senior management.<sup>166</sup> To set up and operate as a subsidiary it is necessary to obtain the authorization of the SHCP, which has discretionary powers to grant authorizations, after seeking the opinion of the CNSF. These authorizations are non-transferable and must be published in the Official Journal. The Law stipulates that, where appropriate, the financial authorities will guarantee fulfilment of the national treatment commitments assumed by Mexico, on the terms laid down in the treaty or

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<sup>164</sup> The amounts for 2012 are contained in the *Decision on the minimum paid-up capital that insurance institutions must allocate for each operation or branch*, published in the Official Journal of 30 March 2012.

<sup>165</sup> Under the LGSIMS, limited-voting shares confer voting rights only in matters relating to change of purpose, merger, corporate breakup, conversion, dissolution, liquidation or the cancellation of a stock market listing.

<sup>166</sup> The Law defines a subsidiary as a Mexican limited company whose establishment and operation as an insurance institution have been authorized and whose capital is majority-owned by a foreign financial institution.

international agreement applicable. If there is no international agreement with Mexico that provides for the establishment of subsidiaries on the national territory, national treatment is not guaranteed and the foreign investment is limited to 49% of the paid-up capital, in accordance with the LGISMS and the Foreign Investment Law.

4.180. Subsidiaries can carry out the same operations as majority Mexican-owned insurance institutions, unless the treaty or international agreement applicable imposes some restriction. In this connection, the authorities have pointed out that there are no restrictions in the treaties concluded by Mexico so far. To acquire a majority stake in the share capital of a subsidiary, the foreign financial institution must carry out, in the country in which it is established, directly or indirectly, in accordance with the legislation applicable, the same kind of operations that the subsidiary in question is authorized to carry out in Mexico. The share capital of subsidiaries may consist of two series of shares: at least 51% of the capital is composed of Series "E" shares (always owned, directly or indirectly, by a foreign financial institution), while the remaining 49% of the capital may be composed, separately or jointly, of shares of Series "E" and "M" (owned by shareholders authorized by the LGISM). Subsidiaries cannot issue limited-voting shares. The Series "E" shares of a subsidiary may be disposed of only with the authorization of the SHCP. Once a subsidiary has been set up, its Series "E" shares may be temporarily acquired by the Federal Government for subsequent placement with other investors, subject to authorization by the SHCP. The authorities have indicated that so far this has never happened.

4.181. The CNSF has the same powers of supervision with respect to subsidiaries as it does in relation to wholly or majority Mexican-owned insurance institutions. If the supervisory authorities of the country of origin of a foreign financial institution owning shares representing the share capital of a subsidiary wish to carry out inspections, they must apply to the CNSF in writing.

4.182. Under the LGISM, the following are prohibited: (1) insurance operations on Mexican territory by persons other than insurers authorized pursuant to this Law; (2) hiring foreign enterprises to provide: (i) insurance if the insured is present in the national territory when the contract is signed; (ii) insurance against marine and transport risks for ship or aircraft hulls or any kind of vehicle registered in Mexico or owned by persons domiciled in Mexico; (iii) credit insurance, housing credit insurance and financial guarantee insurance, if the insured is subject to Mexican legislation; (iv) insurance against civil liability stemming from events which may occur in Mexico; and (v) other forms of insurance against risks that may occur on Mexican territory. Where the insurable risk is not insured by enterprises established locally, the SHCP may authorize the hiring of foreign enterprises, either directly or through Mexican enterprises; and (3) cross-border supply of insurance. The transfer of life and non-life insurance portfolios between insurance institutions needs SHCP approval, which is given when the requirements are met.

4.183. Where reinsurance services are concerned, the LGISMS allows institutions established in Mexico to sign contracts with foreign reinsurers that have enrolled in the General Register of Foreign Reinsurers. Registration may be granted or refused at the discretion of the SHCP.

4.184. The intermediation of insurance contracts which do not have the character of an adhesion contract is exclusively reserved for insurance brokers. To act as an insurance broker CNSF authorization is required. Authorizations are non-transferable and may be granted to natural or legal persons.

4.185. Although insurers do not require approval for the premiums they charge, they must provide the CNSF with technical reports setting out the criteria on which their premium calculations are based.

#### **4.5.1.4 Securities market**

4.186. The principal law regulating the activities of the securities market is the Stock Market Law, published in the Official Journal of 30 December 2005, the latest amendment of which was published in the Official Journal of 6 May 2009. The purpose of this law is to develop the securities market fairly, efficiently and transparently; to protect the interests of the investing public; to minimize systemic risk; to promote healthy competition, and to regulate: (a) the registration and the updating, suspension and cancellation of the registration of securities in the National Securities Register and the organization of the latter, (b) the offer and intermediation of securities; (c) the

limited companies that place shares on and off the exchange, and the special regime with which these companies must comply in relation to the legal persons which they control, on which they have a significant influence or by which they are controlled; (d) the obligations of legal persons that issue securities and persons that trade securities; (e) the organization and functioning of brokerage firms, stock markets, securities depositories, central counterparties for securities, price vendors, security rating institutions and companies that manage systems for facilitating trading in securities; (f) the development of dealing systems that make securities trading possible; and (g) the liability incurred by persons responsible for acts or omissions sanctioned by this Law. The Law reinforced the rights of minority shareholders and redefined the function and powers of the National Banking Securities Commission and made it possible to harmonize the national legislation with the Basel Agreements on banking supervision and regulation.

4.187. The Bolsa Mexicana de Valores is Mexico's single stock exchange and Latin America's second largest, after the Bolsa de Valores de São Paulo (BOVESPA). The Bolsa is a self-regulating body. In 2011, its main index (IPC) suffered a year-on-year fall of the order of 15% in US dollars. In terms of value in circulation, after contracting in 2008, the market increased in value in subsequent years, growing by 31.4% between 2007 and the end of financial year 2011. Though still small as compared with the developed countries, market capitalization increased from 26.3% of GDP in 2008 to 37.2% in 2011. Concentration is still high, considering that 62% of the volume traded corresponds to seven issuers: América Móvil, the cement company CEMEX, the bottler FEMSA, Banorte, the mining company Grupo México, Grupo Televisa and Walmart México (a subsidiary of the United States company of the same name).

4.188. The economic recovery of 2010 and the introduction of new financial instruments led to the admission of eight new enterprises to the Mexican exchange in 2010 and three more in 2011, through initial public offerings (IPO). In 2012, up to ten enterprises were planning to enter, given the right conditions. However, between 2007 and 2012 there was little change in the number of enterprises listed, with 125 issuers at the beginning and 128 at the end of the period, respectively. Following the introduction of the new Stock Market Law it was expected that more medium-sized enterprises would enter the exchange, in particular as a stock investment promoting corporation (*Sociedad Anónima Promotora de Inversión Bursátil* (SAPIB)). In September 2012, two share issuers and one debt issuer had listed as SAPIBs.

4.189. The predominant type of debt in private sector issues is the *certificado bursátil* (a security note that can be issued by private and public debtors), with 83% of the total. This features a relatively simple issuing process while restricting the guaranteed return on the bondholder's initial investment. The second most used instrument is the *certificado de capital de desarrollo* (equity development certificate (CKD)), which comprises 13.1% of private sector debt and is aimed at infrastructure projects.<sup>167</sup>

4.190. S.D. Indeval, Instituto para el Depósito de Valores, S.A. de C.V., is the only securities depository institution in Mexico.<sup>168</sup>

4.191. Intermediation with securities registered in the National Securities Register can only be provided by financial entities authorized to act as securities market intermediaries. The institutions regulated by the Securities Market Law as securities market intermediaries are: brokerage firms; credit institutions; investment company operating companies; pension fund managers; distributors of investment company shares; and financial entities authorized to act as distributors.

4.192. Brokerage firms are limited companies dedicated to securities intermediation and to offering and trading securities for their own account or that of third parties on the primary or secondary market. The products that brokerage firms can offer their customers also include derivatives, currencies and monetized metals. To set up and operate as a brokerage firm CNBV authorization, with the agreement of the governing board, is required. The Mexican Association of Stock Market Intermediaries, A. C. (AMIB), an organization which groups together all the brokerage firms operating in Mexico and represents them before the securities market regulators, has been recognized by the CNBV as a self-regulating body.

<sup>167</sup> CKDs are certificates used to finance infrastructure, in accordance with Articles 62 and 63 of the Stock Market Law.

<sup>168</sup> Information about the way in which Indeval operates and its activities is available at: <http://www.indeval.com.mx>.

4.193. Investment companies, whose purpose is to purchase securities and sell investment assets using funds obtained by placing shares representing their capital with the investing public, can be of four types: variable (shares, bonds and other securities, titles or documents representing third-party debt); investment in debt instruments (medium and long-term); capital investment; and limited-purpose investment (instruments defined by their own articles of association).

#### 4.5.1.5 Pension system

4.194. Pension system activities are regulated by the National Pension Fund Commission (CONSAR), a decentralized administrative unit of the SHCP, with technical and operational autonomy.<sup>169</sup> Basically, the pensions system is regulated by the Law on Savings Systems for Retirement, published in the Official Journal of 23 May 1996, the Social Insurance Law, published in the Official Journal of 12 March 1973, the Social Insurance Law, published in the Official Journal of 21 December 1995, the Law on the State Workers Security and Social Services Institute, published in the Official Journal of 31 March 2007, and the Regulations of the Law on Savings Systems for Retirement, published in the Official Journal of 24 August 2009.

4.195. The coordination, regulation, supervision and monitoring of the savings systems for retirement are entrusted to CONSAR, which is authorized to issue the general provisions and prudential regulations by which savings system participants are bound in relation to their establishment, organization, functioning and operations. CONSAR is the entity responsible for granting, amending or revoking the authorizations of managers and investment companies and supervising savings system participants.

4.196. CONSAR supervises the 13 pension fund management firms (AFOREs) in operation in September 2012. AFOREs are private financial institutions that manage pension funds on behalf of workers. At the end of September 2012, the funds managed by AFOREs in the 47.7 million accounts in their charge had a total market value of Mex\$1.8 billion (US\$139,776 million). According to information published by CONSAR, the historical performance of the system is 13.33% in nominal and 6.6% in real terms. AFOREs invest the funds of their contributors in specialized pension fund investment companies (SIEFOREs). There are five different SIEFOREs. Investments can be made in domestic variable yield instruments (7.8% of total investments in September 2012), international variable yield (12.8%), domestic private debt (17.0%), international debt (2.3%), government securities (57.0%) and structured instruments (3.0%).<sup>170</sup>

4.197. The Law on Savings Systems for Retirement regulates these systems and their participants. To set up and operate as an AFORE it is necessary to obtain authorization from CONSAR; the Law stipulates that this authorization will be granted on a discretionary basis, after hearing the opinion of the SHCP. CONSAR authorization is also required to acquire AFORE shares of any series, to incorporate new shareholders if that means that the acquirer (person or group of persons) will hold 5% or more of the management firm's share capital, and for AFOREs to merge. If less than 5% of the capital is acquired, it is sufficient to notify CONSAR 10 working days before the transaction is completed.

4.198. AFOREs must be limited companies with variable capital and their managers must, by law, be not less than five in number. AFOREs must be controlled by Mexican capital. In this connection, 51% of the share capital must be in the form of Series "A" shares, which can only be acquired by Mexican natural persons or by Mexican legal persons whose capital is majority Mexican-owned and which are under effective Mexican control. The remaining 49% of the capital may consist of Series "A" or "B" shares or a combination of Series "A" and "B", the latter with no subscription restrictions. The Law prohibits managers or foreign legal persons that exercise functions of authority from participating in the capital. The participation, direct or indirect, of foreign financial institutions in the capital of management firms must be in conformity with the provisions of the treaties and international agreements applicable and with the measures adopted by the SHCP to ensure compliance with those treaties and agreements.

<sup>169</sup> CONSAR online information. Viewed at: [http://www.consar.gob.mx/acerca\\_consar/acerca\\_consar-mision.shtml](http://www.consar.gob.mx/acerca_consar/acerca_consar-mision.shtml).

<sup>170</sup> CONSAR online information. Viewed at: [http://www.consar.gob.mx/panorama\\_sar/panorama\\_sar.shtml](http://www.consar.gob.mx/panorama_sar/panorama_sar.shtml).

4.199. The Rules for the Establishment of Subsidiary Pension Fund Managers regulate total or majority foreign participation in their capital, through foreign financial institutions from countries with which Mexico has signed a treaty or international agreement permitting the establishment of subsidiaries on the national territory. The Rules define the subsidiary management firm as a pension fund manager in whose capital a foreign financial institution or a subsidiary financial institution has a majority holding. CONSAR may authorize foreign financial institutions, subsidiary financial institutions, subsidiary managers, or related companies to acquire a majority of the shares representing the capital of a management firm.

4.200. Under the Rules, subsidiaries may carry out the same operations as pension fund management firms that are majority Mexican-owned. To acquire a majority stake in the share capital of a subsidiary, the foreign financial institution must carry out in the country in which it is established, directly or indirectly, in accordance with the legislation applicable, the same kind of operations as the subsidiary in question is authorized to carry out in Mexico. The capital of the subsidiary is represented by two series of shares: at least 51% of the capital will consist of Series "F" shares (always owned by a foreign financial institution, directly or indirectly) and the remaining 49% of the capital may consist of Series "F" or "B" shares or a combination of the two. CONSAR authorization is needed to dispose of the Series "F" shares of a subsidiary.

4.201. The Law contains clauses to prevent excessive market concentration and stipulates that, for the purpose of keeping retirement savings systems in proper balance, no AFORE may hold more than a 20% share of the retirement savings systems market. AFORES are obliged to establish and maintain a special reserve invested in the shares of each of the investment companies they manage.

4.202. Specialized pension fund investment companies (SIEFORES) must be organized and operate as limited companies with variable capital. To set up as an investment company, SIEFORES need to be authorized by CONSAR, in consultation with the SHCP. Participation in the fixed capital of investment companies is restricted to the AFORE that applies for them to be set up and the partners of that manager, while only the depositors in the AFORES and the AFORES themselves may participate in the variable capital. In no case may the shareholding of the AFORES in the fixed capital of the SIEFORES be less than 99% of the part representing the fixed capital. In order to merge SIEFORES must first obtain authorization from CONSAR.

## **4.5.2 Telecommunications**

### **4.5.2.1 Main features and structure**

4.203. The total income of the telecommunications sector in 2011 (excluding free-to-air television) was Mex\$395,254 million (about US\$28,229 million) - a nominal increase of 3.25% on the previous year's figure. In the period 2007-June 2012, the sector's year-on-year growth averaged 6.8%<sup>171</sup>; and the Federal Telecommunications Commission (COFETEL) reports that the sector's share in national GDP in June 2012 matched the record 3.1% attained in 2009, compared to less than half of that (1.46%) in 2000. Moreover, this occurred despite a slowdown in sector growth in 2009-2010. After expanding by over 11% per year on average between 2000 and 2008, the GDP of the telecom sector posted historically low growth rates in 2009 and 2010; but the June 2012 figure showed a recovery of 6.87% in relation to the same period a year earlier.

4.204. During the period under review, total investment by the telecom sector was erratic, alternating between relatively steep rises and falls. In 2011, investment was down by 12.2% on the previous year's 10-year high of US\$5,675 million, following a 20.8% slump in 2009<sup>172</sup> in the wake of the 2008 and 2009 economic slowdown. Similarly, the jump in the level of investment in 2010 was mainly due to the economic recovery, together with investments in mobile telephony following two major tenders as well as investment by subscription television (pay TV) operators to expand their coverage and product range.<sup>173</sup>

4.205. As reported in the previous Review and according to data published by the Organisation for Economic Co-operation and Development (OECD), Mexico's per capita investment in

<sup>171</sup> Information viewed at: <http://siemt.cft.gob.mx/SIEM/home.php>.

<sup>172</sup> Information viewed at: <http://siemt.cft.gob.mx/SIEM/home.php>.

<sup>173</sup> COFETEL (2011a).

telecommunications was the lowest of the OECD's 34 member countries in both 2008 and 2009 (the latest comparative data available, prior to the increase in investment in 2010). In both years rates were below US\$50, and the figures for 2010 and 2011 were US\$51 and US\$44, respectively. In the period 2000-2009, average cumulative investment in OECD countries stood at US\$1,447, compared to US\$360 in Mexico. Investment in public network access points was also the lowest in the OECD in 2009. According to the OECD's sector analysis, the low investment levels stand in contrast to the high profit rates obtained by Mexican operators.<sup>174</sup>

4.206. Mexico's fixed teledensity index, which measures the total number of telephone lines in service per 100 inhabitants, stood at 17.9 at the end of June 2012, compared to 19.1 in 2008. This trend reflects the growth of mobile lines, as the annual average variation in the fixed teledensity index was -0.98% over the period 2007-June 2012. In contrast, the mobile telephony market continued to expand, albeit slightly less vigorously than five years ago, posting annual average growth of 6.78% in the number of subscribers between 2007 and June 2012, to attain a mobile teledensity index of 86.9 in June 2012.<sup>175</sup> From June 2006 to June 2012, there were 42 million new subscriptions to the mobile telephony service, which expanded from 55.4 million subscribers to 97.6 million. Of Mexico's total population, 93% live in areas with cellphone coverage. Although the mobile telephony penetration rate is similar to that of countries such as Japan, the United States or Canada, Mexico has the largest number of subscriptions under prepaid plans in the OECD: 88%, compared to 43% on average for the other countries.<sup>176</sup> The authorities stated that prepaid plans accounted 85% of the total as of November 2012.

4.207. The latest INEGI data show that 23.3% of Mexican households had Internet access connections in 2011.<sup>177</sup> The number of Internet users per 100 inhabitants grew significantly in the review period, to reach a level of 36.1 in June 2012 (including both domestic use and use outside the home). There were 20.33 broadband connections per 100 inhabitants, up by over 59% on the 2010 figure. Despite the sustained growth of broadband (in 2006 there were only 2.93 broadband connections per 100 inhabitants), Mexico still lags behind the 2010 OECD average of 25 connections per 100 inhabitants; and connection speeds remain relatively slow. The authorities reported that the fixed and mobile broadband services had 13.1 million and 9.7 million subscribers, respectively, in June 2012— 6.4 times the 2006 figure.

4.208. The OECD notes that broadband subscriber growth occurred despite a lack of competition in the sector and thanks partly to the marketing of triple-play packages (i.e. cable television, broadband and telephony bundled together).<sup>178</sup> The authorities attributed the increase to the introduction of new technologies such as XSDL, supported by lower prices. January 2012 saw publication of the document "*Acciones para el fortalecimiento de la banda ancha y las tecnologías de la información y comunicación*" [Actions to strengthen broadband and information and communication technologies] followed by the *Agenda Digital* on 28 March 2012. In November 2012, a National Broadband Plan was about to be published, which would identify infrastructures and modalities for tenders and concessions to ensure national coverage under healthy competition, quality and price conditions.<sup>179</sup>

4.209. Service costs in Mexico remain relatively high: for a basket of 140 calls from residential lines, in 2011 just three OECD countries paid more (including VAT), despite the fact that between early 2007 and mid-2012 the price of fixed line telephone services in Mexico had come down by over 30%.<sup>180</sup> The price of calls for commercial users is also above the OECD average, and this harms small and medium-sized enterprises in particular. Mexico's average monthly Internet

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<sup>174</sup> OECD (2011b).

<sup>175</sup> Online information from the CFT. Viewed at: [http://www.cft.gob.mx/wb2/COFETEL/COFE\\_Estadisticas\\_de\\_telecomunicaciones\\_2](http://www.cft.gob.mx/wb2/COFETEL/COFE_Estadisticas_de_telecomunicaciones_2).

<sup>176</sup> The data correspond to 2009. OECD (2011b).

<sup>177</sup> COFETEL (August 2012) and INEGI (2012). Viewed at: [http://cft.portaldesarrollo.com/wp-content/uploads/2012/08/Bolet%C3%ADn-de-Prensa-MODUTIH\\_020812-1.pdf](http://cft.portaldesarrollo.com/wp-content/uploads/2012/08/Bolet%C3%ADn-de-Prensa-MODUTIH_020812-1.pdf) and <http://www.inegi.org.mx/sistemas/sisept/default.aspx?t=tnf196&s=est&c=19351>.

<sup>178</sup> OECD (2011b).

<sup>179</sup> COFETEL (2011a).

<sup>180</sup> COFETEL, Press Briefing 33/2012, 27 August 2012. Viewed at: [http://www.cofetel.gob.mx/work/models/Cofetel\\_2008/Resource/13089/ITEL\\_Segundo\\_Trimestre\\_2012.pdf](http://www.cofetel.gob.mx/work/models/Cofetel_2008/Resource/13089/ITEL_Segundo_Trimestre_2012.pdf).



subscription is the most expensive in the OECD area for connection speeds of between 2.5 and 15 Mbps.<sup>181</sup>

4.210. According to OECD calculations, between 2005 and 2009 the high prices of telecom services in Mexico caused consumer welfare losses, estimated on a purchasing-power-parity (PPP) basis, of US\$25,835 million.<sup>182</sup> This includes both the excessive prices invoiced as well the subscriptions not obtained, but excludes issues relating to connection speeds. The authorities pointed out that the rates charged to users of the various telecom services had fallen in real terms during the period analysed: by 57% for mobile local telephony; 41% for long-distance telephony and broadband Internet; 36% for commercial fixed-line local phone services; 30% for residential fixed-line phone services; and by 11% for subscription television.

4.211. As a result of the privatization of Teléfonos de México (TELMEX) in 1990, a concession was granted until March 2026 to operate the new private entity, giving exclusive rights to supply national and international long distance services (LDN and LDI, respectively) until 1997. For the remainder of voice, text, data, audio and video transmission services, the entry of new operators was immediately authorized. In addition, separate accounting was established for local and long-distance calls, to eliminate cross subsidies; and operating rules were specified for interconnection agreements between operators (see below).

