Review of International Regulatory Co-operation of Mexico

OECD

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Foreword

The review of International Regulatory Co-operation (IRC) in Mexico was carried out by the OECD Public Governance Directorate under the auspices of the OECD Regulatory Policy Committee using the regulatory policy review methodology developed over two decades of peer learning. It builds on the OECD 2012 *Recommendation of the Council on Regulatory Policy and Governance*, which makes international regulatory co-operation (IRC) an integral part of quality regulation in today's globalised context. The review further draws from the OECD body of work on IRC and specific country and sector case studies developed since 2012.

This is the first in-depth international regulatory co-operation report undertaken by the OECD. The report is based on answers provided by the Ministry of Economy and several Mexican agencies to an OECD questionnaire, and on various meetings and interviews during two fact-finding missions. The review benefited from the insights of peer-reviewers from Canada, Chile and New Zealand. Two preliminary versions of the report were discussed in policy workshops with a wide range of Mexican public officials and business chamber representatives. The review was peer-reviewed in the OECD Regulatory Policy Committee.

The report supports the broader ambition of Mexico to improve the effectiveness of its regulatory framework to ensure more efficient and competitive markets. It was commissioned by Mexico's Ministry of Economy (Unit for Competition and Public Policies for the Efficiency of Markets) and can be read together with other OECD studies on Mexico's experience, such as the *Standard-Setting and Competition in Mexico: A Secretariat Report* and specific case studies as part of the OECD's Competition Assessment Project.

Acknowledgements

This report was co-ordinated and prepared by Celine Kauffmann, Marianna Karttunen and Guillermo Morales Sotomayor under the overall direction of Nick Malyshev, Head of the Regulatory Policy Division and the leadership of Marcos Bonturi, Director for Public Governance. Inputs were provided by Manuel Gerardo Flores and Delia Vazquez (OECD Regulatory Policy Division). The report was prepared for publication by Jennifer Stein, and administrative assistance was provided by Claudia Paupe.

The assessment by peers with unique experience on IRC was instrumental to designing the key conclusions of this report. The OECD Secretariat is very grateful for the invaluable inputs provided by Jeannine Ritchot, Executive Director of the Regulatory Policy and Cooperation Directorate from the Treasury Board (Canada); Gastón Fernandez, Head of the Regulatory Unit at the General Directorate for International Economic Relations of the Ministry of Foreign Affairs (Chile); and Julie Nind, principal policy advisor at the Ministry of Business, Innovation and Employment (New Zealand).

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We also express our gratitude to the many government officials who provided inputs, including (but not limited to): Jose Eduardo Mendoza, Commissioner from the Federal Economic Competition Commission; from the Unit of Competition and Public Policies for Market Efficiency, David Lopez, Head for the Unit, Francisco Javier Higareda Jaimes, Deputy Director of the Unit, Ana Lilia Martinez, Director of Competition Analysis and Markets Efficiency and Fabián Coca Reyes, Director of the Unit of Competition and Public Policies for Market Efficiency; from the General Bureau of Standards, Alberto Ulises Esteban Marina, General Director, Jesús Lucatero, Deputy Director for Operation and Claudia Sama, Deputy Director for Operation; from the General Direction on International Trade Rules at the Under-Ministry of Foreign Trade, Mónica Lugo, Deputy Director General; and from CONAMER, Marcos Avalos, General Coordinator of Regulatory Impact Assessments.

Critical insights were also received from different Mexican authorities that helped inform the preparation of this review, particularly from the Ministries of Foreign Affairs (SRE), Communications and Transport (SCT), Health (SSA), and Environment and Natural Resources (SEMARNAT); the Federal Telecommunications Institute (IFT); the Agency for Safety, Energy and Environment (ASEA); the Federal Commission for the Protection of Sanitary Risks (COFEPRIS); National Service of Health, Food Safety and Agri-food Quality (SENASICA); National Commission for the Efficient Use of Energy (CONUEE);

Mexican Accreditation Entity (EMA); Mexican Council of Standardisation and Conformity Assessment (COMENOR); National Chamber of the Cosmetic Industry (CANIPEC).

The external consultation process resulted in useful feedback from the OECD Regulatory Policy Committee, colleagues from the OECD Legal Directorate and the Competition Division, as well as from other international organisations, namely the International Electrotechnical Commission (IEC), the International Organization for Standardization (ISO), the World Organisation for Animal Health (OIE) and the World Trade Organisation (WTO).

The work on regulatory policy is conducted under the supervision of the OECD Regulatory Policy Committee whose mandate is to assist member and partner countries in building and strengthening capacity for regulatory quality and regulatory reform. The Regulatory Policy Committee is supported by staff within the Regulatory Policy Division of the Public Governance Directorate. The OECD Public Governance and Territorial Development Directorate's mission is to help governments at all levels design and implement strategic, evidence-based and innovative policies to strengthen public governance, respond effectively to diverse and disruptive economic, social and environmental challenges and deliver on government's commitments to citizens.

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Acronyms and abbreviations

APLAC	Asia Pacific Laboratory Accreditation Cooperation (*Cooperación de Acreditación de Laboratorios de Asia-Pacífico*)
CCNN	National Advisory Committees for Standardisation (*Comités Consultivos Nacionales de Normalización*)
CNN	National Standardisation Commission (*Comisión Nacional de Normalización*)
CENAM	National Metrology Centre (*Centro Nacional de Metrología*)
COFECE	Federal Economic Competition Commission (*Comisión Federal de Competencia Económica*)
COFEMER	Federal Commission for Regulatory Improvement (*Comisión Federal de Mejora Regulatoria*).
COMENOR	Mexican Council of Standardisation and Conformity Assessment *(Consejo Mexicano de Normalización y Evaluación de la Conformidad, A.C.*)
CONAMER	National Commission for Regulatory Improvement (*Comisión Nacional de Mejora Regulatoria*)
COPANT	Pan American Standards Commission (*Comisión Panamericana de Normas Técnicas*)
CTNN	National Technical Committees for Standardisation (*Comités Técnicos Nacionales de Normalización*)
DGN	General Bureau of Standards (*Dirección General de Normas*)
DGRCI	General Direction of International Trade Rules (*Dirección General de Reglas de Comercio Internacional*)
DOF	Official Gazette (*Diario Oficial de la Federación*)
EMA	Mexican Accreditation Entity (*Entidad Mexicana de Acreditación*)
GATT	General Agreement on Tariffs and Trade
GRP	Good Regulatory Practice
HLRCC	High Level Regulatory Cooperation Council
IAAC	Inter-american Accreditation Cooperation (*Cooperación InterAmericana de Acreditación*)
IAF	International Accreditation Forum
ICN	International Competition Network

IEC	International Electrotechnical Commission
IFT	Mexican Federal Telecommunications Institute (*Instituto Federal de Telecomunicaciones*)
ILAC	International Laboratories Accreditation Commission
IMO	International Maritime Organization
IOSCO	International Organization of Securities Commissions
IPPC	International Plant Protection Convention
ISO	International Standardization Organization
LCE	Law on Foreign Trade (*Ley de Comercio Exterior*)
LCT	Law on Celebration of Treaties (*Ley de Celebración de Tratados*)
LFPA	Federal Law of Administrative Procedure (*Ley Federal de Procedimiento Administrativo*)
LFMN	Federal Metrology and Standardisation Law (*Ley Federal de Metrología y Normalización*)
MoU	Memorandum of Understanding
MRA	Mutual Recognition Agreement
NAFTA	North American Free Trade Agreement
NMX	Mexican Standards (*Normas Mexicanas*)
NOM	Mexican Official Standards (*Normas Oficiales Mexicanas*)
RIA	Regulatory impact assessment
OIE	World Organisation for Animal Health
OECD	Organization for Economic Co-operation and Development
ONN	National Standardisation Bodies (*Organismos Nacionales de Normalización*)
PAC	Pacific Accreditation Cooperation (*Cooperación de Acreditación del Pacífico*)
PASC	Pacific Area Standards Congress
PNN	National Standardisation Programme (*Programa Nacional de Normalización*)
PROFECO	Federal Attorney´s Office of Consumer (*Procuraduría Federal del Consumidor*)
SAGARPA	Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food (*Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación*)
SCT	Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes*)
SE	Ministry of Economy (*Secretaría de Economía*)

SEMARNAT	Ministry of Environment and Natural Resources (*Secretaría del Medio Ambiente y Recurso Naturales*)
SENER	Ministry of Energy (*Secretaría de Energía*)
SPS	Sanitary and Phytosanitary
SRE	Ministry of Foreign Affairs (*Secretaría de Relaciones Exteriores*)
TBT	Technical Barriers to Trade
WTO	World Trade Organization

Executive summary

Globalisation has affected the everyday lives of citizens, businesses and countries worldwide. The technical revolutions of the past 30 years and the deepening of global production chains have amplified the integration of the world economy. As a result, the rapid flow of goods, services, people and finance across borders is testing the effectiveness and the capacity of domestic regulatory frameworks. Both the quality of new regulatory measures and their effective enforcement are under strain.

International regulatory co-operation (IRC) provides an important opportunity for countries, and in particular domestic regulators, to adapt their regulations to the rapidly evolving needs of a globalised world. With IRC, regulators can consider the impacts of their actions beyond their domestic borders, expand the evidence for decision making, learn from the experience of their peers, and develop concerted approaches to challenges that transcend borders. IRC is particularly important for a country which has such an open economy as Mexico. Yet, as in all countries, globalisation has not yet fully permeated the everyday work of Mexican regulators.

This report provides the first OECD assessment of a country's IRC framework and practices. It builds on the analytical framework developed by the OECD following the adoption of a core principle on international regulatory co-operation as part of the 2012 *Recommendation on Regulatory Policy and Governance*. Against this framework, Mexico stands out for its commitment to and *de facto* active use of a variety of IRC approaches. Through these efforts, Mexico is showing strong resolve to place itself at the forefront of effective IRC. However, these important and visible efforts have been made in an ad hoc and pragmatic manner and not as the result of a comprehensive strategy. A number of challenges still prevent IRC from delivering its full benefits for the Mexican population. This review identifies areas for improvement based on a thorough assessment of IRC efforts.

Mexico's active efforts to embrace globalisation are reflected in many aspects of its domestic policies, practices and institutions. Mexico is among the few OECD countries to have a legal basis framing regulators' consideration of the international environment. Still, the vision and policy for IRC in Mexico is fragmented across different legal and policy documents and may generate different requirements for the various regulatory tools. Similarly, many authorities in Mexico are involved in IRC, either by conducting IRC, overseeing its implementation, or both.

Mexico has made unilateral efforts to embed international considerations in its domestic regulations through regulatory improvement disciplines. For instance, it has introduced specific procedures to assess trade impacts in the *ex ante* impact assessment process, applicable to all new regulatory measures. This *ex ante* regulatory impact assessment procedure is used to ensure notifications to the WTO and thus obtain feedback on draft measures from foreign stakeholders. In addition, all subordinate regulations are accompanied by a summary in English, to facilitate their understanding by foreign stakeholders. Mexico also has a legal obligation to consider international standards in the development of technical regulations.

Still, in practice, regulators encounter difficulties when implementing these unilateral IRC disciplines. The consideration of international instruments is still far from systematic in technical regulations, and it is not a legal obligation for non-technical regulations. Regulators face methodological challenges in estimating trade costs in regulatory impact assessments. *Ex post* evaluation of laws and regulations is rarely used to assess the international impacts of a regulatory measure or to identify divergence from international standards, norms or best practices.

The Mexican government and individual regulators also co-operate extensively on regulatory matters, at the bilateral, regional and multilateral levels. High-level co-operation efforts are largely driven by Mexico's close trade and investment ties with its North American neighbours, the United States and Canada. For example, Mexico and the United States agreed on a High Level Regulatory Cooperation Council, and Mexico has concluded a number of mutual recognition agreements with Canada and the United States. Recently, Mexico has started modernising its trade agreements with major trading partners, introducing new IRC provisions in sectors where regulatory divergences are particularly burdensome. Mexican regulators also co-operate bilaterally directly with foreign peers across the globe, going beyond economic motivations. They share experience and information about regulatory approaches by signing memoranda of understanding or by participating in broader networks of regulators. Finally, through its active participation in a number of multilateral organisations, Mexico contributes to the design and development of international rules and standards, and ensures that its perspective and specificities are taken into account in global settings.

Nevertheless, evidence shows that the effectiveness of Mexico's IRC efforts could be strengthened. Based on an analysis of Mexico's IRC policies, practices and accomplishments, the review identifies three broad areas for improvement. First, to strengthen its political commitment and align incentives in support of more systematic IRC, Mexico should design and develop a holistic, strategic vision for IRC, with clearly defined roles and responsibilities. This would ensure that the authorities involved in conducting IRC work towards the same objectives and co-ordinate effectively. This strategy should be designed to feed into the broader national development strategy beyond merely lowering unnecessary trade barriers. The Mexican government could then build on such a vision to ensure that all relevant actors are well informed about the variety of IRC tools available to them, their applicability in different contexts and the benefits to be gained from conducting IRC more systematically. Ultimately, to ensure that the IRC initiatives are effectively implemented, the country should invest in methodologies and guidance to help regulators embed IRC in their rule-making, and design co-operation agreements with concrete commitments and enhanced follow-up.

Assessment and recommendations

Recent developments highlighted in (OECD, 2017[1]) show Mexico as a reform frontrunner. Mexico has put together the most ambitious reform package of any OECD country in recent times through the unprecedented *Pacto por México*. These structural reforms have spanned a wide range of sectors and policy areas. They have been important steps forward, but still have to translate into tangible outcomes. Looking ahead, Mexico needs to ensure that the country can reap the benefits from these unprecedented reform efforts. This will involve effective reform implementation and great conjunction / alignment across reform efforts.

In this context, international regulatory co-operation (IRC) represents an important opportunity to support the regulatory, competition and more broadly the economic and governance reforms undertaken to strengthen market efficiency and policy effectiveness domestically. Through regulatory co-operation, countries, and in particular domestic regulators, can better understand and take into account the impacts of their regulatory action including beyond their domestic borders. They can collect and build on the knowledge that other jurisdictions have accumulated on similar issues. IRC provides them the opportunity to develop concerted approaches that can reinforce the effectiveness of their individual measures, support better enforcement and limit regulatory arbitrage, and address undue regulatory divergences that can be costly for citizens and businesses. IRC can in sum help regulators overcome the inherent domestic nature of the development and application of laws and regulations in a context of increasing internationalisation of flows of goods, services, capital and people and growing inter-dependency between countries.

IRC is particularly important for a country, such as Mexico, which is strongly embedded in international economic relations. Mexico's trade contributes to more than a third of its GDP, most of it directed at the US and the EU. It is no surprise that today's NAFTA and other trade negotiations focus strongly on non-tariff, regulatory barriers. Because of its geographic location, the country is deeply embedded in North America's relations and a highly influential actor in the Latin American Region with which it shares a common language. Over the years, Mexico has also increased its international presence, as illustrated by the signature of the GATT agreement in 1986, followed by the adherence to the OECD in 1994 and to the World Trade Organisation in 1995. Today the country is an active player in many international *fora*, and a party to a multiplicity of international agreements and frameworks for co-operation. And yet, as in all countries, globalisation has not yet fully permeated the everyday work of regulators.

This review aims to help Mexican regulators develop state of the art regulations that are up to date for the global player that Mexico has become, ultimately allowing Mexico to boost foreign trade and reap the benefits of globalisation for its population.