4.212. Currently there are 25 companies providing local fixed-line telephony services, 62 suppliers of long-distance (LD) phone services, four mobile telephony operators with national coverage holding a total of 84 regional licences, and 23 satellite service providers.<sup>183</sup> According to the national government, between 2007 and June 2012, 14 new concessions were awarded to install, operate and commercialize public telecommunications networks for local phone services. With the concession awarded in the first half of 2012, this made a total of 76 public telecommunications concessions providing the triple-play service.<sup>184</sup>

4.213. In general terms, although some of the telecom subsectors have been gradually opened up, others are still highly concentrated. For example TELMEX (América Móvil) controls 72.4% of the fixed telephony market, while the second largest operator, Axtel, has barely an 8.2% share. In mobile telephony, Telcel has 69.8% of all users, compared to Telefónica Movistar's 20% (June 2012 figures). América Móvil recently raised its stake in Telcel to 92.8%.<sup>185</sup> Although in February 2012 the Federal Competition Commission blocked an attempt by Grupo Televisa to purchase a 50% holding in Mexico's fourth national mobile operator, Iusacell, the acquisition was subsequently approved, albeit subject to conditions since over 50% of Internet services in Mexico are provided by América Móvil. In recent years, the leading cable TV operators have tended to consolidate; after taking over Cablevisión, Cablemás and TVI, Grupo Televisa now controls 52% of the subscription television market. The remainder of the market is shared between a direct-to-home (DTH) satellite service provider, Dish, and other smaller operators.<sup>186</sup> The number of subscribers to the subscription television service more than doubled from 6 million to 12.3 million.

4.214. The free-to-air television service in Mexico is essentially provided by two groups of operators: Grupo Televisa, which controls 68% of the market, and Televisión Azteca, owned by Grupo Salinas, which serves virtually all of the rest. In June 2012, COFETEL announced its approval of the programme of television service broadcasting frequency concessions, under which the first public tender for free-to-air television signals in Mexico's history will be held. The programme includes the frequencies needed for two 6MHz transmission channels to be operated through terrestrial digital television (TDT), which has coverage potential to reach 93% of the population, with the aim of promoting competition and fostering content diversity.<sup>187</sup>

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<sup>181</sup> OECD (2011b).

<sup>182</sup> OECD (2011b).

<sup>183</sup> OECD (2011b), and online information from COFETEL, viewed at:

[http://www.cofetel.gob.mx/es\\_mx/Cofetel\\_2008/Cofe\\_quienes\\_conforman\\_la\\_industria](http://www.cofetel.gob.mx/es_mx/Cofetel_2008/Cofe_quienes_conforman_la_industria).

<sup>184</sup> Office of the President of the Republic (2012).

<sup>185</sup> Economist Intelligence Unit (2012a).

<sup>186</sup> OECD (2011b),f.

<sup>187</sup> COFETEL Press Briefing 22/2012, 6 June 2012. Viewed at: <http://cft.portaldesarrollo.com/wp-content/uploads/2012/06/Comunicado-TV-RADIO-CMI-06-06-12-1.pdf>.

#### 4.5.2.2 Institutional and regulatory framework

4.215. Under the General Agreement on Trade in Services (GATS), Mexico adopted specific commitments with respect to all telecommunications services covered by the Agreement, except for broadcasting, cable television, DHT and DBS satellite transmission, and digital audio services. Market access provisions were bound in accordance with the basic principles of the Mexican Federal Telecommunications Law of 1995 (see below). With regard to national treatment, Mexico has bound all services without restriction in three of the four supply modes (cross-border trade, consumption abroad and commercial presence), but not for the presence of natural persons.<sup>188</sup> Mexico has adopted the Fourth Protocol annexed to the GATS, as well as the Reference Paper annexed to the Telecommunications Protocol.

4.216. The key legal instrument for the telecommunications sector in Mexico is the Federal Telecommunications Law (LFT), which was published in 1995 and has been amended several times since; the most recent amendment was published in the D.O.F. of 17 April 2012. The Federal Radio and Television Law, published in the D.O.F. of 9 April 2012 regulates the broadcasting service. Other relevant laws and regulations include the 1940 General Law on Transport and Communications, the 1990 Telecommunications Regulations, and the regulations and resolutions issued by the Ministry of Communications and Transport (SCT) and that ministry's decentralized body, the Federal Telecommunications Commission (COFETEL).<sup>189</sup> The latter include rules governing the local service (1997), international telecommunications (2004) and the long-distance service (1996), as well as the Satellite Communications Regulations (1997) and the regulations governing the subscription television service.<sup>190</sup>

4.217. After the Federal Telecommunications Law was passed in 1996, COFETEL was created as the SCT's decentralized administrative body, with technical, spending and management autonomy. Its main functions include: issuing administrative orders in relation to telecommunications; conducting studies and research on telecom matters; issuing opinions on requests for the award, amendment, extension and assignment of concession titles and permits; submitting the programme of radio-electric spectrum frequency band allocations for approval by the SCT; coordinating bidding procedures for the use of geo-stationary orbital positions and satellite orbits allocated to Mexico; maintaining the telecommunications register (concession titles, tariffs, etc.); promoting and overseeing interconnection agreements, as well as defining conditions not contractually agreed upon and the provisions of concession titles; and proposing to the SCT the imposition of penalties for infringement of the law or administrative regulations.<sup>191</sup> COFETEL is the country's sole broadcasting authority. From February 2009 to September 2012, the SCT has received 702 penalty proposals from COFETEL.

4.218. The SCT is responsible for issuing general policies for the telecommunications sector, and for drafting legislative proposals, granting concessions and permits for the provision of telecommunications and broadcasting services (subject to the technical opinion of COFETEL), and imposing penalties on enterprises that infringe the regulations. It has been argued that although the LFT and its successive amendments give wide-ranging powers to these two entities, the demarcation of authority is not entirely clear, and its exercise has been blocked by the incumbent firms (TELMEX in the fixed line segment and Telcel in mobile telephony) through the use of legal injunctions.<sup>192</sup> Similarly, COFETEL has pointed out that, in its regulatory capacity, it cannot always anticipate the legal strategies the entities under its authority will adopt in response to its decisions; and it has described the sector as "highly litigious".<sup>193</sup> On this point, the authorities

<sup>188</sup> WTO document GATS/SC/56 of 15 April 1994, and its supplements.

<sup>189</sup> The most recent reform of the General Means of Communications Law was published in the Official Journal of 9 April 2012. The Telecommunications Regulation was published in the in the Official Journal of 29 October 1990.

<sup>190</sup> Online information from COFETEL. Viewed at:

[http://www.cofetel.gob.mx/wb2/COFETEL/COFE\\_Reglamento\\_reglas\\_y\\_planes\\_1](http://www.cofetel.gob.mx/wb2/COFETEL/COFE_Reglamento_reglas_y_planes_1).

<sup>191</sup> Article 9 of the Federal Telecommunications Law, which was added in the reform published in the D.O.F. of 11 April 2006.

<sup>192</sup> OECD (2011b).

<sup>193</sup> COFETEL (2011b).

noted that the reforms to the LFT and the various court rulings that have been issued over the last few years have aimed to reduce the need for litigation and provide greater legal certainty.<sup>194</sup>

4.219. Following a reform of the Federal Economic Competition Law issued in May 2011<sup>195</sup>, the Federal Competition Commission (CFC), which has jurisdiction over the telecom sector, now has greater powers to investigate and sanction anti-competitive practices in the sector. Under the LFT, COFETEL can impose obligations on prices, service quality and information incorporating social criteria and international standards, on the concession holders of public telecommunications networks that have been declared as holding substantial power in the relevant market, pursuant to the Economic Competition Law. Under the LFT, a concession must be obtained to use a frequency band; operate public telecommunications networks; make commercial use of radio and television channels; provide satellite services (including through ground stations); occupy geostationary orbital positions and satellite orbits allocated to Mexico; and exploit signal transmission and reception rights for frequency bands associated with foreign satellite systems that may cover or provide services in Mexican territory. Concessions can only be granted to natural or legal persons of Mexican nationality; and foreign ownership of the relevant companies is limited to 49%, with the exception of mobile phone services, where foreign investors may acquire a larger equity stake with approval from the National Foreign Investment Commission.

4.220. The 2006 reform of the LFT eliminated the permit requirement and the nationality restriction for the installation and provision of special telecommunications services, such as value-added services, since when it has only been necessary to register with the SCT. However, a permit is still required to establish and operate ground transmitter stations and market telecommunication services other than through a public network.

4.221. Frequency bands for specific uses are awarded through competitive tenders for a term of up to 20 years, which can be extended for equal periods subject to an SCT analysis of compliance and efficient use of the radio-electric spectrum. Public telecom networks are awarded on the basis of an analysis of stakeholder applications and for a term of up to 30 years, which may be extended for periods equal to those originally established, at the SCT's discretion. Extensions to frequency band permits are granted subject to a prior technical opinion issued by COFETEL, the payment of the fee authorized by the SHCP, and acceptance of the relevant conditions established by the SCT.

4.222. Number portability was officially established in July 2008 to allow users to change their fixed or mobile telephony operator without losing their phone number, thus enabling them to choose the operator best suited their needs in terms of quality, diversity and price. As of 30 September 2012, a total of 6,613,424 telephone numbers had been transferred, of which 80.2% correspond to the prepaid mobile telephony service, 2.6% to the post-paid mobile service and 17.2% to the fixed-line service. The greatest growth in number portability has occurred in the mobile telephony service, particularly prepaid, given that mobile lines outnumber fixed lines by roughly 4.8 times.<sup>196</sup>

4.223. While the LFT allows concession-holders to set prices for the telecommunications services they provide, they must register those prices with COFETEL before they enter into force, and avoid granting cross-subsidies to services provided in a competitive market. In the case of TELMEX, its concession agreement establishes a price regulation system whereby COFETEL sets four-yearly parameters applicable to the basket of controlled services (basic local telephony, national and international LD), based on a cost study submitted by the firm, which must not include the cost of non-regulated services. In the event of disagreement, a panel of three experts (one of whom

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<sup>194</sup> The authorities stressed the importance of the following court rulings in particular: (i) Writ of Non-Constitutionality 26/2006, which gave rise to 33 jurisprudence rulings and seven isolated rulings, resulting in very important amendments to the sector regulations based on the reform of the LFT and LFRT in 2006, which adopt international recommendations on the independence of the regulatory body; (ii) Constitutional Case 7/2009 (giving rise to at least 10 jurisprudence rulings and one important isolated ruling), resolving the following issues: exclusive authority for COFETEL on broadcasting activities, as well as the authority of the ministry and non-delegable powers of the Minister; (iii) Overturning of previous ruling (Interconnection, Halting of Suspension) 268/2010, ruling that COFETEL could not order the suspension of interconnection, owing to the public interest; (iv) *Amparo* injunction (Interconnection, Appeal for Administrative Review) ruling that the competent authority to hear appeals to review COFETEL plenary decisions is the plenary itself.

<sup>195</sup> The most recent reform was published in the Official Journal of 9 April 2012.

<sup>196</sup> Figures published by the Market Statistics Department, COFETEL:  
[http://www.cft.gob.mx/es\\_mx/Cofetel\\_2008/estadisticas\\_de\\_portabilidad](http://www.cft.gob.mx/es_mx/Cofetel_2008/estadisticas_de_portabilidad).

appointed by TELMEX, another by the SCT and the third by common agreement) is asked to issue a non-binding opinion. The most recent review of the system of ceiling prices applicable to the basket of regulated services provided by Teléfonos de México was approved by COFETEL in July 2012 for the period 2011-2014, albeit with delays caused by litigation being pursued by TELMEX and TELNOR.<sup>197</sup> In August 2012, following various lawsuits, COFETEL recommended the parameters of the ceiling prices system to the SCT. In September 2012, those parameters were notified to TELMEX, to enable it to submit a pricing proposal accordingly.

4.224. As Mexican legislation does not yet require subscriber loop unbundling (see below) and the prices of Internet access services are not regulated by COFETEL, a company that has power in the local telephony market could offer Internet services at prices that undercut its competitors. In fact TELMEX has a 64.9% market share in the provision of fixed line broadband services, which it offers in a bundle with fixed telephony. Nonetheless, the authorization given to cable television firms to enter the broadband market has stimulated the growth of subscriptions and enhanced competition.<sup>198</sup>

4.225. The LFT authorizes COFETEL to specify obligations on prices, service quality and information, for concession holders with substantial power in a given market, pursuant to the Federal Economic Competition Law. In fact the CFC has identified a group of suppliers as operators with substantial power in the origination, termination, local transit, dedicated lines and mobile telephony markets. On 23 April 2012, COFETEL published specific obligations in the D.O.F. applicable to operators with substantial power in the wholesale markets for leasing local dedicated lines, national long-distance (LD), international long distance (LDI) and interconnection services, having fulfilled the regulatory improvement process called for in the Federal Administrative Procedures Law.<sup>199</sup>

4.226. Since 2006, the mobile long-distance phone service has been regulated under the "national calling party pays" scheme, whereby concession-holders providing the service must make interconnection contracts to ensure that the charge for airtime on a long-distance call that terminates in a mobile network should be paid by the party making the call.<sup>200</sup> Between 2005 and 2010, this regulation led to the filing of 19 lawsuits (*amparo* injunctions, annulment rulings, or appeals for review), of which 13 were dismissed.<sup>201</sup>

4.227. The interconnection and interoperability of telecom networks in Mexico is regulated by Article 42 of the LFT and by the concession titles and various regulations issued by the SCT and COFETEL. Public telecom network concessionaires must adopt architecture designs that provide for network interconnection, and this means negotiating interconnection agreements. In principle, such agreements do not need COFETEL approval, although they must be registered with it. Negotiations have to be completed within 60 days from moment one of the parties requests them. If an agreement cannot be reached in this period, the parties can ask COFETEL to rule on the outstanding issues, including interconnection rates. For example, in November 2011, TELCEL reached an agreement with its competitors to lower interconnection rates until 2014.

4.228. Between 2007 and 2010, COFETEL mediated 35 interconnection agreements<sup>202</sup>, including two in 2008 (between Axtel and Telcel, and Telefónica and Iusacell) which contributed to a price cut of about 50%.<sup>203</sup> In 2011 COFETEL issued 31 rulings in relation to 46 applications concerning interconnection disputes. It set an interconnection charge of Mex\$0.3912 per minute for calls to mobile users under the "calling-party pays" modality, which is 56% below the 2010 rate. It also set interconnection rates by inter-urban hierarchy levels in fixed-line networks on the order of Mex\$0.03951 per minute, a 59% reduction on the 2010 rate; and a rate applicable to traffic entering at an interconnection point (which requires additional transmission facilities)

<sup>197</sup> Office of the President of the Republic (2011a).

<sup>198</sup> COFETEL Press Briefing 27/2012, 11 July 2012. Viewed at: <http://cft.portaldesarrollo.com/wp-content/uploads/2012/07/Pleno-de-Cofetel-aprueba-par%C3%A1-metros-del-sistema-de-precios-tope-para-servicios-b%C3%A1sicos-de-Tel%C3%A9fonos-de-M%C3%A9xico-Comunicado-27-2012.pdf>.

<sup>199</sup> Final decision viewed at: [http://www.sct.gob.mx/uploads/media/Acuerdo\\_mediante\\_el\\_cual\\_el\\_pleno\\_de\\_la\\_CFT\\_establece\\_obligaciones\\_especificas\\_relacionadas\\_con\\_tarifas\\_23\\_abr\\_13.pdf](http://www.sct.gob.mx/uploads/media/Acuerdo_mediante_el_cual_el_pleno_de_la_CFT_establece_obligaciones_especificas_relacionadas_con_tarifas_23_abr_13.pdf).

<sup>200</sup> OECD (2011b).

<sup>201</sup> OECD (2011b).

<sup>202</sup> Online information from COFETEL, *Informes de labores: 2007, 2008, 2009 y 2010*. Viewed at: [http://www.cofetel.gob.mx/es/Cofetel\\_2008/informes\\_de\\_labores](http://www.cofetel.gob.mx/es/Cofetel_2008/informes_de_labores).

<sup>203</sup> OECD (2011b).

of Mex\$0.04530 per minute of interconnection - 70% off the 2010 price. The rate applicable to the transit service was set at Mex\$0.01904, 12% less than in 2010. A Supreme Court ruling deemed the interconnection rates established by COFETEL to be of public interest, so their immediate application cannot be suspended as a result of *amparo* injunctions.<sup>204</sup>

4.229. To improve interconnection conditions, in 2009 COFETEL published its Basic Technical Interconnection and Interoperability Plan (PTFII), which regulates the interconnection articles of the LFT. With the aim of lowering fixed and mobile interconnection rates, in April 2011 COFETEL published guidelines for developing cost models for use in determining interconnection rates, and these have been posted on its Internet site.<sup>205</sup>

4.230. Discriminatory practices in the application of charges or any other interconnection conditions are prohibited, as was confirmed by a CFC ruling relating to a case between TELCEL and other service providers (see below). Also, in June 2012, the draft Framework Agreement on Interconnection for Fixed Telecommunications Services (CMIX) was approved, which in practice represents a public interconnection offering under more competitive conditions for other operators. The process of regulatory improvement of the draft law, being undertaken with COFEMER, began on 22 June 2012; and COFEMER issued an interim ruling on 24 August of that year.

4.231. Mexican legislation does not require operators with a dominant position to unbundle the subscriber loop for another concessionaire seeking access. According to COFETEL, the problem of access to basic infrastructures is being studied (in the light of the various international experiences on the subject), with a view to gauging the advisability of amending the current framework to stimulate competition.<sup>206</sup> In the context of this review, and with respect to loop unbundling, the authorities considered that although it is not provided for in the law, this has been happening in practice since 2012. They also noted that Mexico considers the loop unbundling policy to be suboptimal since it discourages investment.

4.232. A priority issue for the regulator, in line with OECD recommendations, is to reduce the number of local service areas, which currently number 397. A reduction would produce price benefits for final users (particularly in outlying districts) and would make it easier for new suppliers to enter the market without having national coverage. Initiatives in this regard have been held up by the filing of *amparo* injunctions.<sup>207</sup>

4.233. In 2012, an official amendment was made to the policy of adopting terrestrial digital television, the original draft of which dated back to 2004. Among other provisions, a new timetable was defined for the transition, which will occur gradually and according to the level of penetration achieved, so as to guarantee television services throughout the country before analogue transmissions are closed down.<sup>208</sup>

4.234. During the review period, the federal government implemented specific policies to guarantee access and expand the coverage of telecom services, as well as to generation greater infrastructure, and make services more efficient. Box 4.1 summarizes the policies and actions undertaken in the telecommunications area in the period 2007-2012.

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<sup>204</sup> COFETEL (2011b).

<sup>205</sup> "Resolution whereby the plenary of the Federal Telecommunications Commission issues guidelines for developing the cost models it will apply to resolve, under the terms of Article 42 of the Federal Telecommunications Law, disputes over the rates chargeable for the provision of interconnection services between concessionaires of public telecommunication networks," published in the Official Journal of 12 April 2011. The main guidelines include the use of: (a) the total long-term incremental cost methodology for allocating costs; (b) ascendant or engineering models for cost estimation; (c) the economic approach in cost models, and economic depreciation to amortize the assets; (d) proven most efficient technologies; and (e) the weighted average capital cost methodology for calculating capital costs.

<sup>206</sup> OECD (2011b); COFETEL (2011b).

<sup>207</sup> OECD (2011b); COFETEL (2011b).

<sup>208</sup> COFETEL (2012).

#### **Box 4.1 Main actions undertaken in the telecommunications area in the period 2007-2012**

Fibre-optic tender. Tender for a dark fibre optic pair by the Federal Electricity Commission (CFE), to become a third nationwide trunk network for mass transmission of data, voice and video.

Radio-electric spectrum tender. Availability expanded: tender for 30 MHz of 1.9 GHz bandwidth and 90 MHz in the 1.7 GHz band, although only 60 MHz was awarded. This resulted in greater bandwidth availability, and a new national mobile services operator.

Growth of the e-México system: National Fibre-Optic Backbone (NIBA network); state networks for education, health and government; social connectivity and digital inclusion through satellite networks.

New satellite system: In 2010, contracts were signed for the construction and placement in orbit of a high technology high-capacity satellite system (two satellites for mobile services and one for fixed-line services).

Actions to strengthen broadband and information technologies, to reduce market gaps in access and ownership

Use of some 6,400 federal government buildings to install telecom infrastructure (towers, aerials, pops, etc.), and to promote the deployment of broadband infrastructure and reduce operating costs.

Installation of tri-ducts for fibre optics on federal highways, to promote the development of high-capacity telecommunications networks.

*Agenda Digital*: Programme designed to complement specific actions to promote the development of infrastructure to achieve universal access to broadband Internet services, and to promote information and communication technologies emphasizing competitiveness, equity and social inclusion; quality and coverage of education and health services; and more and better-quality government services.

*CompuApoyo*: Programme launched to enable low-income population groups to acquire computers at preferential prices and conditions, which include a broadband Internet service also at preferential rates.

Source: Government of Mexico.

4.235. The Basic Technical Plan for Local Mobile Service Quality, published in the D.O.F. of 30 August 2011, lays foundations for the local mobile service to be provided throughout the country under the best quality conditions, for the benefit of users. The plan defines quality indicators and their respective formulations and compliance levels, with the aim of making field measurements and comparatively evaluating the quality of telephony, short message and Internet access services. The plan strengthens COFETEL supervision activities, and transitions from a model in which the measurement and information come exclusively from the mobile operators networks towards a model based on measurements by COFETEL, thus promoting a more representative vision of user perceptions of the quality of these services. To perform the field measurements under the aforementioned plan, the methodology for the respective measurements was published on 27 June 2012.