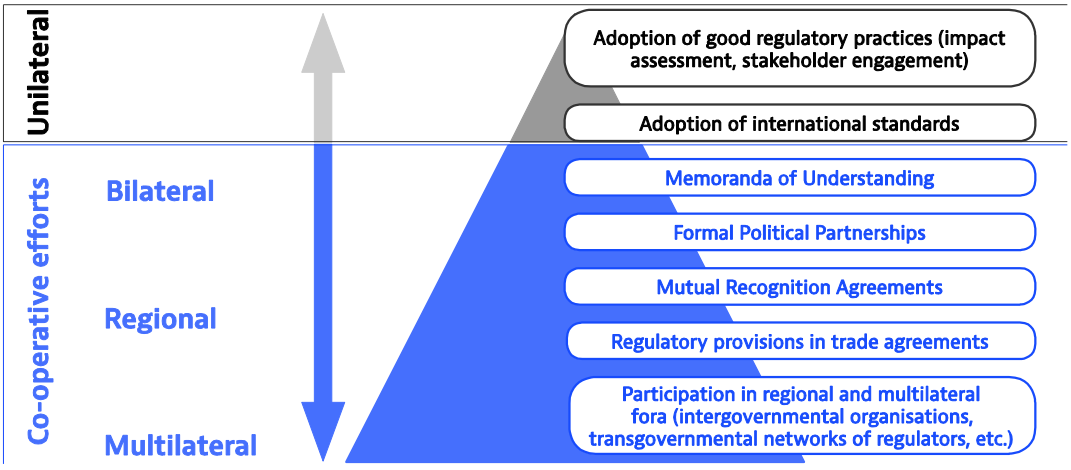
What is international regulatory co-operation (IRC)?

The 2012 Recommendation (OECD, 2012[2]) recognises that in today's globalised context, regulators can no longer work in isolation. They have much to learn from their peers abroad, and much to benefit from aligning approaches with them. IRC has become an essential building block to ensure the quality and relevance of regulations today. Principle 12 of the 2012 Recommendation therefore encourages regulators to:

> *"In developing regulatory measures, give consideration to all relevant international standards and frameworks for co-operation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction" (OECD, 2012[2]).*

Building on the Recommendation, (OECD, 2013[3]) defines IRC as any agreement or institutional arrangement, formal or informal, between countries to promote some form of coherence in the design, monitoring, enforcement or *ex post* evaluation of regulation. (OECD, 2013[4]) also highlights the different ways in which a country may approach regulatory co-operation. They range from the unilateral adoption of good regulatory practices that promote evidence-based rule-making to various co-operative approaches (bilateral, regional or multilateral) that provide for the development of common regulatory positions and instruments with other countries (Figure 1). Examples of the selected approaches and their related benefits are listed in Box 1.

Figure 1. The variety of IRC approaches



Note: unilateral approaches are pictured in grey, and collaborative approaches, ranging from bilateral to multilateral are pictured in blue.
Source: Based on (OECD, 2013[3]), *International Regulatory Co-operation: Addressing Global Challenges*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264200463-en.

This report documents and assesses the main IRC policies and practices in Mexico, using the range of possible IRC approaches to structure the analysis. The two main axes of the analysis are: 1) the unilateral efforts undertaken by Mexico to support regulatory coherence through good regulatory practices, namely regulatory impact assessment (RIA), stakeholder engagement, and the adoption of international standards; and 2) Mexico's co-operative efforts on regulatory matters, bilaterally, regionally or multilaterally, through memoranda of understanding (MoU), the High Level Regulatory Cooperation Council with the United States, mutual recognition agreements, trade agreements, and/or participation in international *fora*.

Box 1. IRC in practice: examples of approaches and related benefits

Several countries have telling examples of IRC practices that have helped them make efficiency gains while achieving their public policy objective.

Adoption of international standards on motorcycle regulation can help protect safety while saving millions of dollars

On 15 September 2014, the Australian Government removed the requirement to modify rear mudguards on new motorcycles to meet unique Australian Design Rules, which imposed a requirement above the commonly accepted international rules. Abolishing this provision meant nearly 70 000 new motorcycles per annum would no longer be required to be retro-fitted with rear mudguard extensions. This is estimated to reduce regulatory burdens by AUD 14.4 million.

Source: http://minister.infrastructure.gov.au/jb/releases/2014/September/jb096_2014.aspx.

Participation in regional organisation helped improving water quality, increasing fauna and flora and preventing floods

The International Commission for the Protection of the Rhine (ICPR) enables co-operation at the level of the Rhine river basin, including its alluvial areas and the waters in the watershed. It was formed in 1950 on a diplomatic basis between Switzerland, the Netherlands, France, Germany and Luxemburg. It was given a legal basis by the Berne Convention in 1963. The EEC joined as a member in 1976. The ICPR combines political representatives and technical experts. Over the years, it has deployed several significant benefits for the Rhine river basin:

- Improved water quality.
- Increased number of animal and plant species.
- Flood prevention.
- Ecological improvements.

Source: (Black and Kauffmann, 2013[5]), "Transboundary water management", in OECD, *International Regulatory Co-operation: Case Studies, Vol. 3: Transnational Private Regulation and Water Management*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264200524-4-en.

Participation in multilateral organisation helped enhance the effectiveness of chemical testing, with reduced costs and health and environmental gains

The OECD Mutual Acceptance of Data system helps governments and industry save some EUR 153 million per year through reduced chemical testing and the harmonisation of chemical safety tools and policies across jurisdictions. In addition, co-operation has brought less quantifiable benefits, such as the health and the environmental gains from governments being able to evaluate and manage more chemicals than they would if working independently, the avoidance of delays in marketing new products, and the increased knowledge on new and more effective methods for assessing chemicals.

Source: (OECD, 2013[4]), Chapter 1: "Chemical safety", *International Regulatory Co-operation: Case Studies*, Vol. 1: Chemicals, Consumer Products, Tax and Competition, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264200487-en.

Key diagnostic elements of IRC in Mexico

Mexico stands out for its commitment to and *de facto* active use of a variety of IRC approaches (Figure 2). In particular, IRC has been strongly embedded in Mexico's regulatory improvement disciplines, i.e. in the development and revision of regulation initiated by the Executive branch of the federal level. This is noteworthy in itself, as it is an area where IRC has only recently become a key component of regulatory quality across OECD countries, namely through the OECD 2012 Recommendation. Therefore, most countries are still exploring the effective means of making use of it, and only few have truly introduced dedicated IRC practices as part of their regulatory policy agenda. Yet, Mexico has recently amended its ambitious and advanced legal framework put in place to promote better regulation to make a particularly sophisticated connection between good regulatory practices and trade, which goes beyond the current practice in most other countries. In addition, the Mexican government and individual regulators engage extensively in international co-operation, at the bilateral, regional and multilateral level, both through high-level political initiatives and at the technical level.

Through these efforts, Mexico is showing strong resolve to place itself at the forefront of effective IRC. However, these important and visible efforts have happened in an ad hoc and pragmatic manner and not as the result of a comprehensive strategy. A number of challenges still prevent IRC from deploying its full benefits for the Mexican population: IRC efforts remain often ad hoc, fragmented and limited in scope, and when conducted, IRC does not necessarily deliver tangible outcomes. This review provides a timely opportunity for Mexico to take stock of its IRC efforts and develop a more coherent approach building on achievements so far. It will help the country prioritise its IRC actions in a more resource efficient manner.

Based on the overview of Mexico's IRC policies, practices and accomplishments provided in the three chapters of this report, the review identifies three broad areas of improvement. The initial step that could help Mexico strengthen its political commitment and align incentives in support of more systematic IRC is to design and develop a holistic, strategic vision for IRC, with clearly defined roles and responsibilities (1). Building on such a vision, the Mexican government will have a more comprehensive avenue to ensure that all relevant actors are well informed about IRC and have sufficient incentive to conduct IRC (2), and that the IRC initiatives are effectively implemented (3). These three axes cut across the three chapters of this review, whether the institutional and policy framework for IRC in Mexico (Chapter 1), the unilateral approaches to IRC (Chapter 2), or the co-operative IRC efforts (Chapter 3).

Taking into account the pioneering character of IRC policy and practices, the recommendations aim to support Mexico build on its already advanced IRC framework to achieve better outcomes. The review acknowledges that understanding of good practices in this area is still evolving and that most countries are still struggling with establishing the basic IRC requirements.

Figure 2. Overview of Mexico's IRC efforts

Integration of IRC in GRP
- Consideration of trade impacts in RIA, connected with notifications to World Trade Organization
- Requirement to adopt international standards in technical regulations

MoU/Exchange of information between regulators
- Many sectoral MoUs signed by different Ministries

Regulatory co-operation partnerships
- HLRCC with the United States, current stalemate
- North American Leaders' Summit between Canada, United States and Mexico

Mutual recognition
- Many different recognition approaches (unilateral recognition of specific measures, 4 governmental MRAs with NAFTA partners, 30 arrangements between conformity assessment bodies, 7 MRAs on professional qualifications and a multilateral recognition in APEC)

Regulatory provisions in trade agreements
- GRP and IRC chapters in new and upcoming trade agreements (Pacific Alliance, NAFTA, etc.)