4.236. In the framework of the North American Free Trade Agreement (NAFTA), and with the aim of facilitating trade between the countries involved, the Mexican government signed a mutual recognition agreement (MRA) for the evaluation of compliance by telecommunications equipment with the United States, and another similar agreement with Canada, on 26 May and 12 November 2011, respectively. The first of these was published in the D.O.F. of 28 July 2011, and the second on 28 May 2012. The agreements provide for the development of a confidence-building plan lasting up to 18 months, with various activities such as meetings to review technical requirements and implementation issues, facilitate technical cooperation, identify training courses and seminars, and promote opportunities to observe the evaluation of a testing laboratory performed by a designating authority or accreditation organization of the counterparty.

4.237. The CFC has conducted investigations into various anti-competitive practices in the telecommunications area<sup>209</sup>, resulting in pecuniary penalties. For example, in June 2011 (CFC case 07-2011) it fined TELMEX Mex\$91.5 million for refusing the interconnection service to Grupo de Telecomunicaciones Mexicanas (GTM), over a seven-month period between 2007 and 2008, thereby substantially obstructing the latter's access to the telephony market.<sup>210</sup> TELMEX filed an appeal for reconsideration, and the CFC upheld its decision but reduced the fine to Mex\$82 million.<sup>211</sup>

4.238. Another important case investigated by the CFC during the review period concerned monopoly practices in the mobile telephony market. In 2006 and 2007, various public telecom network concessionaires (Axtel, Alestra, Marcatel, Megacable, Protel and Telefónica) accused Radiomóvil Dipsa S.A. de C.V. (Telcel) of using monopoly practices by charging its competitors artificially high rates for calls terminating in its network. On 29 November 2006 the CFC launched an investigation (DE-037-2006) into the termination of local calls in Telcel's mobile public telecommunications network, and ruled that the firm had substantial power in the relevant market. The investigation found that Telcel was increasing its competitors' costs by imposing an interconnection fee above what it charged itself on calls between users of its own network and, even higher than the final prices charged to its own users. As a result, on April 2011, the CFC ruled that Telcel had committed a relative monopoly practice, ordered it to desist from its conduct and imposed a fine of Mex\$11.9 billion. Telcel lodged an appeal for reconsideration, on which CFC ruled in March 2012 confirming Telcel's dominance in mobile call termination.<sup>212</sup> Nonetheless, in May 2012, and following negotiated agreements, Telcel accepted price commitments, and undertook to lower its rates.<sup>213</sup> In May 2012, Telcel announced that the CFC had cancelled the fine of Mex\$11,989 million imposed in April 2011 for alleged monopoly practices.<sup>214</sup>

4.239. Following a process of consultation and dispute settlement in the WTO initiated by the United States in 2000, the two countries agreed that Mexico would implement a number of recommendations concerning the negotiation of international interconnection contracts. As a result, the resale of the LDI service has been allowed since 2005. However, it still does not allow operators to provide the service by leasing private networks such that the traffic is routed through unauthorized international gateways (international simple resale); nor does it allow the deliberate reversal of the direction of ILD traffic (known as *call back*).<sup>215</sup>

### 4.5.3 Air transport and airports

#### 4.5.3.1 Main features

4.240. Although the number of international terminals in Mexico's airport network increased between 2007 and 2011, the number of national airports declined. In 2011, Mexico

<sup>209</sup> Other cases have been closed however; e.g. the investigation into monopoly practices relating to the broadband Internet service. In this case, in August 2006, Grupo de Telecomunicaciones Mexicanas, S.A. de C.V. (GTM) filed a complaint against Teléfonos de México, S.A.B. de C.V. (TELMEX) and one of its subsidiaries, Teléfonos del Noreste, S.A. de C.V. (Telnor), alleging relative monopoly practices. GTM argued that TELMEX and Telnor had made the sale of the broadband Internet service, known under the commercial name of "Infinitum", subject to contracting the fixed local telephony service (tied sales). Following the investigation, the CFC ruled in 2011 that TELMEX conduct was not the source of its substantial power and did not impose greater entry barriers to agents wishing to enter the market. It therefore concluded that TELMEX did not prevent other agents from reaching their minimum efficient scale to remain in the related market. For that reason, the CFC decided to close investigation. See: CFC (2012b).

<sup>210</sup> In its decision, the CNC, while recognizing that TELMEX was a persistent offender in relative monopoly practices of this type, imposed substantially lower fines than the maximum allowed by the law for cases of reoffending, on the grounds that the practice was limited to one firm and lasted a short time. The maximum fine allowed by the law in force until before the reforms published on 10 May 2011, was the higher of twice the normal fine, 10% of annual sales or 10% of the firm's assets. See CFC (2011) *Impone la CFC Multa de 91.5 millones de pesos a TELMEX por Negar Interconexión*. Viewed at: <http://www.cfc.gob.mx/cfresoluciones/Docs/UPVAI/V1/2/1478299.pdf>.

<sup>211</sup> CFC (2012b).

<sup>212</sup> CFC (2012a).

<sup>213</sup> CFC (2012c).

<sup>214</sup> Communication sent to the Mexican Stock Exchange, Viewed at:

<http://www.americamovil.com/amx/en/cm/news/2012/RevocacionMultaCOFECOEn.pdf>.

<sup>215</sup> "Resolution whereby COFETEL alters the rules of international telecommunications" published in the Official Journal of 5 April 2005.

had 64 international airports (five more than at the start of the review period) and 12 national airports (15 less than at the start of the period), as well as 1,385 aerodromes. A total of 52.4 million passengers were transported in 2011, up by 3.8% on the previous year, but down by 5.6% compared to the 2007 figure. The volume of cargo transported rose by 2.3% between 2007 and 2011, and by 1.8% with respect to 2010, totalling roughly 651,000 tonnes in 2011.<sup>216</sup>

4.241. Public and private investment in airport infrastructure amounted to Mex\$3,909 million (US\$279 million) in 2011, 16% less than in 2010 but nearly 27% above the 2007 figure. An average of close to Mex\$4 billion (about US\$312 million) was invested per year during the review period, with the private sector contributing 54% of this.<sup>217</sup> According to the Competitiveness Reports published by the World Economic Forum, Mexico's airport infrastructure improved slightly during the review period, scoring 4.8 points in 2012, compared to 4.7 in 2006.<sup>218</sup>

4.242. Since 1998, four regional airport groups have been operating 35 Mexican airports under state concession. Three of them are controlled by private investors: Grupo Aeroportuario del Centro Norte OMA, with 13 terminals, Grupo Aeroportuario del Pacífico, with 12; and Aeropuertos del Sureste, with nine airports. The remaining airport, the Mexico City International Airport, is a parastatal firm majority-owned by the federal government. A decentralized federal government body, Aeropuertos y Servicios Auxiliares (ASA), which has legal status and its own capital, currently operates, manages, and build airports, supplies fuel, and provides other technical, research, and consulting services. In addition to operating 19 airports on its own account, ASA has a minority stake in a further four through partnerships with government and private agencies, and it also operates 61 aviation-fuel supply facilities.<sup>219</sup>

4.243. In 2011, 10 commercial airlines were operating in Mexico, of which seven transported passengers on domestic routes, six carried passengers on international routes, and 10 transported cargo. Of the latter, three transported cargo exclusively, while the other seven transported passengers, cargo, and mail. The three categories have all seen reductions in the number of operators since 2007, following the suspension of operations by at least five companies.<sup>220</sup> Mexicana de Aviación suspended operations in August 2010, five years after the Mexican State had sold its stake in the company following a CFC resolution.<sup>221</sup> The firm, now controlled by a local investor group, reported that it is currently evaluating capitalization proposals.<sup>222</sup> Since 2007, Aeroméxico has also been controlled by private investors, thereby ending participation by the international aviation consortium (Grupo Cintra), a state agency that controlled both Mexicana and Aeroméxico in the early 2000s.<sup>223</sup>

4.244. Since the liberalization of the domestic airline market, including the privatizations mentioned above, competition has increased considerably in the sector. The duopoly formed by Aeroméxico and Mexicana de Aviación, under the Grupo Cintra corporate structure, accounted for 77% of Mexico's passenger transport market in 2000 when their subsidiaries are included.<sup>224</sup> In contrast, in the first half of 2012, Aeroméxico was market leader with a share of around 43.7%,

<sup>216</sup> Directorate-General of Civil Aviation, SCT (2012).

<sup>217</sup> Office of the President of the Republic (2012). Based on data supplied by the Ministry of Communications and Transport. Viewed at: <http://www.informe.gob.mx/informe>.

<sup>218</sup> The scale used ranges from a minimum of 1 to an ideal score of 7. Report viewed at: <http://reports.weforum.org/global-competitiveness-report-2012-2013>.

<sup>219</sup> Online information from ASA. Viewed at: [http://www.asa.gob.mx/es/ASA/Acerca\\_de\\_ASA](http://www.asa.gob.mx/es/ASA/Acerca_de_ASA).

<sup>220</sup> Aerolíneas Mesoamericanas (ALMA), Aerocalifornia and Avolar in 2008; Aviacsa in 2009; Mexicana de Aviación and its subsidiaries Aerovías Caribe (Click), and Mexicana Link in 2010. Information viewed at: <http://www.sct.gob.mx/fileadmin/DireccionesGrales/DGAC/04%20Estadisticas%202012/01%20Aviacion%20Mexicana/AVMC%202011.pdf>.

<sup>221</sup> CFC decision on the Cintra case of 2000. Information viewed at the CFC Internet portal: <http://www.cfc.gob.mx/docs/pdf/de-35-99.pdf>.

<sup>222</sup> Mexicana corporate website. Viewed at: <http://mexicanainforma.com>.

<sup>223</sup> Aeroméxico (2012).

<sup>224</sup> WTO Secretariat calculations on the basis of SCT statistics, viewed at: <http://dgac.sct.gob.mx/index.php?id=477>.



followed by the low-cost airlines Interjet (21.1%) and Volaris (20.6%). The remaining 15% of the market was shared between three other firms.<sup>225</sup>

4.245. An analysis by Grupo Aeroméxico found that Mexico's airline sector has plenty of room for development: firstly, given the country's macroeconomic and demographic projections, with a younger population than other countries and a larger proportion of the population moving into the middle class. Secondly, the market is relatively underdeveloped compared to other more mature markets: while Mexicans take 0.6 flights per year on average, Europeans fly 1.4 times and Americans, 2.4 times.<sup>226</sup>

#### 4.5.3.2 Regulatory framework

4.246. The Ministry of Communications and Transport (SCT) serves as regulator of the air transport sector and has responsibility for planning and implementing policies and programmes for domestic airport development, granting concessions for operating air transport and airport services. Its Directorate-General of Civil Aviation handles applications for concessions, issues air transport and civil airfield permits and authorizations and proposes official standards. Other state agencies involved in the sector include Mexican Air Space Navigation Services (SENEAM), which provides air control and navigation services, and ASA, which is responsible for operating, managing and maintaining state-controlled airports.

4.247. In the GATS framework, Mexico only undertook commitments for certain air transport support services.

4.248. The 1995 Civil Aviation Law and its Regulations of 1998, together with the Airports Law of 1995 and its Regulations of 2000, are the main legal instruments regulating the air transport sector in Mexico. While the first of these laws has not been modified since the previous Review<sup>227</sup>, the Airports Law was amended in 2009 (see below). More recently, the Senate of the Republic passed a new reform bill containing various amendments to the law and sent it to the Chamber of Deputies.<sup>228</sup> The amendment of certain articles of the Civil Aviation Law is currently being reviewed by the Transport Commission of the Chamber of Deputies for its approval.

4.249. The provisions of the Airports Law and its regulations define a general regime for awarding airport concessions in Mexico, aimed at modernizing and expanding airport infrastructure throughout the country with private-sector participation. Since the law entered into force, private investors have been allowed to build, manage, operate, and commercially run airport terminals. The concessions have an initial period of 50 years and can be extended one or more times for identical periods, provided safety and investment and other requirements have been fulfilled.<sup>229</sup>

4.250. The legislation envisages three service categories within overall airport activity: airport services, ancillary services and commercial services.<sup>230</sup> In all three categories, concessionaires can provide services either directly or through third parties, provided the latter are companies set up in Mexico. The Constitution requires air navigation services to be provided solely and exclusively by the State, through SENEAM.

4.251. Foreign investors may hold up to 49% of total equity in companies holding concessions or permits to provide public aerodrome services. To hold larger stakes, the National Foreign Investment Commission must issue a favourable ruling, pursuant to the Foreign Investment Law. As established in Article 19 of the Airports Law, amended in January 2009, authorization of that type is granted whenever the investment promotes the development of technology and

<sup>225</sup> Includes scheduled domestic and international services. Online information from the SCT viewed at: [http://www.sct.gob.mx/fileadmin/DireccionesGrales/DGAC/04%20Estadisticas%202012/Productos%20Jul\\_12/Resumen\\_2012\\_JULIO.xlsx](http://www.sct.gob.mx/fileadmin/DireccionesGrales/DGAC/04%20Estadisticas%202012/Productos%20Jul_12/Resumen_2012_JULIO.xlsx).

<sup>226</sup> Aeroméxico (2012).

<sup>227</sup> The most recent amendments to the Civil Aviation Law and its regulations were published in the D.O.F. of 5 July 2006 and 24 June 2004, respectively.

<sup>228</sup> Online information from the Senate of the Republic. Viewed at: <http://www.senado.gob.mx/?ver=sp&mn=2&sm=2&id=33504>.

<sup>229</sup> The most recent amendments to the Airports Law and its regulations were published in the Official Journal of 21 January 2009 and 9 September 2003, respectively.

<sup>230</sup> The respective definitions are contained in Article 48 of the Airports Law of 1995.

infrastructure at the regional level, and protects the environment and national sovereignty. As of late 2011, no authorization to invest more than 49% had been granted.

4.252. Fees for airport and ancillary services must be registered with the SCT. Thirty days before the application of such fees, concession holders must file the corresponding application, and the SCT may request additional information, reject the registration within ten working days, or else accept the registration within 15 working days. Provided they do not exceed the registered rates, concession holders are authorized to set fees at their discretion. At the same time, the SCT has the power to regulate the fees of those services, requesting a prior opinion from the CFC as to the existence of reasonable conditions of competition in service provision. The SCT may act on its own initiative or at the request of the affected party.

4.253. Pursuant to the Civil Aviation Law and its Regulations, the provision of scheduled public air transport services on domestic routes for passengers, cargo and mail (cabotage) requires a concession granted by the SCT, which is reserved for firms (legal persons) that are at least 75% Mexican-owned. Article 7 of the Foreign Investment Law allows foreign firms to hold up to 25% of the capital (see Chapter 2.4).<sup>231</sup> Once the concession has been obtained, the firms may apply for permits to operate scheduled services on international routes.<sup>232</sup>

4.254. Non-scheduled domestic and international services (not restricted to specific routes or schedules) can be provided by Mexican and foreign firms that have obtained the corresponding operating permit. Scheduled international services can be provided by national concession-holders and by foreign permit-holding companies, subject to the provisions of international treaties signed for these purposes with the destination countries; or otherwise, in both cases, under unilateral authorizations subject to certain terms and conditions.<sup>233</sup> Lastly, unscheduled international services are open to firms of any origin, whereas private commercial air transport services can be provided by Mexican or foreign persons or firms, subject to obtaining a permit.

4.255. The Civil Aviation Law authorizes operators to set the prices for the air transport services they provide, provided conditions of quality, competitiveness, safety, and permanency are fulfilled. International tariffs require explicit approval from the SCT, pursuant to the provisions of current international treaties. As in the case of airport services, all tariffs must be registered with the SCT before they are applied. The organization may accept their registration or reject them, or else set minimum or maximum rates to promote competition.

4.256. Since 2007, Mexico has signed seven new bilateral agreements on civil aviation with Uruguay, Jamaica, the European Union, India, Australia, Paraguay and the United Arab Emirates. In total, 46 agreements have been signed, 12 of them with Asian countries, 19 with countries of the Americas and the Caribbean, and 15 with European countries. The authorities noted that these bilateral agreements have been negotiated on the basis of strict reciprocity and with the aim of establishing a regulatory framework that gives the airlines of both Mexico and those countries the flexibility to establish direct flights between them. In addition to the aforementioned agreements, frequency restrictions between Mexico and Brazil have also been lifted, except in relation to the São Paulo and Mexico City airports, although the authorities clarified that this is not an open-skies agreement.<sup>234</sup> Current legislation does not allow agreements establishing full liberalization of the air transport sector. This was confirmed during the current review by the Mexican authorities, who stressed that Mexican aeronautical policy is not open-skies; and that if international treaties are being made more flexible, this is to satisfy existing demand.

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<sup>231</sup> Article 7 (II) Foreign Investment Law, the most recent amendment of which was published in the Official Journal of 9 April 2012.

<sup>232</sup> Under Mexican legislation, concessions are granted only to Mexican enterprises (legal persons). Permits are granted to natural persons, flights and other non-scheduled services and foreign aviation companies.

<sup>233</sup> Unilateral authorization is granted pending ratification of the bilateral convention.

<sup>234</sup> Press briefing by the National Civil Aviation Agency (ANAC). Viewed at: [http://www.anac.gov.br/Noticia.aspx?ttCD\\_CHAVE=153&slCD\\_ORIGEM=0](http://www.anac.gov.br/Noticia.aspx?ttCD_CHAVE=153&slCD_ORIGEM=0).

#### 4.5.4 Maritime transport and ports

##### 4.5.4.1 Main features

4.257. Maritime transport is the second most widely used transport mode in Mexico's international trade, accounting for roughly 29% of the total volume traded in 2011. The volume of cargo that passes through the country's ports remained broadly stable during the review period, growing on average by 0.4% per year between 2007 and 2011. Of the 283 million tonnes transported by water in 2011, 70.4% involved high-sea transport, distributed between imports (39%) and exports (61%).<sup>235</sup> Container traffic grew at a rate of around 8% on average during the period.

4.258. Mexico has 102 ports and 15 out-of-port terminals, of which 58 are located on the Pacific coast and 59 on the Gulf of Mexico and Caribbean coast; 69 ports are for high-sea transport and 117 for cabotage. Considering their main activity, 45 ports are commercial, 34 are tourist ports, 21 are oil ports and 52 are fishing ports.<sup>236</sup> Oil and petroleum products account for nearly half of high-sea transport, which mainly passes through the ports located on the Gulf of Mexico (Cayo Arcas and Coatzacoalcos). The most important cargo terminals, excluding oil transport, are currently Lázaro Cárdenas, Manzanillo, Veracruz, Altamira and Isla de Cedros, which jointly transported 67% of cargo in 2011.<sup>237</sup>

4.259. The Integrated Port Authorities (APIs) are commercial enterprises, either public or private, under autonomous management that receive a concession from the SCT to use, operate, and commercially exploit the assets in port premises.<sup>238</sup> Sixteen APIs are currently managed by the federal government (through the SCT), six are run by state governments, five by municipal governments, three by the National Tourism Development Fund (FONATUR), and one is operated by private investors. All Mexican ports remain state-owned. Although there are no plans to privatize other APIs, the private sector operates the main services provided in them, through concessions, transfers, or permits.

4.260. Total investment in port infrastructure and equipment grew by 30% between 2007 and 2011, to reach an annual average of Mex\$8,138 million (US\$636 million), with cumulative investment between January 2007 and June 2012 totalling Mex\$45,586.3 million. The amount of investment only decreased from one year to the next in 2009, in line with the contraction in economic activity. The amount invested throughout the period was Mex\$1.9 billion (US\$148 million), however, which was less than the annual investment requirements specified by the 2007-2012 National Infrastructure Programme.<sup>239</sup> The balance between public and private investment reversed over the period: whereas the State contributed 37% in 2007, by 2011 it was the source of 62.5% of the total. Most of the corresponding public funds were channelled through the APIs (64% approximately).

4.261. In 2012, the port infrastructure investment programme amounted to Mex\$8,873.3 million, 60.6% of which is public investment (MexUS\$5,378.4 million) and 39.4% private (Mex\$3,494.9 million). As of the first half of 2012, Mex\$4895.1 million had been spent, representing 55.2% of the target for the year. The public sector contributed 43.4% (Mex\$2,122.9 million), and the private sector 56.6% (Mex\$2,772.2 million).

4.262. In comparative terms, the quality of Mexico's port infrastructure has not changed since the last review. The World Economic Forum ranked it 64<sup>th</sup> among 144 countries in its 2012 report, the same as in 2006. Nonetheless, quality has improved in absolute terms, because the grading rose from 3.4 to 4.3 points.<sup>240</sup> During the review period, a port was built in Cuyutlán, Manzanillo to receive vessels arriving at the CFE liquefied natural gas terminal. This involved an investment of US\$4,586 million (US\$358 million), wholly financed out of public funds. In addition, specialized terminals were built in five ports for the exportation of specific products; and work began on

<sup>235</sup> Office of the President of the Republic (2012), Statistical Annex.

<sup>236</sup> Some ports undertake two or more activities. Ministry of Communications and Transport (2012).

<sup>237</sup> Office of the President of the Republic (2012), Statistical Annex.

<sup>238</sup> According to Chapter 4 (Concessions and Permits) and 5 (Integrated Port Administration) of the Ports Law, published in the Official Journal of 19 July 1993, and amended most recently on 11 June 2012. Viewed at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/65.pdf>.

<sup>239</sup> Office of the President of the Republic (2007b).

<sup>240</sup> World Economic Forum (2012).

building a new port in Seybaplaya, Campeche.<sup>241</sup> Dredging, breakwater and sea wall protection work was undertaken, and in 11 mooring berths and 115 fishing jetties were constructed to support the tourism industry. Between 2007 and June 2012, five new jetties were built for cruise liners in the ports of Manzanillo (1), Mazatlán (1), Guaymas (1) and Puerto Vallarta (2), thereby increasing installed capacity to receive latest-generation cruiser liners. The public investment for this amounted to Mex\$636 million (about US\$49 million).

4.263. The federal government, acting through the Ministry of Communications and Transport (SCT) and the Ministry of the Economy (SE), and with collaboration from the Inter-American Development Bank (IDB), has established a nationwide public logistics policy; and a study for the National Logistics Platform system was being finalized in late 2012. The policy consists of promoting a National Logistics Platform System in Mexico with the following aims: promote the integration and conductivity of logistics projects; form strategic projects for infrastructure development and logistics services with a long-term vision; promote the competitiveness of Mexico's logistics infrastructure; and develop logistics infrastructure and the services needed to facilitate industrial and commercial activities in both the domestic market and international trade.

4.264. In 2011, 79 shipping lines (three Mexican and 76 foreign) were providing high-sea transport services from or to Mexican ports. The leading Mexican shipping line with vessels of more than 1,000 gross registered tonnage (GRT) is *Petróleos Mexicanos*, which had 59 ships in 2010. According to figures published in the *Maritime Transport Statistical Yearbook 2010*, Mexico's national merchant fleet consisted of 150,689 vessels in that year: 148,239 of less than 100 GRT, 1,787 of between 100 and 500 GRT, 187 with a capacity of between 501,000 GRT, and 476 ships with a capacity greater than 1,000 GRT.<sup>242</sup> In terms of the type of service provided by vessels of over 100 GRT, 452 were for high-seas navigation, 1,638 were used for cabotage, and 360 operated on inland waterways. According to preliminary data for October 2012, 484 vessels provided high-seas, 1621 cabotage and 412 inland waterway services. In the case of international trade using maritime transport, exports in 2011 amounted to 125.7 million tonnes, and imports totalled 80.6 million tonnes. Of total exports, 95.8 million tonnes were sent to other American countries, 20.4 million tonnes to Asia, and 9.9 million tonnes to Europe. On the import side, 51.5 million tonnes came from other American countries, 14.5 million tonnes from Asia, and 7.7 million tonnes from Europe.<sup>243</sup>

#### 4.5.4.2 Regulatory framework

4.265. The regulations governing maritime transport activities are contained in several articles of the Constitution; in the Ports Law of 1993, published in the D.O.F. of 19 July 1993, and its amendments, and its regulations of 1994, published in the D.O.F. of 21 November 1994; and in the 2006 Shipping and Maritime Trade Law, published in the D.O.F. of 1 and June 2006, and the Shipping Law Regulations published in the D.O.F. of 16 November 1998.<sup>244</sup> The draft of new regulations to the Shipping and Maritime Trade Law was being finalized for publication in the D.O.F. in November 2012. The SCT supervises the activity through the General Coordinating Office for Ports and the Merchant Marine, which includes the Directorates-General of Ports, Merchant Marine, and Port Development Administration. It is therefore responsible for formulating and implementing policies for the development of Mexico's maritime transport and port system. The SCT also has responsibility for managing concessions for integrated port management, as well as for constructing or operating terminals or providing port services outside the remit of API concessions.

4.266. The 2006 Shipping and Maritime Trade Law defined new rules on foreign participation in maritime cabotage. Under this legislation, the provision of cabotage services is reserved for Mexican shipowners, unless there are no Mexican vessels available under similar technical conditions. The SCT may only grant temporary permits to Mexican shipowners with a foreign

<sup>241</sup> Office of the President of the Republic (2012).

<sup>242</sup> Ministry of Communications and Transport (2011).

<sup>243</sup> Ministry of Communications and Transport (2011).

<sup>244</sup> The most recent amendments to the Ports Law and its regulations were published in the Official Journal of 11 June 2012 and 8 August 2000 respectively. The most recent amendment of the Shipping and Maritime Trade Law was published in the Official Journal of 26 May 2011, although there have been no major amendments since its promulgation in 2006.

vessel under a bare-boat charter, or to a Mexican shipowner with a foreign vessel under a charter arrangement. Nonetheless, the law no longer allows the SCT to issue permits directly to foreign shipowners. The temporary permits are valid for three months and can be renewed for the same vessel up to seven times. Lastly, persons holding a temporary permit to operate a foreign vessel and intending to remain in Mexican waters for at least two years from the date of issuance of the original temporary permit, must register the vessel under the Mexican flag before that period expires.

4.267. Reforms made to the Ports Law in 2012, and published in the D.O.F. of 11 June 2012, basically aim to enhance the productivity and competitiveness of Mexican ports, and to promote and give legal certainty to private investments intended for the modernization, expansion and the technological updating of the country's ports and infrastructure. The authorities stated that the most important reforms related to the powers of the port authority, such as promoting competitiveness of Mexico's ports in terms of facilities, services, and prices; encouraging more efficient interconnection between the different types of transport service that converge in national ports; and ensuring that services to vessels, persons and goods transiting between ports or other points in the country, are provided as efficiently as possible.<sup>245</sup> The reform also envisages intervention by the Federal Competition Commission in relation to the bases for tariff-setting should there be just one terminal in a given port, or a terminal dedicated to handling certain cargoes, or a single service provider. It also gives the authority a new power to oversee all process for improvement, implementation of quality procedures, or service provision, in Mexican ports operated under an API.

4.268. Foreign investment is limited to a maximum of 49% of total capital in some maritime transport activities, such as inland waterway and cabotage services, as well as the APIs (see Chapter 2.4). Tourist cruise liners and certain port operations such as dredging are not subject to this rule, while foreign firms providing port services for inland waterway operations can exceed the 49% limit with the approval of the Foreign Investment Commission. The same rule applies for shipping companies engaged exclusively in high-seas traffic. The DGIE stated that no such authorizations had been granted since 2007.

4.269. Foreign shipping companies and vessels from any country may participate in international maritime (high-seas) transport activities, provided their country of origin grants reciprocal treatment to Mexico. Nonetheless, the Shipping and Maritime Trade Law of 2006 makes it possible to reserve certain international transport activities wholly or partly for Mexican shipping companies, should the CFC decide that competition is lacking in that particular market. As regards the hiring of merchant navy personnel, Mexico adopted the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, in the IMO framework, which aims to define the minimum requirements applicable to the certification of captains and other officers serving onboard vessels, and which, based on the convention, have signed memoranda of understanding for mutual recognition between Mexico and other countries to ensure that Mexico's naval personnel can work onboard a vessel of another nationality and vice versa. Nonetheless, there is a limitation to the effect that no foreign national may hold any post or commission or serve as crew on any Mexican merchant marine vessel, as stipulated in Article 32 of the Political Constitution of the United Mexican States.

4.270. The freight rates for regular high-seas shipping services and port service charges are fixed freely by the service providers, except in the absence of reasonable competition, when the SCT establishes the basis for price regulation and fixes the levels of payment and rules of application. Such is the case with the fees charged by the APIs for the use of port infrastructure, and for some services such as pilotage, towing and ferrying. The concession titles of the APIs have maximum tariff levels established for certain services. The rates for tourism activities are not regulated but must be registered with the SCT.

4.271. Mexico has signed up to the International Maritime Organization's International Ship and Port Facility Security (ISPS) Code. The authorities have indicated that the ISPS Code is in force in all the country's high-seas ports.

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<sup>245</sup> Article 16, fractions II, II *bis* and II *ter* of the Port Law. Viewed at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/65.pdf>.

4.272. Mexico has not assumed any specific commitments on maritime transport services within the framework of the GATS. The sector has been included in most of the free trade agreements signed by Mexico.

4.273. Mexico has a National Merchant Marine Development Fund (FONDEMAR), which exists to enable Mexico's merchant fleet to grow, renew, and gradually modernize, by facilitating access to national and international credit for the purchase, construction, maintenance, and modernization of vessels for maritime traffic, where the fund supports Mexican shipowners by guaranteeing loans obtained and optimizing use of the fund's resources. FONDEMAR has national coverage, and its beneficiaries are shipowners or shipping companies and firms engaged in the construction and repair of Mexican ships and/or shipping equipment, established with majority Mexican ownership and a minimum operating lifetime of at least three years, seeking support from FONDEMAR. The funds operating rules were published in the D.O.F. of 24 September 2012.<sup>246</sup>

4.274. The support provided by FONDEMAR is used to finance the construction of vessels and shipping equipment, both in Mexico and abroad, the rehabilitation and purchase of vessels, and investment and working capital projects, according to an order of priority stipulated in its operating regulations.<sup>247</sup> If requested by the beneficiaries, FONDEMAR will provide loan guarantees through its lending institution for up to 50% of the total amount of the credit authorized or contracted by the beneficiary, to a maximum of US\$5 million or the equivalent thereof in local currency. Should the credit guarantee exceed one of these limits, the Directorate-General of Merchant Marine will analyse the specific case in the light of the use the beneficiary intends for the resources, to decide whether or not it should proceed.

#### 4.5.5 Professional services

4.275. Within the GATS framework, Mexico assumed specific commitments under four professional services headings: accounting, auditing and bookkeeping; consultancy and technical studies for architecture, consultancy and technical services for engineering, and medical and dental services, for which free cross-border supply and consumption abroad are allowed in all cases. With regard to commercial presence, foreign investment up to 100% in architectural and engineering services and up to 49% in medical and dental services and accounting services was bound; foreign accounting companies must use the name of their Mexican partners.<sup>248</sup> Mexico did not assume any commitments in the area of legal services.

4.276. Under Article V, Mexico has notified its preferential agreements relating to services that contain provisions concerning the negotiation of agreements on the mutual recognition of certificates of competency and licences for the provision of professional services. Nonetheless, no notifications have been received under Article VII.4 concerning the mutual recognition agreements that Mexico has signed.

4.277. During the review period, Mexico signed new agreements on the Mutual Recognition of Study Certificates, Degrees and Academic Qualifications with the People's Republic of China, Paraguay and Guatemala.<sup>249</sup> These follow the agreement signed with Uruguay in 2006<sup>250</sup>,

<sup>246</sup> The operating regulations of the Fund for the Development of the Mexican Merchant Marine can be 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).

<sup>247</sup> According to its operating regulations, the support provided by FONDEMAR can be classified in the following categories and subcategories, to be applied in order of priority: Category I: Construction of vessels and shipping equipment to be operated under the Mexican flag: Subcategory I.I: Vessels and shipping equipment constructed in Mexico; and Subcategory I.II: Vessels and shipping equipment constructed abroad; Category II: Modernization of vessels and shipping equipment registered as Mexican: Subcategory II.I: Refurbishment: (a) in Mexico; and (b) abroad; Subcategory II.II: Equipping: (a) in Mexico; and (b) abroad; Subcategory II.III: Technological improvement: (a) in Mexico; and (b) abroad; Category III: Purchase of vessels and shipping equipment to be operated under the Mexican flag: Subcategory III.I: Vessels and shipping equipment of recent construction; Subcategory III.II: Vessels and shipping equipment no older than 15 years, which fulfil the provisions of the 1973 International Convention for the Prevention of Pollution from Ships, as amended by the 1978 Protocol (MARPOL); Category IV: Investment projects that fulfil FONDEMAR objectives, relating to: Subcategory IV.I: Working capital; Subcategory IV.II: Creation and development of infrastructure in shipyards; Subcategory IV.III: Environmental improvement and ecological impact; Subcategory IV.IV: restructuring of liabilities.

<sup>248</sup> WTO document GATS/SC/56 of 15 April 1994.

<sup>249</sup> Published in the Official Journal of 22 June 2011, 30 March 2010 and 21 January 2008, respectively.

<sup>250</sup> Published in the Official Journal of 2 June 2006.

Colombia in 2002<sup>251</sup>, and the Regional Agreement on the Accreditation of Higher Education Studies, Degrees and Diplomas in Latin America and the Caribbean (1975)<sup>252</sup>, to which Mexico is a party. In addition, in the NAFTA framework, mutual recognition agreements have been established for the professions of accountancy, engineering and architecture.

4.278. In Mexico, the practice of professions is regulated at both the federal and state levels. An indispensable requirement for practising a regulated profession is to be the holder of a *cédula profesional* (licence) issued by the Ministry of Public Education (SEP).<sup>253</sup> Apart from the professional diploma recognized by the SEP the main requirement for obtaining a licence is to have completed a "social service".

4.279. Article 5 of the Constitution gives each state in the Federation discretion to determine the professions that require a diploma, along with the conditions that must be fulfilled to obtain such a diploma and the authorities responsible for issuing it. Consequently, the professions that require a diploma vary from one federative entity to another. In the Federal District, the exercise of professions is governed by the Law Regulating Article 5 of the Constitution, passed by the Congress of the Union.<sup>254</sup> The main professions subject to this requirement include: law, architecture, medicine, nursing, chemistry, bacteriology, biology, social and political sciences, anthropology, journalism, accountancy, teaching, economics, computer science, engineering, mathematics, and the professions of aircraft pilot and social worker.

4.280. The diplomas issued by institutions authorized by state and federal laws must be registered in order to obtain a licence to practice. Article 13 of the Law Regulating Article 5 of the Constitution stipulates that the Federal Executive may conclude agreements with the states in order to harmonize professional registration. The Mexican authorities have noted that as a result of the signature of such agreements the Directorate-General of Professions of the SEP has been given the exclusive authority to issue licences with nationwide validity.

4.281. The following professional and technical services are reserved for Mexican citizens: aircraft pilot, ship's captain, first mate, naval architect, ship's engineer; crews of Mexican-flag ships and aircraft; airport manager, harbour pilot, customs broker, and train crews.<sup>255</sup>

4.282. Foreigners may register diplomas obtained abroad and apply for a licence to practise a profession, provided there is reciprocal treatment between Mexico and their country of origin. The main requirements are proof of their right of stay in the country or the corresponding migration document, and presentation of the following documents: an official letter confirming the revalidation of the professional studies issued by the SEP; a diploma certified by the country of origin and by the Mexican consulate in the issuing country; and a certificate of exemption from social service or an equivalent letter issued in the country where the studies were pursued.<sup>256</sup>

4.283. The social service requirement also applies to foreigners and Mexicans who have studied abroad. Nonetheless, in recent years, a number of alternatives have been provided to make the requirement more flexible, such as exempting foreign nationals whose countries of origin do not have a similar requirement. In addition, persons who have undertaken a social service in their country of origin do not have to fulfil the requirement in Mexico.<sup>257</sup> Foreign health professionals receive their professional permit once the Ministry of Health has confirmed the social service rendered with the Directorate-General of Professions of the SEP, or determined the place and the form in which this service will be performed.

<sup>251</sup> Published in the Official Journal of 22 April 2002.

<sup>252</sup> In addition to Mexico, this Agreement encompasses the following countries: the Plurinational State of Bolivia, Colombia, Cuba, El Salvador, Slovenia, the Former Yugoslav Republic of Macedonia, Nicaragua, the Netherlands, Panama, Peru, the Vatican, Serbia and Montenegro, Suriname and the Bolivarian Republic of Venezuela.

<sup>253</sup> The *cédula profesional* is the personal document authorizing professional practice.

<sup>254</sup> Law regulating Article 5 of the Constitution concerning the practice of professions in the Federal District, published in the D.O.F. 26 of May 1945 (most recent amendment published on 22 December 1993).

<sup>255</sup> Article 32 of the Constitution, and Article 25 of the Maritime Navigation and Commerce Law published in the Official Journal of 1 June 2006.

<sup>256</sup> The requirements can be viewed on the SEP website at: <http://www.sep.gob.mx>.

<sup>257</sup> Article 3 of the Regulations governing the provision of social service by students of higher education institutions in the Mexican Republic, published in the Official Journal of 30 March 1981.

4.284. Both foreigners and Mexicans who studied abroad must revalidate their diplomas with the SEP in order to obtain a professional licence.<sup>258</sup> SEP Decision No. 286 establishes the criteria for the revalidation of studies completed abroad; to qualify for this, higher education courses must be at least 75% equivalent to those existing in the Mexican education system. In the case of foreigners, account will also be taken of reciprocal treatment granted by the country in which the studies were completed to studies completed in Mexico, and the international accreditation of the educational institution attended.<sup>259</sup>

4.285. Foreigners may practise a profession in Mexico provided they satisfy the conditions specified in the Law Regulating Article 5 of the Constitution and subject to the international treaties to which Mexico is party.<sup>260</sup> Apart from the FTA with Israel, Mexico's free trade agreements include provisions on cross-border trade in services and subject the provision of professional services to the principle of reciprocity. Apart from those with Israel, the United States and the European Free Trade Area (EFTA), all the FTAs contain provisions for eliminating nationality or permanent residence requirements for the granting of licences and certificates to professional service providers of the other Party, as well as for negotiating agreements on the mutual recognition of licences and certificates for the provision of such services.

4.286. If there is no relevant agreement, the practice of professions by foreigners is subject to the principle of reciprocity in the applicant's country of origin and compliance with the Mexican legislation.<sup>261</sup> The authorities stated that that the countries granting Mexico reciprocity in the practice of professions are: Argentina, the Plurinational State of Bolivia, Brazil, Colombia, Cuba, Dominican Republic, Guatemala, Nicaragua, and Peru. Reciprocity means that the country from which the applicant comes does not impose greater requirements on Mexicans than on its own citizens.

4.287. Foreign lawyers can obtain licences to practise in Mexico provided there is a relevant agreement between Mexico and their country of origin. If there is no such agreement, the foreigner must revalidate his/her studies, meet the requirements laid down by Mexican law and show that the principle of reciprocity applies. If a foreign lawyer obtains revalidation of his/her studies and is authorized to practise in Mexico, he/she may only advise on Mexican or international law.

4.288. In general, only lawyers with a licence to practise in Mexico may participate in a law office established on Mexican territory. Nevertheless, provided it is stipulated in the professional services provisions of an FTA, and subject to the principle of reciprocity, lawyers of the country with which the agreement has been signed who have a licence to practise in that country may enter into partnerships with lawyers with a Mexican licence to practise in the national territory. A favourable resolution from the National Foreign Investment Commission is required for a foreign investment in legal services of more than 49%.

4.289. Some FTAs signed by Mexico provide for the role of a legal consultant through whom lawyers of the country with which an agreement has been signed may provide consultancy services with respect to the laws of their own country, or international law, or the law of a third country. However, foreign legal consultants may not advise on Mexican law.

4.290. According to information provided by Mexico to the WTO Working Group on Professional Services, to practise accountancy in Mexico, as in the case of other professions, foreign accountants must revalidate their studies and obtain a licence issued by the SEP. In regulated areas of accountancy, such as the auditing of financial statements for tax purposes, foreign professionals may practise in the national territory on condition that this possibility is provided for

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<sup>258</sup> Article 9 of the Law regulating Article 5 of the Constitution concerning the practice of professions in the Federal District, published in the Official Journal 26 of May 1945 (most recent amendment published on 22 December 1993).

<sup>259</sup> Guidelines 25 and 35 of SEP Decision 286, Published in the Official Journal of 30 October 2000.

<sup>260</sup> Article 15 of the Law regulating Article 5 of the Constitution concerning the practice of professions in the Federal District. Most state laws contain a similar provision.

<sup>261</sup> Article 15 of the Law regulating Article 5 of the Constitution concerning the practice of professions in the Federal District. Most state laws contain a similar provision.



in an international treaty.<sup>262</sup> There are no restrictions on the mode of establishment or direct foreign ownership of a company providing accountancy services in Mexico.<sup>263</sup>

4.291. With regard to engineering services, Mexico is participating in the development of regional-level professional qualification accreditation schemes that facilitate the provision of these services by foreign engineers. For example, within the NAFTA framework, procedures have been agreed upon for granting temporary licences that allow engineers accredited in any of the three countries party to the Agreement to practise in Canada (all provinces), Mexico (all states) and the United States (Texas). Mexico is also a signatory to the Latin American Agreement on Accreditation in Engineering (ALAI), which supplements the Montevalbán Declaration of 2001 and the Tlaxcala Declaration of 2010, and aims to establish systems for the accreditation of engineers, with a view to mutual recognition allowing for labour mobility between the countries concerned.<sup>264</sup>

4.292. There are no restrictions on the participation of foreigners in engineering consultancy partnerships legitimately established as Mexican enterprises in accordance with national legislation, except for engineering activities that are regulated by Articles 7 and 8 of the Foreign Investment Law (see Chapter 2.4.2).

4.293. Professional societies and associations issue opinions on laws and regulations relating to the practice of their profession, and on the corresponding study plans, to ensure the quality of professional practice in the different professional areas. Nonetheless, there is no requirement to belong to the professional college to be able to practise the profession. The colleges and associations also participate in the work of the Mexican Committees for the International Practice of the Professions (COMPIS), created to negotiate agreements for the mutual recognition of licences and certificates for the practice of professions in the NAFTA framework.

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<sup>262</sup> Article 52, fraction I, subparagraph b) of the Tax Code of the Federation.

<sup>263</sup> WTO document S/WPPS/W/7/Add.20 of 16 October 1996.

<sup>264</sup> The Tlaxcala Declaration was signed on 18 March 2010, and the ALAI was signed as part of the *Ingeniería 2010 Argentina* event. Its signatories are Argentina, the Plurinational State of Bolivia, Brazil, Chile, Central America (through the Central American Accreditation Agency for Architecture and Engineering), Colombia, Mexico and Paraguay.