Trans-governmental networks
- Active contribution of Mexican regulators to a variety of decentralised networks of regulators (Regulatel, ICN, IOSCO, etc.)

Joint rule-making via intergovernmental organisations
- Active contribution of Mexico to international and regional fora

Regulatory harmonisation
- Ad hoc examples of harmonisation of specific technical regulations. E.g. development of joint standards between Mexico and Canada on fire safety services and on tubes; minimum energy performance standards for refrigerators and freezers

Source: Author's own elaboration.

Building a holistic IRC vision and a strategy of how IRC can foster economic development and contribute to the wellbeing of Mexican citizens

Currently, the vision and policy for IRC in Mexico is fragmented across different legal and policy documents and may generate different requirements on the various regulatory tools. Mexico's legal and policy framework relevant to IRC is embedded into two main sets of legal provisions: i) two key documents framing IRC practices in domestic rule-making, namely the Federal Law of Administrative Procedure (LFPA) and the Federal Law of Metrology and Standardisation (LFMN); and ii) various legal and policy documents framing Mexico's co-operation efforts across borders on regulatory matters, including the Law on Celebration of Treaties (LCT), the Law on Foreign Trade (LCE) and a multiplicity of sectoral provisions. As a consequence, overall Mexico's IRC strategy and vision are not unified, making it difficult to convey its importance and expected practices to regulators. Mexico could benefit from an articulated vision and strategy for IRC that bring together the various efforts carried out at the unilateral, bilateral and multilateral level. A holistic vision of IRC would help ensure that IRC is embedded all throughout Mexico's public policy activities, and that all the authorities involved in conducting IRC contribute to pursuing a same goal.

Many authorities in Mexico are involved in IRC, either by conducting IRC, or overseeing implementation or both. Still, many of these authorities operate in silos, without a common understanding of IRC and its contribution to Mexico's development. As a result, IRC tends to be led by individual authorities particularly exposed to international context, and lacks a whole of government perspective. Clearly defined IRC roles and responsibilities would help enhance the effectiveness of the IRC practices of each authority, and of the Mexican government as a whole. In particular, oversight of IRC is *de facto* shared between several authorities, namely COFEMER (the oversight body for regulatory improvement in Mexico, now CONAMER),[1] the Ministry of Economy (which is in charge of negotiating trade agreements and supervises the standardisation process in Mexico, the adoption of international standards and WTO notification) and the Ministry of Foreign Affairs (in charge of co-ordinating the international activity of governmental authorities). Such sharing of oversight responsibilities is common in OECD countries (OECD, 2013[3]; OECD, 2018[6]). Nevertheless, the risk of fragmentation, and sometimes of overlap in functions, is of undermining of a whole-of-government approach, for both unilateral disciplines and co-operative efforts. In this situation, the experience of other countries, such as Canada, has shown the importance of clear allocation of responsibilities regarding IRC and strong co-ordination among relevant entities (see Box 4).

Mexico has introduced innovative procedures and legal requirements to embed international considerations in its domestic rule-making process. These IRC considerations are particularly developed with regards to trade considerations, driven by Mexico's efforts to comply with its WTO obligations under the agreements on Sanitary and Phytosanitary measures (SPS) and Technical Barriers to Trade (TBT). By contrast, the potential of IRC to enhance the effectiveness of domestic regulation more generally is not fully exploited.

The current Foreign Trade RIA procedure provides for a well-thought co-ordination mechanism among authorities within the Mexican government, and offers a useful avenue to consider impacts of regulation on Mexican imports and exports. It is mostly focused on ensuring notifications to the WTO as per the SPS and TBT Agreements. Only recently introduced, it is still early to evaluate its benefits for the quality of Mexican regulations

and the effectiveness of WTO notifications. Looking ahead, the co-ordination it creates and the opportunity it opens to identify trade-effects of regulations may be further leveraged to build a better understanding of the significance of non-tariff barriers to trade and to guide regulators in addressing unnecessary regulatory burdens to trade.

Mexico has introduced detailed requirements for regulators to use existing international instruments as the basis of technical regulations and standards when relevant, in line with a growing tendency in OECD countries to do so (OECD, 2018[6]). As such, the rule-making process of technical regulations and standards in Mexico is well geared towards aligning the Mexican regulatory framework with international instruments, to avoid the adoption of technical regulations and standards that are unnecessarily burdensome for international trade. By contrast, there is no general requirement calling for the consideration of international instruments in developing subordinate regulations more broadly. Further consideration of international instruments from the very outset of the regulatory process for all subordinate regulations may support better informed rule-making and enhance compatibility with regulatory approaches developed at the international level. It is indeed when policy options are being considered or a draft is being developed that gathering evidence on international instruments may provide useful references to regulators and help ensure compatibility between domestic policy and the international instruments (OECD, 2018[6]).

Certain procedures as part of the regulatory impact assessment (Foreign Trade RIAs, or high impact RIAs) require that regulators take into account the international environment, both in the assessment of impacts and in the assessment of regulatory alternatives. A further broadening of such requirements to all RIA procedures applicable to all subordinate regulations (including technical regulations) may offer a useful tool to support regulators in collecting relevant foreign and international evidence, expertise and regulatory approaches upon which to base their own measures and decisions.

While the consideration of the international environment is increasingly embedded in Mexico's regulatory improvement practices of the Federal executive branch, the legislative and judicial branches of government and subnational level of government have largely been excluded so far. The General Law of Regulatory Improvement (see Box 1.3), may provide an opportunity to remedy some aspects of this situation. While it does not address IRC directly for other branches beyond the executive and for the subnational levels of government, it introduces the obligation to embed GRPs during their rule-making process. The delivery of the Law will provide ample opportunities to foster awareness and support exchange of practices among these different levels, including in relation to IRC.

Recommendations

Develop a clear vision on how IRC contributes to the wellbeing of Mexican citizens within the broader context of the national development strategy, with a medium-term pathway and long term objectives.

- ***The vision for IRC should clarify the objectives and expected IRC practices, taking into account the variety of IRC approaches and their respective benefits and challenges***. Objectives pursued through IRC should go beyond lowering trade barriers. Mexico's vision for IRC should also support the effectiveness and administrative efficiency gains related to transfer and pooling of evidence and expertise allowed by greater regulatory co-operation across borders, guarantee competition, safety of products for Mexican consumers, and protect the

environment and protect human health and safety, among others. So far, only a couple of OECD countries have established a common central definition of what IRC is and of what it entails in their jurisdictions (Box 2). These examples, as well as the IRC framework developed by the OECD may serve as inspiration to build the domestic vision. Chile's National Agenda for Productivity, Innovation and Growth (Box 3) also provides a useful example of the integration of regulatory reform within the country's broader productivity agenda.

- ***The IRC strategy should be shared across government and designed with inputs from within and outside of government to ensure ownership of the strategic priorities***. Regulators know their field and peers. The government objective should be to facilitate their co-operation by clarifying what IRC is and what can be expected from it; and guidance where needed, and by facilitating access to relevant information (see below).

- ***Given the constraint on government resources, the strategy should prioritise the international co-operation efforts where there is a strong rationale for IRC*** (Box 5 provides the potential factors driving the success of co-operation)**.** Typically, the benefits of co-operation tend to outweigh the costs of IRC where there is a neighbouring relationship or strong economic ties, such as trade inter-dependency. Bilateral regulatory co-operation with trading partners is likely to reduce trade frictions and enhance Mexico's import and export flows. More systematic bilateral regulatory co-operation with neighbouring countries may also help address joint challenges related to geographic vicinity or similar preferences (e.g. co-operation on environmental policies in the Gulf of Mexico). Co-operation can take place at the national/federal level, or at the sub-national one (between states for example), or, even, between the federal level and a neighbouring foreign state.[2] More broadly, further efforts may be invested in bilateral and regional co-operation of Mexican regulators with other Latin American countries, particularly those with similar regulatory quality disciplines. With other countries that Mexico has less existing ties with, regional and multilateral settings provide important opportunities to catalyse and benefit from exchange of information, evidence and learning from a broad range of partners. In this respect, information gathered through regulatory improvement disciplines (e.g. *ex ante* and *ex post* impact assessments or through stakeholder engagement processes) could be leveraged to identify the priorities for the strategic IRC vision and where to target specific IRC efforts.