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## 5 APPENDIX TABLES

Table A1.1 Merchandise exports by product category (SITC Rev.3), 2006-2011

(US\$ million and %)

Description	2006	2007	2008	2009	2010	2011
<b>Total (US\$ million)</b>	<b>249,961</b>	<b>271,821</b>	<b>291,265</b>	<b>229,712</b>	<b>298,305</b>	<b>349,569</b>
	(% of exports)					
Total primary products	23.6	24.1	25.7	23.0	23.0	26.4
Agriculture	5.8	5.7	5.9	7.2	6.3	6.6
Food	5.4	5.3	5.5	6.9	5.9	6.2
0545 Other fresh or chilled vegetables	0.8	0.8	0.7	0.9	0.8	0.7
0544 Tomatoes, fresh or chilled	0.4	0.4	0.4	0.5	0.5	0.6
1123 Beer made from malt (including ale, stout and porter)	0.7	0.7	0.6	0.8	0.6	0.6
0579 Fruit, fresh or dried, n.e.s.	0.4	0.5	0.5	0.6	0.5	0.5
Agricultural raw materials	0.4	0.4	0.4	0.3	0.4	0.4
Mining	17.8	18.4	19.9	15.8	16.7	19.8
Ores and other minerals	1.0	1.1	1.2	1.1	1.3	1.6
2831 Copper ores and concentrates	0.1	0.1	0.1	0.1	0.2	0.3
2882 Other non-ferrous base metal waste and scrap, n.e.s.	0.3	0.3	0.4	0.3	0.3	0.3
2874 Lead ores and concentrates	0.0	0.0	0.0	0.1	0.1	0.3
Non-ferrous metals	1.4	1.6	1.4	1.4	1.6	2.2
6811 Silver (including base metals clad with silver), unwrought, unworked or semi-manufactured	0.5	0.5	0.6	0.6	0.9	1.3
6821 Copper, refined and unrefined; copper anodes for electrolytic refining; copper alloys, unwrought	0.2	0.3	0.2	0.2	0.2	0.4
Fuels	15.5	15.7	17.2	13.3	13.8	15.9
3330 Petroleum oils and oils obtained from bituminous minerals, crude	13.9	14.0	14.9	11.2	12.0	14.1
Manufactures	75.7	71.7	72.9	74.7	74.5	70.7
Iron and steel	1.7	1.7	2.1	1.3	1.5	1.6
Chemicals	3.5	3.7	3.9	4.4	4.0	4.1
5429 Medicaments, n.e.s.	0.4	0.3	0.3	0.4	0.3	0.4
5743 Polycarbonates, alkyd resins and other polyesters	0.2	0.2	0.2	0.2	0.2	0.3
Other semi-manufactures	4.4	4.3	4.0	4.1	3.7	3.7
6991 Locksmiths' wares, safes, strongboxes, etc., and hardware, n.e.s., of base metal	0.7	0.7	0.5	0.5	0.4	0.4
Machinery and transport equipment	54.1	51.3	52.8	54.0	55.6	52.6
Power-generating machinery	1.6	1.6	1.6	1.7	1.6	1.5
7163 Motors (other than motors of an output not exceeding 37.5 W) and generators, alternating current	0.7	0.6	0.5	0.5	0.5	0.5
Other non-electrical machinery	4.8	4.8	4.9	4.8	5.0	4.9
7415 Air-conditioning machines comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated; parts thereof	0.6	0.5	0.4	0.4	0.4	0.5
7436 Filtering or purifying machinery and apparatus, for liquids or gases	0.3	0.4	0.5	0.4	0.4	0.4
7414 Refrigerators, freezers and other refrigerating or freezing equipment (electric or other), other than household-type refrigerators and freezers; parts of refrigerators	0.3	0.3	0.4	0.4	0.4	0.4
Agricultural machinery and tractors	0.2	0.1	0.2	0.2	0.2	0.2
Office machines and telecommunications equipment	18.6	17.3	19.3	21.5	20.3	17.1
7611 Television receivers, colour (including video monitors and video projectors), whether or not incorporating radio-broadcast receivers or sound or video-recording or reproducing apparatus	6.7	7.5	7.7	7.8	6.8	5.3

Description	2006	2007	2008	2009	2010	2011
7523 Digital processing units, whether or not presented with the rest of a system, which may contain in the same housing one or two of the following types of unit: storage units	1.1	1.3	1.3	2.0	2.8	3.2
7643 Transmission apparatus for radio	2.8	2.9	3.1	4.3	3.3	2.1
Other electrical machinery	10.0	9.0	9.0	8.7	8.3	7.7
7731 Insulated (including enamelled or anodized) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables ...	3.2	2.8	2.6	2.2	2.3	2.3
Automotive products	17.1	16.5	15.8	15.7	18.7	19.4
7812 Motor vehicles for the transport of persons, n.e.s.	7.0	6.9	7.4	6.5	7.7	7.6
7843 Other parts and accessories of the motor vehicles of groups 722, 781, 782 and 783	4.6	4.3	4.0	4.0	4.6	4.8
7821 Motor vehicles for the transport of goods	3.4	3.3	2.5	2.8	3.5	3.6
7832 Road tractors for semi-trailers	0.5	0.4	0.5	1.0	1.1	1.6
Other transport equipment	2.0	2.2	2.0	1.6	1.8	2.1
Textiles	0.9	0.8	0.7	0.7	0.6	0.6
Articles of apparel and clothing accessories	2.5	1.9	1.7	1.8	1.5	1.3
8414 Men's or boys' trousers, bib and brace overalls, breeches and shorts of textile fabrics, not knitted or crocheted	0.7	0.6	0.5	0.6	0.5	0.4
Other consumer goods	8.5	8.0	7.7	8.4	7.6	6.9
8722 Instruments and appliances used in medical, surgical or veterinary sciences (including sight-testing instruments but excluding electro-diagnostic and radiological instruments and apparatus)	1.2	1.2	1.3	1.6	1.4	1.2
8211 Seats (other than those of heading 872.4), whether or not convertible into beds, and parts thereof	1.5	1.3	1.1	1.0	1.1	1.1
Other	0.7	4.2	1.4	2.3	2.5	2.9
Gold	0.4	0.6	0.9	1.8	2.0	2.3

Source: WTO Secretariat estimates, based on data from the Comtrade database (SITC Rev.3).

**Table A1.2 Merchandise imports by product category (SITC Rev.3), 2006-2011**

(US\$ million and %)

Description	2006	2007	2008	2009	2010	2011
<b>Total (US\$ million)</b>	<b>256,086</b>	<b>281,927</b>	<b>308,583</b>	<b>234,385</b>	<b>301,482</b>	<b>350,842</b>
	(% of imports)					
Total primary products	16.0	17.7	20.8	17.6	18.5	21.3
Agriculture	7.2	7.8	8.4	8.6	7.8	8.3
Food	5.9	6.5	7.1	7.4	6.5	7.0
0449 Other maize, unmilled	0.4	0.5	0.8	0.6	0.5	0.8
2222 Soya beans	0.4	0.4	0.6	0.6	0.5	0.5
0412 Other wheat (including spelt) and meslin, unmilled	0.3	0.3	0.4	0.3	0.3	0.4
0123 Meat and edible offal of the poultry of subgroup 001.4, fresh, chilled or frozen	0.2	0.2	0.2	0.3	0.3	0.3
2226 Rape, colza and mustard seeds	0.1	0.2	0.3	0.2	0.2	0.3
0122 Meat of swine, fresh, chilled or frozen	0.2	0.2	0.2	0.3	0.3	0.3
0111 Meat of bovine animals, fresh or chilled	0.4	0.4	0.4	0.3	0.3	0.3
Agricultural raw materials	1.4	1.3	1.3	1.3	1.3	1.3
2631 Cotton (other than linters), not carded or combed	0.2	0.2	0.2	0.2	0.2	0.2
2515 Chemical wood pulp, soda or sulphate, other than dissolving grades, semi-bleached or bleached	0.2	0.2	0.2	0.2	0.2	0.2
Mining	8.8	9.9	12.4	9.0	10.7	13.0
Ores and other minerals	0.9	0.8	0.9	0.6	0.7	0.7
Non-ferrous metals	2.2	2.2	2.0	1.7	2.0	2.3
6842 Aluminium and aluminium alloys, worked	0.7	0.7	0.6	0.6	0.6	0.9
6841 Aluminium and aluminium alloys, unwrought	0.5	0.4	0.4	0.3	0.4	0.4
Fuels	5.7	6.9	9.5	6.7	8.0	10.0
334 Petroleum oils and oils obtained from bituminous minerals (other than crude)	3.7	4.9	6.8	5.0	6.1	7.9
3432 Natural gas, in the gaseous state	0.7	0.6	0.9	0.5	0.5	0.6
Manufactures	82.6	76.3	77.6	80.4	79.5	76.5
Iron and steel	3.0	2.8	3.2	2.6	2.8	2.7
Chemicals	10.7	10.7	11.0	11.8	11.3	11.3
5429 Medicaments, n.e.s.	0.8	0.7	0.8	1.0	0.8	0.8
5112 Cyclic hydrocarbons	0.5	0.6	0.6	0.6	0.6	0.7
Other semi-manufactures	8.2	7.8	7.1	7.2	7.1	7.0
6996 Articles of iron or steel, n.e.s.	0.9	0.9	0.8	0.8	0.8	0.7
6942 Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel	0.6	0.6	0.5	0.5	0.6	0.6
Machinery and transport equipment	47.7	42.2	44.6	47.0	47.2	45.3
Power-generating machinery	1.3	1.1	1.2	1.4	1.4	1.4
Other non-electrical machinery	8.8	8.9	8.8	8.8	8.1	8.2
7284 Machinery and mechanical appliances specialized for particular industries, n.e.s.	0.8	0.9	0.7	0.7	0.6	0.6
7431 Air or vacuum pumps, air or other gas compressors, ventilating or recycling hoods (other than cooker hoods) incorporating a fan	0.4	0.4	0.4	0.5	0.4	0.5
Agricultural machinery and tractors	0.2	0.2	0.2	0.2	0.2	0.2
Office machines and telecommunications equipment	16.6	12.2	15.5	19.0	18.9	17.1
7649 Parts and accessories suitable for use solely or principally with the apparatus of division 76	4.1	3.3	4.6	5.9	5.5	4.4
7764 Electronic integrated circuits and microassemblies	3.7	1.6	2.8	3.4	3.6	3.6
7599 Parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with the machines of subgroups 751.1, 751.2, 751.9 and group 752	1.9	1.4	0.9	1.4	1.8	1.5



Description	2006	2007	2008	2009	2010	2011
Other electrical machinery	8.5	7.8	7.6	7.5	7.7	7.1
7725 Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits, for a voltage not exceeding 1,000 V	1.7	1.6	1.5	1.4	1.5	1.3
7731 Insulated (including enamelled or anodized) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables ...	1.4	1.3	1.3	1.3	1.3	1.3
Automotive products	11.1	10.5	9.9	9.2	9.8	9.9
7843 Other parts and accessories of the motor vehicles of groups 722, 781, 782 and 783	4.6	4.3	4.3	4.6	4.9	5.0
7812 Motor vehicles for the transport of persons, n.e.s.	3.6	3.3	2.7	2.0	2.1	2.1
Other transport equipment	1.5	1.7	1.6	1.3	1.5	1.6
Textiles	2.3	2.0	1.7	1.8	1.7	1.7
Articles of apparel and clothing accessories	1.0	0.9	0.8	0.9	0.8	0.8
Other consumer goods	9.6	10.0	9.3	9.0	8.6	7.7
8719 Liquid crystal devices, n.e.s.; lasers (other than laser diodes); other optical appliances and instruments, n.e.s.	1.4	2.1	1.7	1.0	1.0	0.9
8939 Articles of plastics, n.e.s.	1.3	1.1	1.0	1.0	1.4	0.9
Other	1.4	6.0	1.6	2.0	2.0	2.2
Gold	0.1	0.1	0.1	0.1	0.1	0.1

Source: WTO Secretariat estimates, based on data from the Comtrade database (SITC Rev.3).

**Table A1.3 Exports by product, 2007-2012**

(US\$ million)

Heading	2007	2008	2009	2010	2011	2012 (Jan-Sept)
<b>Total exports</b>	<b>271,875</b>	<b>291,343</b>	<b>229,704</b>	<b>298,473</b>	<b>349,375</b>	<b>275,380</b>
<b>Exports of petroleum products<sup>a</sup></b>	<b>43,014</b>	<b>50,635</b>	<b>30,831</b>	<b>41,693</b>	<b>56,385</b>	<b>40,254</b>
Crude oil	37,937	43,342	25,614	35,919	49,322	35,367
Other petroleum exports	5,077	7,294	5,217	5,775	7,063	4,887
Natural gas	339	257	122	181	18	1
Petroleum derivatives	4,050	6,248	4,493	4,757	6,021	4,045
Pure petroleum oils	1,716	2,086	1,129	1,631	1,997	1,477
Fuel oil	532	1,463	2,171	2,828	3,103	1,981
Gas oil or diesel	272	409	0	0	0	0
Jet fuel	105	257	102	41	79	0
Gasoline for vehicles	39	55	21	0	0	0
LP gas <sup>b</sup>	21	3	13	2	63	2
Other petroleum oils	1,362	1,971	1,053	251	775	547
Other petroleum derivatives	3	3	4	3	3	37
Petrochemicals	687	788	602	837	1,024	841
Ammonia	16	61	2	31	24	55
Polyvinyl chloride	162	162	163	218	348	262
Ethylene and polyethylene	273	299	209	218	302	235
Polypropylene	43	65	96	121	105	98
Other petrochemical products	193	201	132	249	246	191
<b>Exports of agricultural products<sup>c</sup></b>	<b>7,415</b>	<b>7,895</b>	<b>7,726</b>	<b>8,610</b>	<b>10,309</b>	<b>8,385</b>
Cattle	475	312	396	539	632	548
Honey	56	84	81	85	90	88
Flowers	27	27	25	25	24	22
Pepper	609	624	563	616	659	562
Tomatoes	1,069	1,205	1,211	1,618	2,065	1,334
Onions and garlic	256	319	292	279	327	283
Cucumber	410	421	261	264	259	270
Beans	21	30	29	28	35	21
Chick-peas	83	116	127	104	70	222
Edible fruit and nuts	355	258	342	390	467	346
Bananas, including plantains	20	43	77	74	76	100
Avocados	601	577	645	604	837	647
Mangoes	119	111	137	163	190	243
Citrus fruit	245	263	208	262	273	222
Grapes, fresh or dried	155	150	121	161	142	161
Melons (including watermelons) and papaws (papayas)	340	385	474	451	391	341
Fresh strawberries	117	129	93	142	144	186
Unroasted coffee beans	306	288	310	300	552	571
Wheat	149	590	276	88	299	186
Maize	71	24	88	156	42	190
Tobacco	28	32	29	25	30	27
Cotton	65	79	47	53	119	96
Other fresh vegetables	859	840	912	1,165	1,199	836
Other agricultural products	289	341	308	360	452	331
Frozen shrimp	366	343	361	234	305	166
Other fish, crustaceans and molluscs	325	305	312	428	629	386
<b>Non-petroleum mining exports</b>	<b>1,737</b>	<b>1,931</b>	<b>1,448</b>	<b>2,424</b>	<b>4,063</b>	<b>3,696</b>
<b>Exports of manufactured products</b>	<b>219,709</b>	<b>230,882</b>	<b>189,698</b>	<b>245,745</b>	<b>278,617</b>	<b>223,045</b>
Food, beverages and tobacco	7,376	8,467	8,346	9,552	11,529	8,874
Textiles, clothing, leather and leather products	8,213	7,685	6,400	7,151	7,856	5,913
Wood and wood products	647	582	479	493	531	432
Paper, printing and publishing	1,921	1,945	1,666	1,960	2,119	1,467
Chemicals	7,487	8,382	7,582	8,522	9,910	8,262
Plastic and rubber products	6,355	6,410	5,391	6,870	8,095	6,900
Manufacturing of other non-metallic mineral products	2,965	3,051	2,431	2,952	3,095	2,564

Heading	2007	2008	2009	2010	2011	2012 (Jan-Sept)
Iron and steel	7,016	8,728	4,943	6,542	7,913	5,762
Mining and metallurgy	7,666	8,687	8,561	12,334	17,398	12,843
Metal products, machinery and equipment	163,704	169,410	137,566	182,697	202,353	163,301
For agriculture and livestock	392	463	410	558	691	612
For other transport and communications	58,398	58,168	43,691	66,489	81,655	67,623
Automotive products	56,118	55,681	42,373	64,948	79,177	65,240
Special machinery and equipment for various industries	28,684	27,894	24,074	33,561	38,514	32,519
Metal products for domestic use	2,788	3,345	3,820	4,716	5,153	3,932
Professional and scientific equipment	8,269	9,007	8,227	9,808	10,602	8,448
Electrical and electronic equipment and devices	64,560	70,091	56,933	67,089	65,326	49,870
Photographic, optical and watchmaking equipment	613	442	412	475	411	298
Other manufacturing industries	6,358	7,534	6,333	6,673	7,819	6,726

- a Includes hydrocarbons and derivatives.  
b Includes butane gas, propane gas and LP gas.  
c Includes fishery products.

Source: Foreign Trade Statistics Working Group, composed of the Bank of Mexico, INEGI, the Tax Administration Service and the Ministry of the Economy.

**Table A1.4 Imports by product, 2007-2012**

(US\$ million)

Heading	2007	2008	2009	2010	2011	2012 (Jan-Sept)
<b>Total</b>	<b>281,949</b>	<b>308,603</b>	<b>234,385</b>	<b>301,482</b>	<b>350,843</b>	<b>273,263</b>
<b>Imports of petroleum products</b>	<b>25,469</b>	<b>35,657</b>	<b>20,462</b>	<b>30,211</b>	<b>42,704</b>	<b>30,454</b>
Natural gas	2,750	4,243	1,734	2,313	2,620	1,495
Petroleum derivatives	15,824	23,599	13,080	19,587	29,785	21,974
Gasoline for vehicles	9,916	14,600	8,327	11,992	18,021	13,601
Gas oil or diesel	2,453	3,749	31	1,113	6,481	4,314
Fuel oil	383	1,113	907	357	946	975
Jet fuel	105	261	42	128	55	122
Oil and lubricants	628	831	594	808	1,026	863
LP gas <sup>b</sup>	1,652	2,170	1,120	1,597	2,169	1,293
Petroleum coke and bitumen	355	480	188	444	616	383
Petroleum jelly, paraffin wax	183	241	175	231	227	166
Other petroleum oils	122	127	1,670	2,886	201	209
Other petroleum derivatives	25	27	25	31	44	49
Petrochemicals	6,896	7,815	5,649	8,311	10,299	6,985
Vinyl chloride	255	343	208	264	334	246
Acyclic hydrocarbons	348	531	316	576	837	572
Cyclic hydrocarbons	1,680	1,732	1,484	1,905	2,415	1,963
Polymers of ethylene	1,741	1,858	1,325	1,677	1,944	1,483
Polypropylene	1,187	1,382	848	1,303	1,630	1,117
Polymers of vinyl chloride	306	379	369	462	577	456
Naphtha	259	237	134	959	1,120	40
Methanol (methyl alcohol)	111	110	51	78	43	31
Ethylene glycol	191	176	121	134	246	128
Alkyl benzene	314	424	286	344	401	272
Other petrochemical products	503	642	506	608	751	678
<b>Imports of agricultural products</b>	<b>8,994</b>	<b>11,838</b>	<b>8,610</b>	<b>9,845</b>	<b>13,141</b>	<b>9,897</b>
Cattle	89	135	31	39	27	10
Milk and milk products	951	774	598	716	767	547
Eggs	26	22	23	27	44	42
Animal stomachs, other than those of fish	132	163	139	147	148	118
Beans	67	92	171	112	101	229
Grapes, fresh or dried	139	128	69	93	141	88
Apples, pears and quinces	336	333	259	286	290	295
Pepper, chili peppers and sweet peppers, dried	65	108	70	63	71	62
Wheat	856	1,247	728	847	1,322	1,116
Maize	1,554	2,391	1,437	1,583	2,989	2,517
Rice	248	371	345	320	377	270
Sorghum	347	364	442	428	688	275
Soya seed	1,177	1,801	1,419	1,592	1,762	1,497
Rape or colza seed	480	889	493	667	973	550
Seed for sowing	246	267	262	294	331	249
Tobacco	144	154	144	160	153	80
Cotton	462	539	412	631	835	354
Oil seeds and oleaginous fruits	413	546	437	467	475	374
Other fruit, fresh or dried	266	350	273	302	362	313
Other cereals	75	154	77	56	101	83
Other agricultural products	548	597	504	627	703	455
Fish, crustaceans and molluscs	373	412	276	389	482	371
<b>Non-petroleum mining imports</b>	<b>1,579</b>	<b>1,874</b>	<b>812</b>	<b>1,204</b>	<b>1,651</b>	<b>1,171</b>
<b>Imports of manufactured products</b>	<b>245,908</b>	<b>259,235</b>	<b>204,500</b>	<b>260,222</b>	<b>293,347</b>	<b>231,741</b>
Food, beverages and tobacco	10,535	11,525	9,885	11,231	13,334	10,185
Textiles, clothing, leather and leather products	10,145	9,948	7,746	9,337	10,979	8,709
Wood and wood products	1,678	1,671	1,120	1,308	1,424	1,138

Heading	2007	2008	2009	2010	2011	2012 (Jan-Sept)
Paper, printing and publishing	6,486	6,701	5,474	6,612	6,899	5,125
Chemicals	17,354	19,804	16,685	19,508	22,004	17,803
Plastic and rubber products	16,890	16,607	13,270	18,375	19,892	16,360
Manufacturing of other non-metallic mineral products	2,499	2,233	1,659	2,174	2,548	2,027
Iron and steel	13,001	15,118	10,113	13,356	15,253	13,826
Mining and metallurgy	8,559	8,520	5,551	8,198	10,191	7,201
Metal products, machinery and equipment	148,646	155,547	123,195	158,232	176,808	139,454
For agriculture and livestock	738	877	683	786	928	740
For other transport and communications	35,840	36,119	24,753	34,600	41,222	34,211
Automotive products	33,333	33,993	23,703	33,284	38,891	32,166
Special machinery and equipment for various industries	38,620	40,851	33,493	41,281	46,948	39,091
Metal products for domestic use	1,065	1,008	737	1,008	1,223	900
Professional and scientific equipment	12,210	11,959	8,192	9,795	10,789	8,193
Electrical and electronic equipment and devices	59,393	63,984	54,765	70,071	74,932	55,738
Photographic, optical and watchmaking equipment	781	749	572	692	766	580
Other manufacturing industries	10,117	11,561	9,802	11,890	14,015	9,913

Source: Foreign Trade Statistics Working Group, composed of the Bank of Mexico, INEGI, the Tax Administration Service and the Ministry of the Economy.