Ensure co-ordination and dialogue about IRC to encourage more systematic uptake of IRC

- ***Enable fluid dialogue and co-ordination across authorities overseeing the conduct of IRC across government.*** Constant dialogue between the three main institutions overseeing the different IRC activities can be further institutionalised. As the vision for IRC develops, it should be accompanied by further clarification of IRC attributions in the laws and/or bylaws of relevant authorities. Given the breadth of IRC, the supervision of IRC activities is likely to remain shared between several authorities. Constant co-ordination across the responsible authorities, notably COFEMER, the Ministry of Economy and the Ministry for Foreign Affairs, will be essential to ensure a common vision, as is the case in Canada (Box 4).[3] A dedicated staff specialised in IRC in each of the relevant entity could help facilitate stewardship of the IRC strategy and promote continuous flow of information to regulators and the public service.

- ***Enhance strategic exchanges between the SRE and line ministries or sectoral regulators*** that participate directly in international organisations to ensure a more co-ordinated position across IOs.

- ***Enhance awareness about and understanding of IRC across all authorities whether from the federal government, state-level, municipalities; legislative or judicial powers, as well as autonomous bodies.*** The implementation of the General Law of Regulatory Improvement and the reform on the Law of Metrology and Standardisation provide ideal opportunities to discuss how the regulatory improvement and the standardisation agendas can promote a whole-of-government strategy for IRC in support of Mexico's development.

- ***Ensure dialogue among regulators across the government.*** There are strong common challenges and interests across regulators when it comes to regulatory quality and co-operation. In this sense, a mechanism for discussion and exchange among regulators could help them build common understanding, share experience and learn from each other on IRC. The models introduced in Canada and New Zealand may provide useful lessons in this regard (Box 2).

- ***Provide opportunities for dialogue with stakeholders on IRC to help prioritise IRC efforts.*** Stakeholders best understand the regulatory barriers and misalignments that generate costs or frictions to their activities and impede their growth. Close engagement between high-level political authorities, regulators and regulated entities to hear their priorities for co-operation may help to focus efforts. The public consultation in both Mexico and the United States carried out to develop the HLCRR work plan provides a relevant example and a precedent. Such consultation opportunities could be made more regular. International examples of relevance include the consultations undertaken in Canada and the United States in the framework of the Regulatory Co-operation Council (RCC) and the Refit platform established by the European Commission (Box 7).

Promote and embed in regulatory improvement a broader understanding of IRC going beyond trade and permeating the full regulatory process

- ***Systematise the consideration of international instruments and practice (beyond international technical standards) in the process of development of primary and subordinate regulations (beyond technical regulations).*** When drafting new subordinate regulations, regulators could be encouraged to further consider international instruments relevant to the regulated area, with an indication of the level of compliance with the international instruments, in line with what is already done for technical regulations.

- ***Systematise the consideration of international experience in the RIA process.*** The RIA process is a unique opportunity to collect evidence and catalyse the expertise of regulators in other jurisdictions. However, beyond specific case of foreign trade RIAs, the consideration of foreign and international practices in the consideration of regulatory alternatives is only required when a RIA with high impact is carried out. The question "*Describe the manner in which the problematic is being regulated in other countries and/or the good international practices in this matter*" could be made systematic to all RIAs conducted.

Box 2. Policy frameworks for International Regulatory Co-operation: the cases of Canada, New Zealand and the United States

Some OECD countries have invested in defining and consolidating a policy framework for IRC. The approaches can come in the form of administrative orders, like in the United States; as policy instruments, as in Canada; or in the creation of practical toolkits integrating the various IRC approaches and case studies as in New Zealand.

Canada

The Cabinet Directive on Regulatory Management (CDRM) establishes the requirements that Canadian regulators must meet when developing and implementing regulation. The Directive instructs departments and agencies to take advantage of opportunities for co-operation with other jurisdictions in order to minimise barriers to trade and to reduce the number of Canadian-specific regulatory requirements unless they are warranted.

The Treasury Board of Canada Secretariat, the central regulatory oversight body is responsible for establishing strategies and priorities in relation to regulatory co-operation for the Government of Canada, which it defines as a process where governments work together to:

- reduce unnecessary regulatory differences;
- eliminate duplicative requirements and processes;
- harmonise or align regulations;
- share information and experiences; and
- adopt international standards.

Canada's policy framework on IRC applies to a range of regulatory activities, including: policy development; inspections; certification; adoption and development of standards; and product and testing approvals.

New Zealand

New Zealand Government Expectations for Good Regulatory Practice incorporates international regulatory co-operation elements. These include expectations for regulatory system design focusing on consistency with relevant international standards and practices to maximise the benefits from trade and cross border flows (except when this would compromise important domestic objectives and values). The Legislation Design and Advisory Committee Guidelines on Process and Content of Legislation deal with cross-border issues, as well as treaties and international obligations. The Guidelines have been adopted by the New Zealand Cabinet and are the government's key point of reference for assessing whether draft legislation is consistent with accepted legal and constitutional principles.

New Zealand is also developing a practical toolkit on IRC, drawing on a paper published by the Australia and New Zealand School of Government that documents the deep experience of trans-Tasman regulatory co-operation. The toolkit ultimately aims to enable domestic policymakers and regulators to make informed choices about different IRC options. The toolkit presents a continuum of co-operation options, ranging from unilateral co-ordination through informal and formal co-operation. The

toolkit will outline the benefits and costs of different options on the continuum, supported by relevant case studies. The toolkit identifies the following objectives for co-operating: i) to lower barriers to trade and investment, ii) to enhance regulatory capacity and build confidence and trust, iii) to increase policy and regulatory effectiveness.

United States

IRC is enshrined in Executive Order 13609 and has the following salient features:

- give the role and responsibility of IRC to a specific Working Group;
- regulators need to report on IRC activities that are 'reasonably anticipated to lead significant regulations' in the annual Regulatory Plan;
- regulators shall identify regulations with "significant international impacts";
- regulators need to address "unnecessary differences in regulatory requirements" as part of retrospective, *ex post*, review;
- for regulations with "significant international impacts," regulators need to consider certain approaches of foreign governments.

The Executive Order adds prerequisites to co-operate with other parties: i) regulatory transparency and public participation; ii) internal whole-of-government co-ordination; and iii) carrying out regulatory assessments.

Source: Treasury Board website: www.canada.ca/en/treasury-board-secretariat/services/regulatory-cooperation/learn-about-regulatory-cooperation.html (accessed 5 March 2018) and Canada's Cabinet Directive on Regulatory Management: www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/guidelines-tools/cabinet-directive-regulatory-management.html#cha610b (accessed 23 March 2018); United States Executive Order 13609: www.gpo.gov/fdsys/pkg/FR-2012-05-04/pdf/2012-10968.pdf (accessed 5 March 2018); APEC Meeting Documents Database: http://mddb.apec.org/documents/2014/ec/wksp2/14_ec_wksp2_002.pdf (accessed 5 March 2018), (OECD, 2013[3]), International Regulatory Co-operation: Addressing Global Challenges, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264200463-en.

Box 3. The Chilean National Agenda for Productivity, Innovation and Growth

The Chilean government launched the 4-year National Agenda for Productivity, Innovation and Growth, which uses regulatory reform as a driver to foster broader government goals. The Agenda, co-ordinated by the Ministry of Economy, involved the participation of the political parties, as well as a wide array of ministries and agencies, oriented towards tackling the productivity gap.

The Agenda includes 47 measures categorised in 7 action plans including "regulatory efficiency and public service delivery" and "new institutionality". Both involve regulatory reform measures to establish governance arrangements that support new policies and tools to improve the quality of regulation.

The agenda was disseminated amongst the public and private sector and a dedicated website (www.agendaproductividad.cl) showed progress in each of the measures. Overall, the Agenda introduced 47 measures, 10 law bills and 37 administrative initiatives, with an investment of USD 1 500 million between 2014 and 2018.

Source: Ministry of Economy, Development and Tourism (2014), "Agenda de productividad, innovación y crecimiento 2014-2018", www.agendaproductividad.cl/ (accessed 10 March 2018).

Box 4. Co-ordination on IRC in Canada

In Canada, IRC responsibilities are allocated across three different entities. The Treasury Board of Canada Secretariat is the body responsible for establishing policies and strategies to advance IRC. To do so, it works very closely with Global Affairs Canada, which is responsible for leading the negotiation of bilateral, plurilateral and multilateral trade agreements, and the Standards Council of Canada, the body responsible for co-ordinating domestic and international standardisation activities. The three organisations have established strong ties in order to ensure a coherent IRC vision and practice.

Table 1. Allocation of responsibilities on IRC, Canada

Treasury Board Secretariat (TBS)	Global Affairs Canada (GAC)	Standards Council of Canada (SCC)
Oversees the regulatory lifecycle (development, management and review).	Leads the negotiation of free trade agreements, including GRPs and IRC, **with support from TBS.**	Co-ordinates standardisation activities (domestic and international).
Enforces the use of GRPs – including IRC – through challenge function of regulatory proposals.	Provides TBT and SPS notifications to WTO when regulations have a potential trade impact.	Advises federal and provincial/territorial governments on issues pertaining to the incorporation of standards in regulation.
Provides advice and guidance to regulators on policy requirements, best practices, etc. This includes guidance on incorporating standards in regulation **in collaboration with SCC.**	Represents Canada at international organisations such as WTO, **with support from TBS and SCC as required**.	Promotes use of international standards to support compliance with CDR and the WTO TBT Agreement, **with support from TBS and GAC**.
Co-ordinates formal domestic and international regulatory co-operation fora with other jurisdictions on behalf of the Government of Canada		Represents Canada in international and regional standards fora.

Source: Ritchot, J. (2018), presentation made in the IRC Policy Workshop, 7 February, at the Ministry of Economy, Mexico.

Box 5. The potential factors driving the success of IRC

OECD has identified a number of factors that promote, hinder and shape IRC endeavours. These hypotheses may inform policymakers pondering about when, how and with whom to engage in IRC. They do not represent, however, static rules on the political economy of IRC.

- **Geographical proximity**: geographical proximity may increase the need and likelihood of co-operation and IRC due to joint challenges, similar worldviews and preferences.
- **Economic interdependence**: high trade volumes may increase the likelihood for co-operation so as to lock in a certain level of regulatory openness and to lower trade costs through the dismantling of unnecessary regulatory divergence. Balanced interdependence should moreover promote the use of negotiated IRC instruments, while imbalanced interdependence should promote the use of unilateral IRC instruments such as Good Regulatory Practices (GRP).

- **Political and economic properties of potential partners**: IRC should be easier in hierarchical relationships between rule-makers and rule-takers than in hierarchical relationships between two rule-makers or two rule-takers. In non-hierarchical complex relationships, the availability of international regulation and standards should significantly facilitate IRC.
- **Nature of regulation**: the political sensitivity of measures subject to regulation – i.e. their inherent risk levels or social and economic nature – should significantly affect the likelihood of IRC. IRC on politically sensitive measures should be more difficult than IRC on less sensitive measures. IRC commitments, moreover, can promote market integration on a preferential basis or non-preferential basis. Preferential commitments should fuel competitive IRC efforts, whereas non-preferential IRC should trigger no such phenomenon. Finally, depending on the sector, regulation and standards can be subject to either positive feedback processes promoting IRC or inter-state competition and free riding dynamics hindering IRC.
- **Domestic regulatory governance**: IRC may hinge on transparent regulatory governance and the ability of states to actually enforce regulation and IRC commitments at the domestic level.

Source: (Basedow and Kauffmann, 2016[7]), "The Political Economy of International Regulatory Co-operation: A theoretical framework to understand international regulatory co-operation", *unpublished Working Paper*, OECD, Paris.

Box 6. Examples of domestic networks of regulators

In **Canada**, federal regulators have a partnership where federal departments and agencies can collaborate and improve capacities of staff involved in regulation. The Community of Federal Regulators does so by following three strategic objectives:

- Targeted recruitment and strengthen regulatory capacity across the community of federal regulators
- Collaborate to share regulatory expertise
- Increase community understanding of innovative regulatory concepts, and enable their application

The Community of Federal Regulators uses an internal wiki digital platform only available to employees of the Canadian Government for collaboration purposes and is composed of 29 agencies.

In **New Zealand,** the Government Regulatory Practice Initiative (G-REG) is a network of central and local government regulatory agencies established to lead and contribute to regulatory practice initiatives. It works on actions that improve leadership, culture, regulatory practice and workforce capability in regulatory organisations and systems. It has three areas of focus:

- *Developing organisation capability:* from sharing approaches to compliance activities and developing guidance material;
- *Developing people capability:* from structured and formal training, and shared informal learning; and,

- *Developing a professional community of regulators:* both resulting from, and enabling the development of, organisation and people capability over time.

Sources: Government of Canada: www.canada.ca/en/health-canada/corporate/about-health-canada/legislation-guidelines/community-federal-regulators.html (accessed 5 March 2018) and New Zealand Ministry of Business, Innovation and Employment: www.mbie.govt.nz/about/our-work/roles-and-responsibilities/regulatory-systems-programme/cross-cutting-issues/regulatory-capability-g-reg-initiative (accessed 17 March 2018).

Box 7. Collecting the views of stakeholders

From the beginning of the **Canada-U.S. Regulatory Cooperation Council (RCC)** in 2011, stakeholders' perspectives have played a key role in identifying the regulatory co-operation opportunities and priorities of mutual benefit to both countries. The initial Joint Action Plan, which set out a first set of actions and initiatives to move towards greater alignment between Canada and the United States, was based on input received through public consultations from citizens, companies, industry groups, civil society, and other levels of government, all of which helped the RCC Secretariat identify priority focus areas. In particular, a unique feature of the Canada-U.S. RCC is the annual stakeholder event, which is a foundational element in the RCC work planning process (Figure 3). It provides an important forum for interactive discussion of ideas between senior regulators and stakeholders, helping to ensure that work plans are informed by stakeholder priorities. The most recent stakeholder event was held in Washington, D.C. in May 2016 at the Canadian Embassy and the Woodrow Wilson Centre. The next event will be held in the course of 2018.

Figure 3. Components of the Regulatory Cooperation Council work plan process

In Europe, the **REFIT platform** was set up as part of the European Commission's better regulation agenda to ensure feedback from country to the supra-national level. The platform:

- Supports the process of simplifying EU law and reducing regulatory burdens, for the benefit of civil society, business and public authorities;
- Makes recommendations to the Commission, taking into account suggestions made by citizens and interested parties.

It consists of a Government Group, with one seat per Member State and a Stakeholder Group with 18 members and two representatives from the European Social and Economic Committee and the Committee of the Regions.

The European Commission analyses the recommendations made by the platform and explains how it intends to follow them up.

Source: https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly/refit-platform_en.

Increasing the information basis about IRC tools available, their applicability in different contexts and the variety of existing IRC practices throughout the government

Both the regulatory improvement and the standardisation processes provide important opportunities to collect information on expected regulatory impacts and regulators' use of international standards. However, this information is largely under-exploited, and could be further leveraged to target efforts where implementation of IRC is still limited.

COFEMER holds a database of RIAs describing expected impacts of regulation. In addition, COFEMER tracks stakeholders inputs, and can therefore compile information on the foreign stakeholders that submitted comments to the RIA consultation process, as well as to regulators informally. DGN also has information on foreign comments received through the WTO, and eventually FTA partners. Autonomous bodies, such as IFT, have their own regulatory improvement processes, as part of which they have significant information on the impacts of their regulations. Overall, the information on impacts and the comments received from stakeholders could be a useful source of information to better target IRC concerns and efforts.

Information on the international instruments considered by regulators in the development of regulations is fragmented, depending on the regulatory process followed. More systematic monitoring and data gathering of the practices of authorities in their consideration of international instruments would help identify the recurring international frameworks of relevance as well as the gaps and focus training efforts in the direction of sectors where the consideration of the international environment is weak. Ultimately, the information on the use of international instruments and the challenges faced will also be of value to the international organisations in charge of their development, which can then use this evidence to feed in their own monitoring and evaluation of norms processes.