**Table A1.5 Merchandise exports by trading partner, 2006-2012**

(US\$ million and %)

Description	2006	2007	2008	2009	2010	2011	2012 <sup>a</sup> (Jan-Sept)
<b>Total exports (US\$ million)</b>	<b>249,961</b>	<b>271,821</b>	<b>291,265</b>	<b>229,712</b>	<b>298,305</b>	<b>349,569</b>	<b>275,380</b>
	(% of exports)						
America	92.5	91.2	90.2	90.8	90.7	89.2	88.4
USA	84.9	82.2	80.3	80.7	80.1	78.7	77.4
Other America	7.7	9.0	9.9	10.0	10.6	10.6	11.0
Canada	2.1	2.4	2.4	3.6	3.6	3.1	3.0
Colombia	0.9	1.1	1.0	1.1	1.3	1.6	1.6
Brazil	0.5	0.7	1.2	1.1	1.3	1.4	1.6
Chile	0.4	0.4	0.5	0.5	0.6	0.6	0.6
Argentina	0.4	0.4	0.5	0.5	0.6	0.6	0.5
Guatemala	0.4	0.4	0.5	0.5	0.5	0.5	0.5
Bolivarian Republic of Venezuela	0.7	0.9	0.8	0.6	0.5	0.5	0.6
Peru	0.2	0.2	0.4	0.3	0.3	0.4	0.4
Panama	0.2	0.3	0.3	0.3	0.3	0.3	0.3
Costa Rica	0.2	0.3	0.3	0.3	0.3	0.3	0.3
Europe	4.5	5.5	6.2	5.3	5.2	5.9	6.6
EU(27)	4.4	5.3	5.9	5.1	4.8	5.5	6.0
Spain	1.3	1.4	1.5	1.1	1.3	1.4	1.9
Germany	1.2	1.5	1.7	1.4	1.2	1.2	1.2
United Kingdom	0.4	0.6	0.6	0.5	0.6	0.6	0.7
Netherlands	0.5	0.7	0.9	0.7	0.6	0.6	0.5
Italy	0.1	0.2	0.2	0.2	0.2	0.4	0.4
EFTA	0.1	0.1	0.2	0.2	0.3	0.4	0.3
Switzerland and Liechtenstein	0.0	0.1	0.2	0.2	0.3	0.3	0.3
Other Europe	0.0	0.1	0.1	0.0	0.0	0.1	0.3
Turkey	0.0	0.0	0.0	0.0	0.0	0.1	0.1
Commonwealth of Independent States (CIS)	0.1	0.1	0.1	0.0	0.1	0.2	0.2
Russian Federation	0.0	0.1	0.0	0.0	0.1	0.1	0.1
Africa	0.2	0.2	0.3	0.3	0.2	0.2	0.2
South Africa	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Algeria	0.0	0.0	0.1	0.1	0.0	0.1	0.1
Middle East	0.2	0.2	0.3	0.3	0.2	0.2	0.2
United Arab Emirates	0.0	0.1	0.1	0.1	0.1	0.1	0.1
Asia	2.5	2.8	2.9	3.3	3.6	4.2	4.5
China	0.7	0.7	0.7	1.0	1.4	1.7	1.5
Japan	0.6	0.7	0.7	0.7	0.6	0.6	0.7
Six East Asian Traders	0.7	0.7	0.7	0.7	0.9	1.0	1.2
Korea, Republic of	0.2	0.3	0.2	0.2	0.3	0.4	0.5
Singapore	0.1	0.1	0.1	0.2	0.2	0.2	0.2
Chinese Taipei	0.2	0.1	0.1	0.1	0.1	0.1	0.1
Hong Kong, China SAR	0.1	0.1	0.1	0.2	0.2	0.1	0.2
Thailand	0.0	0.1	0.0	0.0	0.0	0.1	0.1
Malaysia	0.0	0.0	0.0	0.1	0.0	0.0	0.1
Other Asia	0.5	0.7	0.9	0.9	0.7	0.9	1.1
India	0.3	0.4	0.5	0.5	0.3	0.5	0.8
Australia	0.2	0.2	0.2	0.2	0.2	0.3	0.3
Other	0.0	0.1	0.1	0.1	0.1	0.1	0.1

a Data from the authorities.

Source: WTO Secretariat estimates, based on data from the Comtrade database (SITC Rev.3) and data from the authorities for 2012.

**Table A1.6 Merchandise imports by trading partner, 2006-2012**

(US\$ million and %)

Description	2006	2007	2008	2009	2010	2011	2012 (Jan-Sept) <sup>a</sup>
<b>World (US\$ million)</b>	<b>256,086</b>	<b>281,927</b>	<b>308,583</b>	<b>234,385</b>	<b>301,482</b>	<b>350,842</b>	<b>273,263</b>
	(% of imports)						
America	59.8	57.9	57.2	55.7	55.4	56.7	56.7
USA	51.1	49.6	49.2	48.1	48.2	49.8	50.0
Other America	8.7	8.3	8.1	7.6	7.2	6.9	6.7
Canada	2.9	2.8	3.1	3.1	2.9	2.7	2.6
Brazil	2.2	2.0	1.7	1.5	1.4	1.3	1.2
Costa Rica	0.3	0.3	0.3	0.4	0.6	0.8	1.0
Chile	1.0	0.9	0.8	0.7	0.6	0.6	0.4
Argentina	0.7	0.6	0.5	0.5	0.4	0.3	0.3
Colombia	0.3	0.3	0.3	0.3	0.3	0.2	0.2
Peru	0.2	0.1	0.1	0.2	0.1	0.2	0.1
Guatemala	0.1	0.2	0.2	0.2	0.2	0.2	0.2
Europe	12.1	12.7	13.4	12.4	11.5	11.4	12.2
EU(27)	11.4	12.0	12.7	11.6	10.8	10.8	11.2
Germany	3.7	3.8	4.1	4.2	3.7	3.7	3.7
Italy	1.6	2.0	1.7	1.3	1.3	1.4	1.5
Spain	1.4	1.4	1.3	1.3	1.1	1.1	1.1
France	1.0	1.1	1.1	1.1	1.0	1.0	1.0
Netherlands	0.6	0.9	1.4	0.9	0.9	0.9	0.9
EFTA	0.6	0.5	0.6	0.6	0.6	0.5	0.5
Switzerland and Liechtenstein	0.4	0.5	0.5	0.5	0.5	0.4	0.4
Other Europe	0.2	0.1	0.1	0.1	0.1	0.1	0.6
Turkey	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Commonwealth of Independent States (CIS) <sup>a</sup>	0.4	0.2	0.4	0.3	0.4	0.5	0.4
Russian Federation	0.2	0.2	0.3	0.2	0.3	0.3	0.3
Africa	0.3	0.5	0.7	0.4	0.4	0.5	0.4
South Africa	0.1	0.1	0.1	0.1	0.1	0.2	0.2
Nigeria	0.0	0.1	0.1	0.1	0.1	0.1	0.0
Middle East	0.3	0.4	0.4	0.4	0.4	0.5	0.5
Saudi Arabia	0.1	0.2	0.2	0.2	0.1	0.2	0.2
Israel	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Asia	27.1	28.2	27.9	30.9	31.8	30.4	30.3
China	9.5	10.6	11.2	13.9	15.1	14.9	15.0
Japan	6.0	5.8	5.3	4.9	5.0	4.7	4.7
Six East Asian Traders	9.5	9.9	9.5	9.9	9.3	8.5	8.0
Korea, Republic of	4.1	4.5	4.4	4.7	4.2	3.9	3.6
Chinese Taipei	1.9	2.1	2.2	2.0	1.9	1.6	1.6
Malaysia	1.7	1.7	1.5	1.7	1.8	1.6	1.3
Thailand	0.7	0.7	0.7	0.8	0.9	0.9	1.0
Singapore	0.8	0.7	0.6	0.6	0.5	0.3	0.4
Hong Kong, China SAR	0.2	0.2	0.2	0.1	0.1	0.1	0.1
Other Asia	2.0	1.9	1.9	2.2	2.3	2.4	1.2
India	0.4	0.4	0.4	0.5	0.6	0.7	0.8
Philippines	0.5	0.4	0.4	0.5	0.5	0.5	0.4
Indonesia	0.3	0.3	0.3	0.4	0.4	0.4	0.3
Other	0.0	0.0	0.0	0.0	0.0	0.0	0.0

a Data from the authorities.

Source: WTO Secretariat estimates, based on data from the Comtrade database (SITC Rev.3) and data from the authorities for 2012.

**Table A2.1 Selected notifications to the WTO, October 2007 - August 2012**

WTO Agreement	Description of requirement	Frequency	WTO document (date)
<b>General Agreement on Tariffs and Trade</b>			
Article XXIV:7(a)	Free trade areas	Once only	WT/REG308/N/1 (22/02/2012) WT/REG289/N/1/Add.1 (15/12/2011) WT/REG289/N/1 (14/09/2010) WT/REG126/N/1/Add.1 (31/08/2009) WT/REG198/N/1/Add.1 (17/10/2007) WT/REG198/N/2/Corr.1 (17/10/2007) WT/REG198/N/2 (03/10/2007)
<b>General Agreement on Trade in Services</b>			
Article III:4 and/or IV:2	Enquiry points	Once only	S/ENQ/78/Rev.12 (22/12/2010)
Article V:7(a)	Regional trade agreement	Once only	S/C/N/616, WT/REG308/N/1 (22/02/2012) S/C/N/563, WT/REG289/N/1 (14/09/2010)
<b>Agreement on Agriculture</b>			
Articles 5.7 and 18.2	Special safeguard (Table MA:5)	On an annual basis	G/AG/N/MEX/19 (11/03/2009)
Articles 10 and 18.2	Export subsidies (Tables ES:1 and ES:2)	On an annual basis	G/AG/N/MEX/20 (15/11/2010) G/AG/N/MEX/8/Rev.1 (07/02/2008) G/AG/N/MEX/16 (07/02/2008) G/AG/N/MEX/17 (07/02/2008)
Articles 10 and 18.2	Export subsidies (Table ES:2)	On an annual basis	G/AG/N/MEX/15 (07/02/2008)
Article 18.2	Domestic support (Table DS:1)	On an annual basis	G/AG/N/MEX/13/Rev.3 (12/01/2011) G/AG/N/MEX/21 (15/11/2010) G/AG/N/MEX/13/Rev.2 (25/10/2007) G/AG/N/MEX/13/Rev.1/Corr.1 (14/09/2007)
Article 18.2	Tariff quotas (Table MA:2)	On an annual basis	G/AG/N/MEX/18 (11/03/2009)
Article 18.3	Domestic support (Table DS:2)	On an annual basis	G/AG/N/MEX/22 (12/11/2010)
<b>Agreement on the Application of Sanitary and Phytosanitary Measures</b>			
Article 7, Annex B	Regulations	Once only, subsequently notification of changes	G/SPS/N/MEX/207/Add.5 (24/08/2012) <sup>b</sup>
<b>Agreement on Technical Barriers to Trade</b>			
Article 2.10	Proposed and adopted technical regulations	Before or, in cases of emergency, immediately after a measure is taken	G/TBT/N/MEX/227 (29/03/2012) G/TBT/N/MEX/4/Add.3 (23/08/2012) G/TBT/N/MEX/4/Add.1 (26/01/2012)
Article 2.9	Proposed and adopted technical regulations	Before or, in cases of emergency, immediately after a measure is taken	G/TBT/N/MEX/241 (30/08/2012) <sup>a</sup> G/TBT/Notif.99/374/Add.4 (17/07/2012) <sup>a</sup>
Article 5.6	Proposed and adopted technical regulations	Before or, in cases of emergency, immediately after a measure is taken	G/TBT/N/MEX/31/Add.1 (14/10/2011)
Article 5.7	Proposed and adopted technical regulations	Before or, in cases of emergency, immediately after a measure is taken	G/TBT/N/MEX/28/Add.1/Corr.1 (07/10/2009)



WTO Agreement	Description of requirement	Frequency	WTO document (date)
Article 10.7	Agreements related to technical regulations, standards or conformity assessment procedures	Ad hoc	G/TBT/10.7/N/110 (12/06/2012)
Article 15.2	Implementation and administration measures	Once only, subsequently notification of changes	G/TBT/2/Add.14/Suppl.1 (28/10/2008)
<b>Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement)</b>			
Article 16.4	Anti-dumping actions	On a semi-annual basis Ad hoc - Note by the Secretariat	G/ADP/N/230/MEX (13/08/2012) <sup>a</sup> G/ADP/N/232 (10/08/2012) <sup>a</sup>
Article 16.5	Investigating authority	Once only, subsequently notification of changes	G/ADP/N/14/Add.27 (28/04/2009) G/SCM/N/18/Add.27 (28/04/2009)
<b>Agreement on Import Licensing Procedures</b>			
Articles 1.4(a) and 8.2(b)	Legislation concerning import licensing procedures	Once only, subsequently notification of changes	G/LIC/N/1/MEX/3 (18/01/2010)
Article 7.3	Questionnaire	On an annual basis	G/LIC/N/3/MEX/3 (18/01/2010)
<b>Agreement on Subsidies and Countervailing Measures</b>			
Article 25.1 and GATT Article XVI:1	Subsidies	On an annual basis (changes); every three years (full notification)	G/SCM/N/123/MEX (02/12/2011) G/SCM/N/155/MEX (02/12/2011) G/SCM/N/186/MEX (02/12/2011) G/SCM/N/95/MEX (02/12/2011) G/SCM/N/220/MEX (16/06/2011)
Article 25.11	Reports - Actions taken with respect to countervailing duties	On a semi-annual basis	G/SCM/N/242/MEX (08/08/2012) <sup>b</sup>
Article 25.12	Investigating authority	Once only, subsequently notification of changes	G/ADP/N/14/Add.27 (28/04/2009) G/SCM/N/18/Add.27 (28/04/2009)
<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)
Article 12.1(a)	Investigation	Once only, upon initiating an investigatory process relating to serious injury or threat thereof	G/SG/N/6/MEX/2 (19/07/2010)

a Refers only to the date of the most recent document.

b Regular notifications - refers only to the most recent notification.

Source: WTO Secretariat.

Table A2.2 WTO dispute settlement cases involving Mexico, 2007-2012<sup>a</sup>

Description of dispute (complainant/respondent)		
<b>Complaints filed by Mexico</b>		
<b>Mexico/Argentina</b>	Documents DS446, subject:	Measures affecting the importation of goods
	Request for consultations:	24 August 2012
	Establishment of a panel:	-
	Panel report (circulation):	-
	Status:	In consultations
<b>Mexico/China</b>	Documents DS398, subject:	Measures related to the exportation of various raw materials.
	Request for consultations:	21 August 2009
	Establishment of a panel:	21 December 2009
	Panel report (circulation):	5 July 2011
	Status:	Appeal in August-September 2011 and Appellate Body report circulated in January 2012. Reports adopted in February 2012.
<b>Mexico/China</b>	Documents DS388, subject:	Grants, loans and other incentives.
	Request for consultations:	19 December 2008
	Establishment of a panel:	-
	Panel report (circulation):	-
	Status:	In consultations.
<b>Mexico/United States</b>	Documents DS386, subject:	Certain country of origin labelling requirements.
	Request for consultations:	17 December 2008
	Establishment of a panel:	19 November 2009
	Panel report (circulation):	18 November 2011
	Status:	Appeal in March 2012 and Appellate Body report circulated in June 2012. Reports adopted in July 2012.
<b>Mexico/United States</b>	Documents DS381, subject:	Measures concerning the importation, marketing and sale of tuna and tuna products.
	Request for consultations:	24 October 2008
	Establishment of a panel:	20 April 2009
	Panel report (circulation):	15 September 2011
	Status:	Appeal in January 2012 and Appellate Body report circulated in May 2012. Reports adopted in June 2012.
<b>Participation of Mexico as a third party</b>		
<b>Ukraine/Australia</b>	Documents DS434, subject:	Certain measures concerning trademarks and other plain packaging requirements applicable to tobacco products and packaging.
	Request for consultations:	13 March 2012
	Establishment of a panel:	28 September 2012
	Panel report (circulation):	-
	Status:	Panel established, but not yet composed.
<b>United States/China</b>	Documents DS427, subject:	Anti-dumping and countervailing duty measures on broiler products from the United States.
	Request for consultations:	20 September 2011
	Establishment of a panel:	20 January 2012
	Panel report (circulation):	-
	Status:	Panel composed.
<b>EU/Canada</b>	Documents DS426, subject:	Measures relating to the feed-in tariff programme.
	Request for consultations:	11 August 2011
	Establishment of a panel:	20 January 2012
	Panel report (circulation):	-
	Status:	Panel composed.
<b>Republic of Korea/ United States</b>	Documents DS420, subject:	Anti-dumping measures on corrosion-resistant carbon steel flat products from Korea.
	Request for consultations:	31 January 2011
	Establishment of a panel:	22 February 2012
	Panel report (circulation):	-
	Status:	Panel established, but not yet composed.

<b>Description of dispute (complainant/respondent)</b>		
<b>Vietnam/United States</b>	Documents DS404, subject:	Anti-dumping measures on certain shrimp from Viet Nam.
	Request for consultations:	5 December 2010
	Establishment of a panel:	18 May 2010
	Panel report (circulation):	11 July 2011
	Status:	Report adopted in September 2011.
<b>Japan/Canada</b>	Documents DS412, subject:	Certain measures affecting the renewable energy generation sector.
	Request for consultations:	13 September 2010
	Establishment of a panel:	20 July 2011
	Panel report (circulation):	-
	Status:	Panel composed.
<b>Indonesia/United States</b>	Documents DS406, subject:	Measures affecting the production and sale of clove cigarettes.
	Request for consultations:	7 April 2010
	Establishment of a panel:	20 July 2010
	Panel report (circulation):	2 September 2011
	Status:	Appeal in January 2012 and Appellate Body report circulated in April 2012. Reports adopted in April 2012.
<b>United States/Philippines</b>	Documents DS403, subject:	Taxes on distilled spirits.
	Request for consultations:	14 January 2010
	Establishment of a panel:	20 April 2010
	Panel report (circulation):	15 August 2011
	Status:	Appeal in September 2011 and Appellate Body report circulated in December 2011. Reports adopted in January 2012.
<b>European Communities/Philippines</b>	Documents DS396, subject:	Taxes on distilled spirits.
	Request for consultations:	29 July 2009
	Establishment of a panel:	19 January 2010
	Panel report (circulation):	15 August 2011
	Status:	Appeal in September 2011 and Appellate Body report circulated in December 2011. Reports adopted in January 2012.
<b>United States/China</b>	Documents DS394, subject:	Measures related to the exportation of various raw materials.
	Request for consultations:	23 June 2009
	Establishment of a panel:	21 December 2009
	Panel report (circulation):	5 July 2011
	Status:	Appeal in August-September 2011 and Appellate Body report circulated in January 2012. Reports adopted in February 2012.
<b>EU/China</b>	Documents DS395, subject:	Measures related to the exportation of various raw materials.
	Request for consultations:	23 June 2009
	Establishment of a panel:	21 December 2009
	Panel report (circulation):	5 July 2011
	Status:	Appeal in August-September 2011 and Appellate Body report circulated in January 2012. Reports adopted in February 2012.
<b>Canada/European Communities</b>	Documents DS400, subject:	Measures prohibiting the importation and marketing of seal products.
	Request for consultations:	2 November 2009
	Establishment of a panel:	25 March 2011
	Panel report (circulation):	-
	Status:	Panel composed on 4 October 2012.
<b>Norway/European Communities</b>	Documents DS401, subject:	Measures prohibiting the importation and marketing of seal products.
	Request for consultations:	5 November 2009
	Establishment of a panel:	21 April 2011
	Panel report (circulation):	-
	Status:	Panel composed on 4 October 2012.

<b>Description of dispute (complainant/respondent)</b>		
<b>Republic of Korea/ United States</b>	Documents DS402, subject:	Use of zeroing in anti-dumping measures involving products from Korea.
	Request for consultations:	24 November 2009
	Establishment of a panel:	18 May 2010
	Panel report (circulation):	18 January 2011
	Status:	Implementation notified by respondent in December 2011.
<b>Canada/United States</b>	Documents DS384, subject:	Certain country of origin labelling (COOL) requirements.
	Request for consultations:	1 December 2008
	Establishment of a panel:	19 November 2009
	Panel report (circulation):	18 November 2011
	Status:	Appeal in March 2012. Appellate Body report circulated in June 2012. Reports adopted in July 2012.
<b>Brazil/United States</b>	Documents DS382, subject:	Anti-dumping administrative reviews and other measures related to imports of certain orange juice from Brazil.
	Request for consultations:	27 November 2008
	Establishment of a panel:	25 September 2009
	Panel report (circulation):	25 March 2011
	Status:	Report adopted in June 2011.
<b>China/United States</b>	Documents DS379, subject:	Definitive anti-dumping and countervailing duties on certain products from China.
	Request for consultations:	19 September 2008
	Establishment of a panel:	20 January 2009
	Panel report (circulation):	22 October 2010
	Status:	Appeal in December 2010 and Appellate Body report circulated in March 2011. Reports adopted in March 2011.

a This table only covers dispute settlement cases in which requests for consultations were submitted between October 2007 and October 2012.

Source: WTO Secretariat.