Mexico engages in numerous co-operation efforts, whether bilaterally, regionally and multilaterally. Co-operation is carried out both through central government and regulatory agencies directly. These experiences are an invaluable source of evidence on regulatory options for domestic regulators. The Ministry of Foreign Affairs has centralised oversight on international co-operation efforts of the Mexican public administration. To date, however, information on co-operation initiatives is fragmented and not used to build better understanding of IRC developments and achievements in Mexico.

The Ministry of Foreign Affairs is systematically consulted for the conclusion of all binding international agreements, and in practice also for a number of voluntary commitments. In addition, the Ministry of Economy has a database for searching trade

agreements, available to the public. There is therefore access to valuable information about a broad range of co-operation agreements. In addition, the Ministry of Foreign Affairs has a comprehensive vision of all the international organisations in which Mexico has membership, accrediting all Mexican authorities that participate in these bodies. However, the information it gathers about international agreements and international bodies is not systematically used. A comprehensive vision of where international IRC efforts are taking place and where further efforts are necessary is essential to develop a broad strategy for international co-operation.

By contrast, there is no obligation to inform the Ministry of Foreign Affairs about the conclusion or implementation of voluntary agreements, such as Memoranda of Understanding (MoUs), despite being a popular form of co-operation for all levels of government, federal, state and municipal, across diverse sectors and policy areas. With regulatory agencies lacking incentive to provide information about the agreements they conclude, it is difficult to draw an exhaustive picture of co-operation agreements, of the state of their implementation. Lack of systematic information also makes it difficult to have a clear understanding of their impacts and of their effectiveness in achieving their objectives. Information about MoUs as flexible co-operation efforts would be valuable to identify their key features, map the successful stories and inform the regulatory community of the range of experiences and options.

Mexico's Membership in international organisations is public information, and the Ministry of Foreign Affairs lists some of the bodies it participates in on its public website. Still, a comprehensive list of all international organisations is not available, and information on participation in trans-governmental networks of regulators in particular is decentralised. Further visibility on these international bodies may enhance awareness about Mexico's international activity and facilitate the consideration of international frameworks for co-operation more systematically in domestic rule-making activities.

Recommendations

Key institutions such as COFEMER, the Ministry of Economy, and SRE could make more systematic use of the IRC information that they collect (e.g. on regulatory impacts through RIAs, on the use of international standards, on feedback from foreign stakeholders, on international agreements) to better understand the impacts of different IRC approaches

- ***Both COFEMER and DGN can leverage the information on the use of international instruments*** gathered respectively through RIA procedures or the standardisation process to identify the overall level of adoption of international instruments and other references to foreign practice in Mexico rule-making.
- ***COFEMER and DGN can use information gathered through stakeholder engagement and WTO notification procedures to identify the markets and parties affected*** by draft regulations and to address trade frictions with these markets.
- ***RIAs and* ex post *evaluation provide a wealth of publically available information on expected and actual impacts of new regulatory measures and references to international practices***. COFEMER could rely on this basis to identify good practice and flag examples in evaluating trade costs and referring to relevant international frameworks.

- ***The SRE and DGN who have a comprehensive view on respectively binding international treaties and mutual recognition agreements and arrangements, can make use of this information to identify sectors in which and/or countries with whom Mexico still has limited number of agreements.***
- ***The more systematic collection of information on IRC*** practices can help target authorities in need for training about IRC.

Raise awareness of the benefits of IRC among regulators to offer them further incentive to make use of IRC

- ***Each regulator could consolidate the information on international/foreign standards used in a database or repository*** to help other related regulators or future administrations in their search for relevant foreign references;
- ***A monitoring of co-operation efforts could help to learn from experience and build a coherent understanding of Mexico's IRC activities and of the benefits and challenges of alternative IRC approaches***. In particular, narratives could be developed around specific IRC experiences to illustrate the possible outcomes of IRC. For example, the Treasury Board of Canada reports on its website success stories of how specific IRC initiatives have reduced costs to business, have helped increase product choice and lower prices for consumers, and have improved health, safety, security and environmental protection.[4]

Improve access to information about international commitments to enhance awareness of regulators and regulated entities

- ***Improve visibility for regulators of relevant international instruments and regulatory frameworks***, to encourage their more systematic consideration and allow them to provide feedback about their implementation. In particular:
  - Facilitate easy access to existing international obligations stemming from international organisations or international treaties.
  - Ensure information on rules, standards and guidance developed within international organisations is transmitted in a timely manner to technical experts in regulatory agencies.
  - Support regulators' understanding of "relevant" international standards by providing further visibility on the international standardisation bodies recognised as such by the Mexican government. This may entail updating the list of such bodies developed by DGN in 2012 and raising awareness about this list.[5]
  - Build on the existing SINEC electronic platform, to facilitate access to a broader range of international standards, by making them easily searchable by theme and focus area.
  - Organise training courses for regulators to clarify the steps to follow to incorporate international instruments in Mexican regulations, and guide them in the identification of relevant applicable international instruments and regulatory frameworks.

- ***When trade agreements contain regulatory provisions, systematise dialogue between regulators and trade negotiators upstream.*** Such dialogue would enhance regulators' awareness of forthcoming regulatory provisions and foster their relevance and effectiveness.

Strengthening the framework to ensure effective implementation of IRC efforts

Despite the ambitious *de jure* framework incorporating IRC in domestic rule-making, regulators lack guidance to systematically apply IRC in their regulatory process.

The trade-RIA process generally prevents new measures with trade effects from being adopted without being notified to trading partners. However, there is no methodology to guide regulators in their determination of the trade impact of their regulation. As a result, they do not give a precise quantification or monetisation of the trade impacts of a measure, and the DGRCI is required to estimate case by case whether the trade impact is significant. Further methodologies on assessing the trade costs may help the regulators better estimate the trade effects of their regulations, eventually promoting measures that are less trade costly. In addition, this could help the DGRCI prioritise the measures to be notified to trading partners, which it does not currently do.

Despite the legal requirements to consider international instruments, in the drafting of technical regulations and standards, and in certain RIA procedures for subordinate regulations, the uptake of international instruments in Mexico is still limited. This may be due, in particular, to the lack of guidance on which international standards to consider. DGN has a list of the international standardisation bodies recognised as such by the Mexican government, as requested by art. 3 LFMN.[6] However, it is rarely made use of by regulators. Regulators still voice difficulty to have a 360 vision of all the international standards or relevant foreign regulations that exist, and where to look, when designing a new regulation.

Some GRP tools remain underutilised for IRC in practice, in particular forward-planning, *ex post* evaluation, and to some extent stakeholder engagement. These tools complete the RIA process by allowing deeper insights into the impacts of a regulatory measure (via feedback from affected parties and de facto implementation) and can help build the evidence on IRC throughout the rule-making cycle.

Mexico has a systematic forward planning tool for NOMs and NMX, the national standardisation programme (PNN, by the Spanish acronym) that ensures transparency and predictability of the regulatory framework. This is made publically available and also accessible to foreign stakeholders, notably through the WTO. Indeed, Mexico is the only WTO Member to circulate its PNN as a WTO document to all WTO Members, going beyond TBT Agreement obligations and committee recommendations. Mexico is also one of the very few OECD countries to provide translated summaries of all regulatory proposals in English, thus facilitating the understanding by foreign stakeholders, notably those from the United States. Still, while the PNN is shared with stakeholders to inform them about upcoming measures, it is not leveraged as an opportunity to obtain their feedback. In addition, the PNN is currently only for technical regulations and standards.

For subordinate regulation, a monitoring and evaluation exercise is carried out every two years through "regulatory improvement programmes". Regulators are requested to set out the regulation, administrative procedures or services that will be created, modified or

abolished. The regulatory improvement programmes are made public for consultation. Based on stakeholder feedback, COFEMER reviews the programmes and the progress made and makes it public in their annual report. In addition, the General Law of Regulatory Improvement introduces forward planning for all subordinate regulations. When implemented, this will expand predictability of the Mexican regulatory framework significantly. Aligned procedures of forward planning for technical and subordinate regulations will help maximise the benefits of such tool.