**Table A3. 1 Preferential tariff summary, 2012**

	Total		Agricultural products (WTO definition)		Non-agricultural products (WTO definition)	
	Average <sup>a</sup>	Duty-free lines (%)	Average <sup>a</sup>	Duty-free lines (%)	Average <sup>a</sup>	Duty-free lines (%)
<b>MFN</b>	6.2	58.3	20.9	21.6	4.6	62.4
<b>FTAs</b>						
United States	0.0	99.8	0.0	99.4	0.0	99.9
Canada	0.6	99.0	6.1	90.7	0.0	99.9
European Union	1.2	97.0	12.4	71.6	0.0	99.8
Uruguay	1.4	95.2	10.2	77.5	0.4	97.2
Colombia	1.3	96.5	12.0	68.8	0.1	99.5
Costa Rica	0.9	98.6	9.2	87.5	0.0	99.8
Guatemala	1.0	97.7	9.0	85.7	0.2	99.1
El Salvador	1.1	97.8	9.7	84.9	0.1	99.2
Honduras	1.0	97.8	8.8	86.3	0.2	99.0
Chile	0.2	99.3	2.4	94.5	0.0	99.8
Nicaragua	0.1	99.6	1.5	96.9	0.0	99.9
Peru	2.6	86.7	16.0	45.7	1.1	91.2
Japan	2.5	75.4	13.0	54.8	1.4	77.7
Switzerland	1.9	92.9	19.5	30.4	0.0	99.8
Norway	2.1	92.2	20.7	23.2	0.0	99.8
Iceland	2.0	92.5	20.4	26.0	0.0	99.8
Israel	2.2	91.7	20.1	28.5	0.2	98.7
<b>Partial scope agreements</b>						
Plurinational State of Bolivia ACE 66	0.6	98.3	6.1	84.3	0.0	99.9
Argentina ACE 55	6.1	58.9	20.9	21.6	4.5	63.0
Brazil ACE 55	6.1	59.5	20.9	21.6	4.5	63.6
Uruguay ACE 55	6.1	59.4	20.9	21.6	4.5	63.6
Argentina ACE 6	5.4	63.5	20.1	24.5	3.8	67.8
Brazil ACE 53	5.9	59.9	19.5	28.3	4.4	63.4
Cuba ACE 51 (domestic market)	6.2	58.3	20.9	21.6	4.6	62.4
Cuba ACE 51 (border region)	6.2	58.3	20.9	21.6	4.6	62.4
Ecuador APR 29	6.1	59.0	20.8	22.1	4.5	63.0
Paraguay ACE 38 <sup>a</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Panama APA 25	6.2	58.3	20.9	21.6	4.6	62.4
<b>Other agreements</b>						
Argentina PAR 4	5.4	58.3	18.8	21.6	4.0	62.4
Brazil PAR 4	5.4	58.3	18.8	21.6	4.0	62.4
Cuba PAR 4	5.1	58.3	17.9	21.6	3.7	62.4
Ecuador PAR 4	4.6	58.3	16.6	21.6	3.3	62.4
Paraguay PAR 4	4.3	58.3	15.7	21.6	3.1	62.4
Ecuador ARAM 2	6.1	59.0	20.6	23.6	4.5	62.9
Paraguay ARAM 3	6.1	58.9	20.5	23.7	4.5	62.8
LAIA ACE 7	6.2	58.4	20.9	21.6	4.6	62.4

a No calculations are possible, as the data for this agreement has not yet been updated to reflect either the HS 2002 or HS 2007 nomenclature. The authorities indicated that the updating process was under way.

Note: The average rates in this table reflect market access according to the agreement concerned and take into account MFN tariffs. The tariff associated with a tariff line considered for the purpose of calculating the average rate will be the MFN tariff or the preferential tariff, whichever is lower. Where a product comes under the heading "Byproducts", the preferential tariff used for the calculation is that under the heading "Other", which is considered potentially to cover the majority of byproducts within a category. Depending on the case concerned, this tariff is not necessarily the lowest within a category with multiple byproducts.

Source: WTO Secretariat, based on data from the Mexican authorities.

**Table A3. 2 National Foreign Trade Bank (Bancomext) credits and financial services**

Type of credit/service	Description	Beneficiaries
<b>Working capital credit</b>	<b>Credits</b> Intended to finance a company's export-related production activities, such as: a. production; b. the purchasing of domestic or imported raw materials; c. the compilation or maintenance of inventories; d. direct export sales; and e. the construction and fitting out of industrial warehouses for sale or lease purposes.	a. Export companies or suppliers; b. Companies with revenues in foreign currencies, and their suppliers; c. Companies manufacturing import substitutes; d. Mexican companies importing raw materials, inputs or components to make products for the international market.
<b>Investment project loans</b>	Loans above US\$3 million to support investment projects relating to production and storage facilities, including the acquisition of machinery and equipment.	
<b>Equipment loans</b>	Provide support to acquire domestically manufactured or imported machinery and equipment with a view to the growth and modernization of production facilities.	
<b>Syndicated loans</b>	Cover any corporate financing need. Bancomext may participate in syndicated loans as an agent bank or an invited bank.	a. Companies wishing to cover corporate financing needs such as those relating to working capital, investment projects and infrastructure projects; b. Companies engaged in direct or indirect export activities and suppliers of companies with revenues in foreign currencies; c. Companies manufacturing import substitutes.
<b>Structured loans</b>	Alternative project-funding schemes for amounts of US\$10 million or more which enable Mexican companies to compete in international public tenders, whether in Mexico or abroad.	a. Companies requiring funding to cover the costs of developing national and international projects; b. Companies engaged in direct or indirect export activities and suppliers of companies with revenues in foreign currencies; c. Companies manufacturing import substitutes.
<b>Corporate loans</b>	Allow for the structuring of funding schemes specific to the corporate needs of a company and/or the type of asset to be financed.	a. Holding companies or corporate group subsidiaries wishing to cover revolving or permanent corporate working capital needs; b. Companies engaged in direct or indirect export activities and suppliers of companies with revenues in foreign currencies; c. Companies manufacturing import substitutes.
<b>Foreign trade inventory financing</b>	Bancomext buys, at a price established at the time of the operation, deposit certificates issued by general deposit warehouses which cover foreign trade inputs or products, and undertakes to return the certificates to the original holder, in exchange for payment of the same price plus a premium agreed in advance.	Legal or natural persons engaged in business activity, with strategic inventories of eligible products.
<b>Industrial warehouse loans</b>	Cover industrial infrastructure in general, as well as the construction and acquisition of industrial warehouses. May also cover the payment of liabilities used for the development of industrial infrastructure.	Construction and real estate companies, industrial warehouse developers; the beneficiary or its shareholders must preferably have a minimum of five years' experience in the industry.

Type of credit/service	Description	Beneficiaries
<b>Funding programme for exporting and importing SMEs</b>	<b>Loans for exporting and importing SMEs</b> Provides funding through financial intermediaries to meet different types of needs relating to working capital, the purchasing of raw materials, machinery and equipment, investment projects and letters of credit.	a. Companies or natural persons engaged in business activity, direct or indirect exporters (supplier of major exporter); b. Companies importing raw materials or machinery requiring less than US\$3 million.
<b>Bancomext - Jalisco Business Development Fund programme</b>	Provides funding through financial intermediaries.	Micro, small and medium-sized enterprises and natural persons engaged in business activity, whether direct or indirect exporters, from the state of Jalisco.
<b>Endorsements and guarantees</b>	<b>Guarantees</b> Makes it possible to support payment or contractual commitments that are assumed by companies when conducting their export-related production or commercial activities.	a. Companies and natural persons engaged in export activity; b. Suppliers of inputs to exporters; c. Companies with revenues in foreign currencies and their suppliers; d. Companies manufacturing import substitutes; e. Mexican companies importing raw materials, inputs or components to make products for the international market.
<b>Buyer guarantee</b>	Bancomext provides guarantees with a view to foreign financial intermediaries financing, in their countries, buyers of Mexican products and/or services. With this support, importers may acquire Mexican goods or services on credit, while Mexican exporters receive payment in cash.	Mexican exporters needing to supply customers abroad; financing options for the purchase of Mexican products and/or services.
<b>Stock-market guarantees</b>	Partial guarantee of principal and/or interest payments derived from the issuing of commercial paper, stock market certificates or any other instrument used in the domestic or foreign stock market to improve the ratings of companies that need financing for equipment operations, technological projects, etc.	a. Export companies or suppliers; b. Companies with revenues in foreign currencies, and their suppliers; c. Companies manufacturing import substitutes; d. Mexican companies importing raw materials, inputs or components to make products for the international market.
<b>Export letters of credit</b>	<b>Letters of credit</b> Payment instrument received by an exporter through a confirming/advising bank with the commitment to honour payment in his favour, upon presentation in due form of documents relating to the sale of goods or the provision of services, which must strictly comply with the terms and conditions stipulated in the letter of credit issued by an issuing bank acting on behalf and on the orders of an importer/buyer/agent.	Mexican export companies.
<b>Import or domestic letters of credit</b>	Conditional payment orders issued by a credit institution (issuing bank) on behalf and on the orders of a legal person (importer/buyer/agent) in favour of another (exporter/seller/beneficiary), with the commitment to honour the payment in his favour, through another credit institution, upon presentation of certain documents relating to the sale of goods or the provision of services.	a. Mexican companies importing goods and/or services (raw materials, inputs or components for their production processes and/or finished products). b. Public sector enterprises.
<b>International export factoring</b>	<b>International factoring</b> Provides financing, risk coverage and services to administrate and recover the receivables of Mexican export companies.	Mexican export companies

Type of credit/service	Description	Beneficiaries
<b>International import factoring</b>	Provides risk coverage to Mexican companies for their purchases abroad.	Mexican companies importing products and/or services from abroad.
<b>Credit insurance against political risks - Export</b>	<b>Insurance</b> In the case of export credit sales, credit insurance covers the failure to pay sums due on account of measures taken by the authorities in the country of the debtor (e.g. economic or balance-of-payment crises).	Mexican exporters
<b>Credit insurance against commercial risks</b>	This insurance covers bankruptcy, suspension of payments or extended delays in payments.	Mexican exporters

Source: Bancomext website, viewed in August 2012:

<http://www.bancomext.com/Bancomext/secciones/home.html> e [Informe de Rendición de Cuentas de Bancomext 2006-2016](#).



**Table A3. 3 Federal financial incentive programmes for businesses, October 2012**

Federal Government agency or body
<p><b>National Finance Company</b></p> <p><b>Production chain programme:</b> Aimed at small and medium-sized companies that have business links with large companies or government institutions. The programme offers various types of financial product.</p> <p><b>Business programmes:</b> Consist of various types of loans covering different sectors and needs, e.g. support programme for software development companies; financing programme for the leather and footwear sector; support programme for sustainable renewable energy development projects; dough and tortilla industry modernization programme, etc. A full list of the 29 programmes may be viewed at: <a href="http://www.nafin.com/portalfn/content/productos-y-servicios/programas-empresariales">www.nafin.com/portalfn/content/productos-y-servicios/programas-empresariales</a>.</p> <p><b>Guarantee programme:</b> Aimed at all types of companies. Seeks to encourage lending to companies by granting capital recovery guarantees to financial intermediaries.</p> <p><b>SME loan programme:</b> Loans for small and medium-sized enterprises.</p>
<p><b>Ministry of the Economy (excluding foreign trade programmes)</b></p> <p><b>México Emprende trust fund (National Guarantee System):</b> Facilitates access to credit and financing for micro, small and medium-sized enterprises through guarantees.</p> <p><b>Trust fund for the development of national suppliers and contractors for the State petroleum industry:</b> Financial support and technical assistance to promote the development of suppliers and contractors for the petroleum industry.</p> <p><b>Support fund for micro, small and medium-sized enterprises (MSME):</b> Provides financial support under various schemes. See: <a href="http://www.fondopyme.gob.mx/index_b.asp">www.fondopyme.gob.mx/index_b.asp</a>.</p> <p><b>Technological innovation fund:</b> Financial support for micro, small and medium-sized enterprises, and entrepreneurs, that develop or implement technological innovation and development activities. This trust fund was established by the Ministry of the Economy and the National Science and Technology Council.</p> <p><b>Debt market for companies:</b> Provides financing to strengthen companies wishing to issue debt on the stock market.</p> <p><b>Logistics and supply centre competitiveness programme (PROLOGYCA):</b> Temporary subsidies and projects that promote the competitiveness of companies providing logistics and supply services.</p> <p><b>Programme for the development of high-technology industries (PRODIAT):</b> Provides temporary support for the adoption of new technologies.</p> <p><b>Software industry development programme (PROSOFT):</b> Provides financial support to companies in the information technology industry.</p> <p><b>Seed capital programme:</b> Provides temporary financial support for starting up businesses based on entrepreneurship projects incubated by business incubators from the Ministry of the Economy's national business incubation system.</p> <p><b>Production project programme:</b> Provides funding for product marketing and technological innovation. This support is destined for the acquisition and installation of industrial machinery and equipment; the installation and equipping of units ancillary to production; and training and technical guidance for community-based groups that need funding to enhance or increase their production and other income-generating activities.</p> <p><b>National programme for "gazelle" companies:</b> Provides economic support for consulting services, product marketing and product innovation to companies with a high development potential, regardless of sector. Also provides assistance to access sources of financing.</p> <p><b>National franchise programme:</b> Provides loans to cover the cost of the franchise, and economic support for advisory services when seeking to convert a business into a franchise.</p> <p><b>National microenterprise programme:</b> Provides funding for training and advisory services and the acquisition of equipment for microenterprises.</p> <p><b>Programme for job creation in deprived areas:</b> Provides funding for establishing production sites. Under this programme, the Ministry of Finance and Public Credit grants loans and guarantees for acquiring equipment and modernizing infrastructure. The programme also establishes tax incentives.</p>
<p><b>National Science and Technology Council (CONACYT)</b></p> <p><b>Mixed funds (trust fund):</b> Provides economic support for scientific research and technological development in educational institutions, companies and other entities registered in the National Register of Scientific and Technological Institutions and Companies.</p>

**Federal Government agency or body****Sectoral funds (trust funds):**

Support technological research and development projects and may be granted to any type of company or educational institution.

**Innovation encouragement programmes:**

Provides economic incentives to companies engaged in technological research and development activities.

**Programmes to encourage research, technological development and innovation:**

Provide economic support to companies of any size that invest in research and technological development projects and the creation of new products, processes or services.

**Ministry of Tourism****Competitiveness support programme for micro, small and medium-sized enterprises in the tourism sector:**

Provides funding, training, advice and support to companies in the tourism sector.

Source: Financing and federal support programme catalogue, ProMéxico 2011 (viewed at: [http://www.promexico.gob.mx/work/models/promexico/Interactivos/Catalogo\\_de\\_Programas\\_Federales\\_de\\_Apoyo\\_2010.pdf](http://www.promexico.gob.mx/work/models/promexico/Interactivos/Catalogo_de_Programas_Federales_de_Apoyo_2010.pdf)); Ministry of the Economy and Ministry of Tourism websites (viewed at: [www.economia.gob.mx/mexico-emprende/programas](http://www.economia.gob.mx/mexico-emprende/programas) and [http://www.sectur.gob.mx/es/sectur/sect\\_Programa\\_de\\_Apoyo\\_a\\_la\\_Competitividad\\_de\\_las](http://www.sectur.gob.mx/es/sectur/sect_Programa_de_Apoyo_a_la_Competitividad_de_las)).

**Table A3. 4 Mexico's intellectual property regime - Selected trade policy issues, 2012**

Brief description of relevant provisions	Legal basis or source
<b>1. General and other provisions</b>	
A. Exceptions to national treatment or MFN treatment	
No exceptions to national treatment or MFN treatment in the context of judicial and administrative procedures	
B. Exhaustion of rights	
<p>Trademarks: unofficial distributors may not limit imports of goods placed on the market in another country with the consent of the right holder. Also applies to official distributors.</p> <p>Copyright: right holders may authorize or prohibit the importation of a work.</p> <p>Patents: parallel imports are not allowed.</p>	<p>WTO document WT/TPR/S/195/Rev.1 of 2 May 2008; Art. 92, point II, of the Industrial Property Law; Article 27, point V, of the Federal Law on Copyright; and Article 25 of the Industrial Property Law</p>
<b>2. Copyright and related rights</b>	
A. Protected subject matter	
"The works protected by this Law are originally-created works which may be disclosed or reproduced in any form or medium".	Article 3 of the Federal Law on Copyright
Databases that are not original are protected during a period of five years for the exclusive use of the person who developed them.	Article 108 of the Federal Law on Copyright
B. Protected works	
The purpose of the Public Copyright Register is to ensure the legal security of intellectual property right holders and to afford sufficient publicity to works through registration. Entries in the Register are based on the assumption that the facts and circumstances to which they relate are true, in the absence of proof to the contrary, are declarative and establish the legal presumption of ownership in favour of those making the entry, but do not constitute rights. Entries shall state the name of the author and, where applicable, the date of his death, his nationality and his address, the title of the work, the date of disclosure, whether the work is on commission and the identity of the owner of the economic rights.	Articles 162 and 168 of the Federal Law on Copyright
C. Rights conferred	
Authors are conferred moral and economic rights.	Articles 18 to 23 and 24 to 29 of the Federal Law on Copyright
Performers have the right to receive remuneration for the use of their performances; to have their name associated with their performances; to object to the communication of their performances to the public; to the fixing of their performances in a physical medium; to the reproduction of such a fixation of their performances; and to any other adverse act that might damage their prestige or reputation.	Articles 117 and 118 of the Federal Law on Copyright
Producers of phonograms are entitled to receive remuneration for the use or exploitation of their phonograms when for profit-making purposes and to authorize or prohibit the reproduction and exploitation thereof, the importation of copies made without their authorization, the distribution of phonograms to the public including by means of signals or broadcasts, their adaptation or transformation, and their rental, even after they have been sold (provided that the owners of the economic rights have not reserved this for themselves).	Articles 131 and 131 <i>bis</i> of the Federal Law on Copyright
Broadcasting organizations have the right to authorize or prohibit the following in relation to their broadcasts: retransmission, deferred transmission, distribution, fixation in a material medium and reproduction thereof, and communication to the public for profit-making purposes.	Article 144 of the Federal Law on Copyright
D. Permitted exceptions	
<p>The law defines limitations for reasons of public interest, and on economic rights. Limitations on economic rights provide that disclosed literary and artistic works may be used without the consent of the economic rights owner and without remuneration only in certain cases. Such cases include, among others, quotation of texts; reproduction of articles; reproduction of parts of the work for the purposes of scientific, literary or artistic criticism and research; reproduction of a work once and in a single copy for personal and private use; and reproduction, communication and distribution in drawings, paintings, photographs and audiovisual processes of works that are visible from public places. The following may also be done without authorization: use of literary and artistic works in establishments open to the public that trade in copies of the said works, and ephemeral recordings (both subject to conditions). 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 for information on current events, the use is made for educational or scientific research purposes, or in other cases defined in the law.</p> <p>Accession to the Brussels Act (1948) with the following reservation: Article 8 of the Act is replaced by Article 5 of the Berne Convention of 1886, as amended by Article 1, Number III, of the Paris Additional Act of 1896, with regard to the exclusive right of translation.</p>	Articles 147 to 151 of the Federal Law on Copyright
E. Term of protection	
Life of the author and 100 years after his death; where the work belongs to two or more co-authors, the 100 years shall be counted as from the death of the last co-author. The protection is the same for any type of work.	Article 29 of the Federal Law on Copyright

Brief description of relevant provisions	Legal basis or source
<p>Performers are granted protection for 75 years beginning from the first fixing of the performance in a phonogram, the first performance of works not recorded on phonograms, or the first transmission by radio, television or other medium.</p> <p>Producers of phonographs are granted protection for 75 years following the first fixation of the sounds on the phonogram. The term for producers of videograms is 50 years from the first fixing of the images on the videogram.</p> <p>Broadcasting organizations are granted protection for 50 years from the first original broadcasting or transmission of a programme.</p>	<p>Articles 122, 134, 138 and 146 of the Federal Law on Copyright</p>
<b>3. Trademarks</b>	
A. Protected subject matter	
<p>"The following signs may constitute trademarks: visible names and figures that are sufficiently distinctive and capable of identifying the products or services to which they are applied, or are intended to be applied, compared with others of the same type or category; three-dimensional shapes; commercial names and company or business names, provided that they are not covered by the following Article; and the proper name of an individual, provided that it is not the same as a registered trademark or published commercial name."</p>	<p>Article 89 of the Industrial Property Law</p>
<p>"A trademark shall be understood to be any visible sign that distinguishes products or services from others of the same type or category in the market."</p>	<p>Article 88 of the Industrial Property Law</p>
B. Protection requirements	
<p>The right to the exclusive use of trademarks may only be obtained through their registration.</p>	<p>Article 87 of the Industrial Property Law</p>
<p>"The filing date shall determine precedence between applications."</p>	<p>Article 121 of the Industrial Property Law</p>
<p>The non-use for three consecutive years of a trademark gives grounds for the lapse of a registration (exceptions apply). Renewal of a registration requires attesting the use of the trademark, with such use not having been interrupted, without just cause, for a period equal to or longer than three years.</p>	<p>Articles 130 and 134 of the Industrial Property Law</p>
<p>The registration of a trademark is invalid when, <i>inter alia</i>, it is identical or confusingly similar to another that has been used in the country or abroad prior to the filing date (subject to conditions); it was granted in error; or the agent of the owner of a trademark registered abroad secures the registration of the trademark or of a confusingly similar trademark in his own name, without the express consent of the owner of the foreign trademark. There are no special requirements regarding use.</p>	<p>Article 151 of the Industrial Property Law</p>
C. Well-known trademarks	
<p>An application for a declaration to the effect that a trademark is well known must be filed in writing. To obtain such a declaration the applicant must provide, <i>inter alia</i>, the following information: the sector of the public that identifies the trademark with the products or services that it protects; the commercial circles connected with the type of products or services, which identify the trademark with the products or services that it protects; the date of its first use; the period of continued use and actual advertising of the trademark; the marketing channels and methods of dissemination; the actual geographical area of influence of the trademark; the registrations of the trademark; and the percentage of its share in the relevant market sector or segment. Any trademark declared or considered to be well known is protected, and its owner can therefore exercise the corresponding legal actions considered necessary to prevent the misuse of the trademark and the dilution of its distinctive character. In considering or declaring a trademark to be well known, the Institute's determination will take into account the provisions of Chapter II <i>bis</i> of the Industrial Property Law, which are consistent with WIPO's Joint Recommendations Concerning Provisions on the Protection of Well-Known Marks.</p>	<p>Articles 98 <i>bis</i> 2 and 98 <i>bis</i> 4 of the Industrial Property Law</p>
D. Rights conferred	
<p>The registration of a trademark grants owners the right to its exclusive use in industry or trade or in the services that they provide.</p>	<p>Article 87 of the Industrial Property Law</p>
<p>A trademark must be registered in Mexico to protect the products or services in which the notoriety or fame of the trademark originated. In order to obtain, from this Institute, a declaration to the effect that a trademark is well known, the trademark must be duly registered. However, the owner may take steps to initiate proceedings against persons or companies that are unduly using a well-known trademark, on the basis of the declaration to the effect that it is well known or, if the trademark is not registered, where IMPI considers it to be well known.</p>	<p>Article 98 <i>bis</i> 1 of the Industrial Property Law</p>
E. Permitted exceptions	
<p>Registration of a trademark is not effective against, <i>inter alia</i>: a third party who, in good faith, used the same or a confusingly similar trademark in national territory for the same or similar products or services (subject to certain conditions); any person who markets, distributes, acquires or uses the product to which the registered trademark is applied, after that product has been lawfully introduced on to the market by the owner of the registered trademark or his licensee (this includes the import of lawful products to which the trademark is applied); or any natural or legal person who applies his own name or his company or business name to the goods that he produces or distributes, to the services that he provides or to his places of business, or who uses it as part of his trade name (subject to certain conditions).</p>	<p>Article 92 of the Industrial Property Law</p>
F. Term of protection	
<p>"The registration of a trademark shall have a term of 10 years, starting from the filing date of the application, and may be renewed for periods of the same duration."</p>	<p>Article 95 of the Industrial Property Law</p>

Brief description of relevant provisions	Legal basis or source
<p>G. Licences</p> <p>Licences must be registered in order to be binding on third parties.</p>	<p>Article 136 of the Industrial Property Law</p>
<p><b>4. Geographical indications</b></p>	
<p>A. Protected subject matter</p>	
<p>An "appellation of origin" is understood to be the 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. The definition of GIs given in Article 22.1 of the TRIPS Agreement is also applicable. An indication of source is also defined, in accordance with the Paris Convention for the Protection of Industrial Property. Article 156 of the Industrial Property Law limits appellations of origin (special geographical indications) to the "name" of a region.</p> <p>In the case of appellations of origin, provision is only made for the protection of products. The definition of appellation of origin does not discriminate between types of product.</p> <p>There is recognized protection for appellations of origin; geographical indications are protected in a preventive manner, because they cannot be registered.</p>	<p>Article 156 of the Industrial Property Law; and WTO document IP/C/W/117/Add.14 of 9 February 1999. WTO document IP/C/W/117/Add.14 of 9 February 1999</p>
<p>B. Protection requirements</p>	
<p>GIs may be protected in three different ways: by preventing the registration of certain marks; by preventing acts of unfair competition; and by means of the legal formula "appellation of origin". The application for a declaration of protection of an appellation of origin shall be made in writing and accompanied by the evidence on which the application relies and specific information.</p>	<p>Articles 90, 156 to 159 and 213 of the Industrial Property Law</p>
<p>Geographical indications cannot be registered as trademarks. The use of a geographical name in a way that is misleading as to the geographical origin of the product may constitute an administrative offence.</p>	<p>Article 90 of the Industrial Property Law</p>
<p>The Mexican State is the owner of the appellation of origin, which may only be used by virtue of an authorization.</p>	<p>Article 167 of the Industrial Property Law</p>
<p>C. Rights conferred</p>	
<p>The rights available are those established in Article 22 (all products) and Article 23 (wine and spirits) of the TRIPS Agreement, and any other international treaty signed by Mexico. Rights conferred on foreign holders vary according to their country of origin and whether they are party to the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration and the following Agreements signed by Mexico:</p> <p>Agreement on Agriculture between the United Mexican States and the Republic of Iceland, signed in Mexico City on 27 November 2000;</p> <p>Agreement on Agriculture between the United Mexican States and the Kingdom of Norway, signed in Mexico City on 27 November 2000;</p> <p>Agreement on Agriculture between the United Mexican States and Swiss Confederation, signed in Mexico City on 27 November 2000;</p> <p>Agreement between the United Mexican States and the European Union on the Mutual Recognition and Protection of Designations for Spirit Drinks.</p> <p>For appellations of origin, rights are recognised; for geographical indications, preventive protection exists, as they cannot be registered, and where they are registered, their nullification may be requested or an administrative offence may result if they are used in a way that is misleading as to the geographical origin of the product.</p>	<p>Article 22 of the TRIPS Agreement and agreements signed by Mexico</p>
<p>An authorization to use an appellation of origin is valid for ten years, starting from the date on which the application is filed, and may be renewed for equal periods.</p>	<p>Articles 166 and 172 of the Industrial Property Law</p>
<p>D. Permitted exceptions</p>	
<p>There are no limitations to the protection of geographical indications.</p>	<p>Industrial Property Law</p>
<p><b>5. Industrial designs</b></p>	
<p>A. Protected subject matter</p>	
<p>Industrial designs include: industrial blueprints, which may be any combination of shapes, lines or colours incorporated in an industrial product for ornamentation purposes and which give it a specific appearance of its own; and industrial models, which are constituted by any three-dimensional shape that serves as a model or pattern for the manufacture of an industrial product, giving it a special appearance that does not involve any technical effects.</p>	<p>Article 32 of the Industrial Property Law</p>
<p>B. Protection requirements</p>	
<p>Industrial designs are eligible for registration if they are new and industrially applicable.</p>	<p>Article 31 of the Industrial Property Law</p>
<p>An industrial design is not protected where its appearance consists of elements dictated solely by technical considerations or by the performance of a technical function.</p>	<p>Article 31 of the Industrial Property Law</p>

Brief description of relevant provisions	Legal basis or source
An application for registration of an industrial design must include a graphic or photographic reproduction of the design, and an indication of the type of product for which the design will be used. Registration will, where appropriate, take place in accordance with the rules applicable to the processing of patents.	Articles 33, 34 and 37 of the Industrial Property Law
<b>C. Rights conferred</b>	
Owners of a protected industrial design have the exclusive right to use that design for their benefit, either directly or through third parties with their consent, in accordance with the provisions of the law.	Article 9 of the Industrial Property Law
<b>D. Permitted exceptions</b>	
The limitations of the rights conferred are governed, where appropriate, by the provisions applied to patents.	Article 36 of the Industrial Property Law
<b>E. Term of protection</b>	
Industrial design registrations are valid for a non-renewable term of 15 years, starting from the filing date of the application.	Article 36 of the Industrial Property Law
<b>6. Patents</b>	
<b>A. Protected subject matter</b>	
"Novel" refers to anything not found in the prior art; "inventive step" refers to the creative process the results of which are not obvious from the prior art to a person skilled in the art; and "industrial applicability" refers to the possibility of an invention being produced or used in any branch of economic activity.	Article 12 of the Industrial Property Law
The following are not patentable: essentially biological processes for obtaining, reproducing and propagating plants and animals; biological and genetic material as found in nature; animal breeds; the human body and the living matter constituting it; and plant varieties.	Article 16 of the Industrial Property Law
The following are not considered to be inventions: theoretical or scientific principles; discoveries that consist in making known or revealing something that already existed in nature; diagrams and methods for carrying out mental processes, playing games or doing business, and mathematical methods; computer programmes; methods of presenting information; aesthetic creations and artistic or literary works; surgical and therapeutic treatment or diagnostic methods; and the juxtaposition of known inventions, or alteration of the use, form, dimensions or materials thereof (with exceptions).	Article 19 of the Industrial Property Law
Mexico is party to the UPOV Convention (1978 Act). The protection of new plant varieties is governed by the Federal Law on Plant Varieties.	Federal Law on Plant Varieties
<b>B. Protection requirements</b>	
The patent application must be accompanied by, <i>inter alia</i> , a description of the invention, which must mention the best method known to the applicant of carrying out the invention, when this is not clear from the description of the invention. In the case of biological material, the applicant may need to provide a record of the deposit of the material at a recognized institution. The applicant may also need to submit additional information, including searches or examinations undertaken by foreign offices. The Industrial Property Law does not contain any explicit requirements regarding genetic resources or traditional knowledge.	Article 47 and 55 of the Industrial Property Law
<b>C. Rights conferred</b>	
Patent owners have the exclusive right to use the invention for their benefit, either directly or through third parties with their consent, in accordance with the provisions of the law. For products, this exclusive right confers the following prerogatives: the right to prevent others from manufacturing, using, selling, offering for sale or importing the patented product without consent. For processes, exclusive rights include the right to prevent others from using the process and from using, selling, offering for sale or importing the product obtained directly by means of the process without consent.	Articles 9 and 25 of the Industrial Property Law
<b>D. Permitted exceptions</b>	
The right conferred by a patent shall not have any effect against a third party who: in the private or academic sphere and for non-commercial purposes, engages in scientific or technological research activities for purely experimental, testing or teaching purposes; markets, acquires or uses the patented product or the product obtained by means of the patented process, after the said product has been lawfully placed on the market; prior to the filing date of the patent application, manufactures the patented product or undertakes the necessary preparations for such manufacture; or makes use of the patented product as an initial source of variation or propagation to obtain other products, except where such use is made repeatedly.	Article 22 of the Industrial Property Law
<b>E. Compulsory licences</b>	
After three years from the date of grant of the patent, or four years from the filing of the application, any person may apply for a compulsory licence to use an invention, where it has not been used, unless there are duly justified reasons for such non-use. A compulsory licence shall not be granted when the patent owner or the holder of a contractual licence has been importing the patented product or a product obtained with the patented process. The Industrial Property Law does not tacitly provide for the correction of anti-competitive practices or the granting of a compulsory licence within the meaning of Article 31(b) of the TRIPS Agreement.	Article 70 of the Industrial Property Law
<b>F. Public health and Paragraph 6 system</b>	
The sanitary authorities (COFEPRIS) shall refuse to authorize products that infringe patents in force.	

Brief description of relevant provisions	Legal basis or source
<b>G. Term of protection</b>	
Patents have a non-renewable term of 20 years, starting from the filing date. Only patents filed under transitional Article 12 of the Law on the Promotion and Protection of Industrial Property were eligible for patent term modification (so-called "pipeline" patents). "Pipeline" patents requesting the modification of their initial term were unable to obtain a term exceeding 28 June 2012. Now the term established in transitional Article 12 of the Law on the Promotion and Protection of Industrial Property has ended, no patent may exceed a term of 20 years.	Article 23 of the Industrial Property Law
<b>7. Layout designs (topographies) of integrated circuits</b>	
<b>A. Protected subject matter</b>	
"Layout design" or "topography" refers to the three-dimensional arrangement of the elements and the interconnections of an integrated circuit, or such a three-dimensional arrangement designed for an integrated circuit intended for manufacture.	Article 178 <i>bis</i> 1 of the Industrial Property Law
<b>B. Protection requirements</b>	
An original layout design may be eligible to be registered where it has not been commercially used anywhere in the world or, if it has been so used, provided that the application for registration is filed within two years following the date on which it was first commercially used.	Article 178 <i>bis</i> 2 of the Industrial Property Law
<b>C. Rights conferred</b>	
Registration of a layout design confers on its owner the right to prevent others from doing the following without authorization: reproducing the protected layout design; and importing, selling or distributing, for commercial purposes, the layout design itself, an integrated circuit incorporating the protected layout design or a product incorporating an integrated circuit that in turn incorporates a protected layout design.	Article 178 <i>bis</i> 4 of the Industrial Property Law
<b>D. Permitted exceptions</b>	
The right conferred shall have no effect on any third party who, <i>inter alia</i> : reproduces a protected layout design without authorization for private purposes or for the purpose of research or teaching; creates a layout design that meets the originality requirement based on the analysis of a protected layout design; has independently created an original layout design identical to the protected layout design prior to the publication of the registration; or sells or distributes, without authorization, an integrated circuit incorporating an unlawfully reproduced protected layout design without knowing that it incorporates a protected layout design.	Article 178 <i>bis</i> 5 of the Industrial Property Law
<b>E. Term of protection</b>	
The registration of a layout design is valid for a non-renewable term of ten years, starting from the filing date of the application for registration.	Article 178 <i>bis</i> 3 of the Industrial Property Law
<b>8. Undisclosed information and anti-competitive practices</b>	
<b>A. Undisclosed information</b>	
A trade secret is any industrially or commercially applicable information which is confidential in nature and associated with securing a competitive advantage over third parties, and in regard to which sufficient means have been adopted to preserve its confidentiality.	Article 82 of the Industrial Property Law
"The information required by special laws to determine the safety and efficacy of pharmaceutical and agricultural products that make use of new chemical components shall be protected under the terms of the international treaties to which Mexico is party". Up to five years of protection are granted for test data and this does not vary under bilateral agreements. Given the legal hierarchy of treaties, their content is not duplicated in domestic legislation. COFEPRIS can only respond positively to applications for the sanitary registration of generic medicines five years after the granting of the sanitary registration for the new chemical entity, except in cases where the interested party has generated its own data for a new chemical entity.	Article 86 <i>bis</i> of the Industrial Property Law
<b>B. Control of anti-competitive practices</b>	
One of the purposes of the Industrial Property Law is to prevent "acts that constitute unfair competition in relation to industrial property, and implement sanctions and penalties for such acts".	Articles 2 and 213 of the Industrial Property Law
<b>9. Enforcement of intellectual property rights</b>	
<b>A. Procedures and remedies</b>	
Intellectual property is a federal matter. The competent courts are therefore those of the federal system, namely: District Courts and Collegiate Circuit Courts. A special chamber within the Federal Tax and Administrative Justice Court has authority to address cases relating to intellectual property.	WTO document IP/N/6/MEX/1 of 30 March 2000
Courts may award compensation for injury ( <i>daño</i> ) or damage ( <i>perjuicio</i> ) and order the payment of legal costs and expenses. Injury is understood to mean loss or impairment of assets as a result of failure to comply with an obligation (Article 2.108 of the Federal Civil Code). Damage is considered to be the deprivation of any lawful gain that ought to have been obtained through fulfilment of the obligation (Article 2.109 of the Federal Civil Code). Accordingly, it is considered that profits are included in the definition of damage. Courts may order acts such as the destruction of goods or of materials/equipment used to produce infringing goods.	Articles 7 to 11, 228, and 420 of the Federal Code of Civil Procedure; and Articles 226 and 221 <i>bis</i> of the Industrial Property Law

Brief description of relevant provisions	Legal basis or source
<p>A judge may avail himself of any person, thing or document, whether belonging to the parties or a third party, in order to determine their legal status in a dispute, with no limitation other than that the evidence be admissible and directly related with the facts at issue. If a court finds in favour of the defendant, he may bring an action for damages. A prior declaration from the Mexican Industrial Property Institute on the existence of infringements in this regard is necessary in order to proceed with the action for damages.</p> <p>Articles 213 and 216 <i>bis</i> of the Federal Law on Copyright establish the competence of the federal courts to hear disputes arising in connection with the application of the Law, and compensation for material and/or moral injury, as well as action for damages in relation to copyright infringement, which in no case shall be less than 40% of the public sale price of the original product or the original provision of any type of service that involves infringement of one or more of the rights protected by the Law in question.</p> <p>Articles 229 and 231 of the Federal Law on Copyright relate, respectively, to the copyright and trade-related infringements committed for the purpose of direct or indirect financial gain; both Articles describe the actions punishable under this Law.</p> <p>Book Two, Title 26, of the Federal Criminal Code lists copyright offences, and the penalties and monetary fines imposed on whoever infringes or affects copyright.</p> <p>With regard to border measures, a number of provisions regulate and protect against the entry into Mexico of pirated and counterfeit goods. This protection is provided for in Article 151, points I and II, and Article 176, points II and VIII, of the Customs Law; Article 103, point XII, of the Federal Tax Code; and Article 4, point IV, of the Foreign Trade Law.</p>	<p>Articles 89, 90, 91 and 379 of the Federal Code of Civil Procedure</p>
<b>B. Provisional measures</b>	
<p>To initiate a provisional measure, the applicant must prove that he is the right holder, as well as one of the following assumptions: that his right has been infringed, that infringement is imminent, that there is a possibility of suffering irreparable damage, or that there is justified fear that evidence might be destroyed, concealed, lost or altered; the applicant must also post sufficient security to cover any damages and provide the information needed to identify the goods, services or establishments. Pursuant to the amendment of the Industrial Property Law published in the Official Journal of 18 June 2010, it was established that to determine the amount of the security, the Mexican Industrial Property Institute shall take into consideration the elements provided by the right holder and those in the proceedings in the file. The amount of the indemnity bond shall include the amount provided as security by the applicant and an additional sum of 40% on what was paid for the security (Article 199 <i>bis</i> 1).</p>	<p>Articles 384 and 389 of the Federal Code of Civil Procedure</p>
<b>C. Border measures</b>	
<p>Any goods infringing intellectual property rights may be detained at the border by the customs authorities, at the request of the competent administrative or judicial authority. The customs authorities may order a border measure only at the request of an administrative or judicial authority.</p>	<p>Articles 144 and 148 of the Customs Law and Article 199 <i>bis</i> of the Industrial Property Law</p>
<b>D. Criminal procedures</b>	
<p>With regard to industrial property, imprisonment is imposed on, <i>inter alia</i>, persons falsifying, producing, storing, transporting, introducing into the country, distributing or selling, on a commercial scale and with ill intent, items which display falsifications of protected trademarks; persons knowingly providing or supplying, in any form, raw or other materials intended for the production of objects which display falsifications of protected trademarks; and persons revealing to a third party or appropriating trade secrets.</p>	<p>Articles 223 <i>bis</i> and 224 of the Industrial Property Law</p>
<p>With regard to copyright and related rights, the following, <i>inter alia</i>, are liable for imprisonment: a publisher or producer who knowingly produces more copies of a protected work than authorized by the right holder; anyone who produces, introduces into the country, stores, transports, distributes, sells or rents out copies of protected works; those who knowingly contribute inputs intended for the production or reproduction of protected works; anyone who manufactures, for financial gain, a device designed to deactivate the electronic protection devices of a computer programme or to decode an encrypted programme-carrying satellite signal.</p>	<p>Articles 424 to 427 of the Federal Criminal Code</p>
<p>Infringers of industrial property rights may be sentenced to terms of imprisonment of up to ten years and issued fines of up to 20,000 times the daily minimum wage in Mexico City (Mex\$62 (US\$4.70)) in 2012. Infringement of copyright for commercial purposes may be punished by a term of imprisonment of up to six years and fines of up to 15,000 times the daily minimum wage.</p>	<p>WTO document WT/TPR/S/195/Rev.1 of 2 May 2008</p>
<p>Only holders and licensees of IPRs may lodge a complaint with the Federal Attorney-General's Office for the purpose of initiating criminal proceedings.</p>	<p>Article 226 of the Industrial Property Law</p>

Source: WTO Secretariat.



Table A3. 5 Intellectual property provisions in Mexico's FTAs, 2012<sup>a</sup>

	Regional trade agreement												
	Chile - Mexico	Colombia - Mexico	Central America - Mexico	Costa Rica - Mexico <sup>b</sup>	Guatemala - Mexico <sup>b</sup>	Honduras - Mexico <sup>b</sup>	EU - Mexico	EFTA - Mexico	Israel - Mexico	Japan - Mexico	Peru - Mexico	Uruguay - Mexico	NAFTA
<b>General provisions</b>													
Express commitment to protect IPRs	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	..	Yes	..	Yes	Yes
Reaffirmation of the TRIPS Agreement	..	..	Yes	..	..	..	Yes	Yes	Yes	..	Yes	..	..
Reference to WIPO treaties	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	..	..	..	Yes	Yes
National treatment or MFN provisions	Yes	Yes	Yes	Yes	Yes	Yes	..	Yes	..	Yes	..	Yes	Yes
Assistance, cooperation or coordination	Yes	..	Yes	Yes	Yes	Yes	Yes	Yes	..	Yes	..	Yes	Yes
<b>Patents</b>													
Patentability criteria and exclusions	..	..	..	..	Yes	Yes	..	Yes	..	..	..	Yes	Yes
Patentability of new uses	..	..	..	..	..	..	..	..	..	..	..	..	..
Exceptions to rights conferred	..	..	..	..	Yes	Yes	..	Yes	..	..	..	Yes	Yes
Patent term extensions	..	..	..	..	..	..	..	..	..	..	..	..	Yes
Compulsory licensing	..	..	..	..	Yes	Yes	..	Yes	..	..	..	..	Yes
<b>Other intellectual property rights</b>													
Copyrights and related rights	Yes	Yes	Yes	Yes	Yes	Yes	..	Yes	..	..	..	Yes	Yes
Trademarks	Yes	Yes	Yes	Yes	Yes	Yes	..	Yes	..	..	..	Yes	Yes
Geographical indications	Yes	Yes	Yes	Yes	Yes	Yes	..	Yes	..	Yes	Yes	Yes	Yes
Industrial designs	..	..	Yes	..	Yes	Yes	..	Yes	..	..	..	Yes	Yes
Undisclosed information	..	Yes	Yes	Yes	Yes	Yes	Yes	Yes	..	..	..	Yes	Yes
Layout-designs of integrated circuits	..	..	..	..	..	..	..	Yes	..	..	..	..	Yes
New plant varieties	..	Yes	Yes	..	..	..	..	..	..	..	..	Yes	Yes
<b>Other provisions</b>													
Enforcement procedures	Yes	Yes	..	Yes	Yes	Yes	Yes	Yes	..	..	..	Yes	Yes
Encrypted programme-carrying satellite signals	Yes	Yes	..	Yes	Yes	Yes	..	..	..	..	..	Yes	Yes

a The provisions of each agreement were defined on the basis of the text of each agreement: "Yes" indicates that the agreement explicitly mentions the provision in question without necessarily elaborating on it, while "..." indicates that the provision does not appear in the agreement.

b In force until the FTA with Central America enters into effect for these Parties.

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