Some striking examples of *ex post* assessment or reviews of the regulatory framework in Mexico show the important potentials of these tools for identifying the relevance of foreign or international rules and standards and the role that the COFEMER can have in flagging such relevant rules or standards. Like in most OECD countries, this is not yet however a systematic practice. Mexico could further build on its existing practices to further exploit *ex post* assessments to measure the cost and benefits of IRC.

Mexican authorities show strong willingness to co-operate internationally, both at political and technical levels, whether to obtain information on their regulatory approaches, disseminate Mexican know-how, or more explicitly to align regulations. Still, many initiatives remain political statements of co-operation, with limited follow-up, due in part to lack of concrete commitments from the outset and rare monitoring of implementation. Limited monitoring also means that evidence on the impacts of such agreements is lacking.

Overall, regulators are generally well informed about co-operation agreements available to them, but less about the best ways to maximise their use and follow-up after their conclusion. Some MoUs have concrete obligations with limited timeframes to encourage implementation in the short or medium term. However, the majority of MoUs include broad best endeavour language about exchange of information and experience, making it difficult to operationalise and to monitor implementation and impacts. While maintaining the flexibility key to MoUs, this tool widely used by regulators may be further exploited to maximise benefits for the quality of domestic rule-making, namely with sharing of successful experiences, guidance on effective provisions, and more systematic follow-up.

Mutual recognition approaches are perceived as a useful tool both by the Mexican Ministry of Economy, which has concluded several agreements with its North American neighbours, Canada and the United States, as well as by conformity assessment bodies directly, who have concluded many arrangements with their peers from around the world in the specific sector of electrical safety. Unfortunately and not unique to the country, there is limited evidence on the implementation / use of recognition to facilitate market entry and on the trade and other impacts of these agreements.

Mexico's inadequate conformity assessment infrastructure is also seen as an important impediment to the appropriate implementation of these approaches and may impact the willingness of foreign counterparts to conclude such agreements in a broader range of areas.

Recommendations

Strengthen the systematic use of IRC in GRPs throughout the regulatory lifecycle, with further guidance and practical tools for regulators

- ***Develop relevant guidance documents on IRC in general***, to ensure the implementation of the coherent understanding of IRC in Mexico**.** The guidance should be developed with and for regulators building on their experience, and

shed light on the variety of IRC approaches. Among the few countries that have developed guidelines in this area, Canada's Guidelines on International Regulatory Obligations and Co-operation provide an example (Box 9).

- ***Enhance visibility of existing guidelines on methodology to adopt international instruments***, and extend beyond NOMs and NMX also to subordinate regulations when considering relevant international instruments and practices more broadly (Box 8).
- ***Leverage further the Trade RIA procedure to estimate trade impacts and find ways of addressing them***, beyond merely notifications to the WTO. To do so, specific guidelines on the quantification and monetisation of trade impacts would facilitate the process of the Trade RIA, making it easier for regulators to respond and to oversee by the DGRCI. Such guidelines could be introduced, as part of the cost-benefit analysis by the COFEMER, in the RIA Guidelines. In addition, the trade RIA procedures could be subject to an evaluation to assess whether they have achieved their objectives and contribute to regulatory improvement.
- ***Systematise forward regulatory planning tools across regulatory tools, in particular across technical and subordinate regulations, and use them as platforms for early discussion with stakeholders***, ***including foreign, on forthcoming regulatory plans.*** In addition, making the final forward planning agendas publically available for all subordinate regulations, beyond technical regulations, will help ensure predictability of the regulatory framework and of upcoming consultations for all stakeholders, including beyond Mexico.
- ***Use more systematically*** **ex post** ***evaluation*** (related to a single measure or principle-based / broader stock reviews) to address inconsistency in the stock of regulation with international instruments and collect international expertise and practice.

Strengthen implementation of political commitments with dedicated institutional framework

- ***Capitalise on the well-developed framework of Memoranda of Understanding and mutual recognition approaches to ensure their more systematic use, as well as their monitoring***. This will help build confidence and gather the evidence on their achievements necessary to establish the conditions of successful co-operation more broadly. Box 10 builds on international experience of mutual recognition to derive their conditions of success.
- ***Ensure that the political commitments displayed in the co-operation agreements are accompanied by relevant implementation frameworks***, by including tangible co-operation objectives, an action plan and regular evaluation of progress, as well as human, financial and material resources necessary to ensure implementation.
- ***Provide guidance to support regulators in the conclusion of effective MoUs.*** This could be done for instance by providing examples of language or provisions to be included in MoUs to favour more concrete commitments.
- ***Strengthen Mexican conformity assessment and regulatory enforcement infrastructure to provide confidence to domestic consumers and reinforce trust of foreign partners in implementation***. Ultimately, this could enable the conclusion of further mutual recognition agreements and arrangements.

Box 8. How is the need to consider international standards and other relevant regulatory frameworks conveyed in other jurisdictions

In **Australia**, there is a cross-sectoral requirement to consider "consistency with Australia's international obligations and relevant international accepted standards and practices" (COAG Best Practice Regulation). Wherever possible, regulatory measures or standards are required to be compatible with relevant international or internationally accepted standards or practices in order to minimise impediments to trade. National regulations or mandatory standards should also be consistent with Australia's international obligations, including the WTO Agreement on Technical Barriers to Trade and on Sanitary and Phytosanitary Measures (SPS). Regulators may refer to the Standards Code relating to ISO's Code of Good Practice for the Preparation, Adoption and Application of Standards. However, OECD (2017) reports that to support greater consistency of practices, the Australian government has developed a Best Practice Guide to Using Standards and Risk Assessments in Policy and Regulation and is considering an information base on standards (both domestic and international) referenced in regulation at the national and sub-national level.

In the **United States**, the guidance of the Office of Management and Budget (OMB) on the use of voluntary consensus standards states that "in the interests of promoting trade and implementing the provisions of international treaty agreements, your agency should consider international standards in procurement and regulatory applications". In addition, the Executive Order 13609 on Promoting International Regulatory Cooperation states that agencies shall, "for significant regulations that the agency identifies as having significant international impacts, consider, to the extent feasible, appropriate, and consistent with law, any regulatory approaches by a foreign government that the United States has agreed to consider under a regulatory cooperation council work plan." The scope of this requirement is limited to the sectoral work plans that the United States has agreed to in Regulatory Cooperation Councils. There are currently only two such councils, one with Mexico and the other with Canada.

Source: Australia COAG Best Practice Regulation Guide: www.pmc.gov.au/resource-centre/regulation/best-practice-regulation-guide-ministerial-councils-and-national-standard-setting-bodies and Best Practice Guide to Using Standards and Risk Assessments in Policy and Regulation: https://industry.gov.au/industry/industryinitiatives/portfolioregulationreform/using-standards-and-risk-assessments-in-policy-regulation/pages/default.aspx; US OMB Circular A 119: www.whitehouse.gov/omb/circulars_a119; US Executive Order 13609: www.gpo.gov/fdsys/pkg/fr-2012-05-04/pdf/2012-10968.pdf.

Box 9. Guidelines on International Regulatory Obligations and Cooperation in Canada

Canada has issued Guidelines on International Regulatory Obligations and Cooperation to help interpret the policy requirements in the Cabinet Directive on Streamlining Regulation (CDSR) pertaining to international obligations and international regulatory co-operation (IRC). The Guidelines include considerations for departments and agencies in choosing Partners for co-operation, and set a number of principles to guide departments and agencies when complying with international obligations, embedding IRC within the regulatory lifecycle or using international standards or guidelines. They are intended to assist managers, functional specialists, and regulatory staff to understand and comply with these requirements. These guidelines also clarify expectations of the Treasury Board of Canada Secretariat when exercising its challenge function on regulatory proposals.

Source: (Government of Canada, 2007[8]), "Guidelines on International Regulatory Obligations and Cooperation", www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/guidelines-tools/international-regulatory-obligations-cooperation.html (accessed 27 March 2018).

Box 10. Success factors for Mutual Recognition Agreements and Arrangements

Based on observation of various recognition approaches, the OECD has identified a number of success factors, including:

1. regulatory domains which are science-driven and / or based on irrefutable facts,
2. issues / areas with strong commercial/trade motivations,
3. areas where regulators may benefit from sharing information and knowledge (i.e. safety, health, environment and consumer protection aspects),
4. areas where partner countries share similar problems,
5. areas where partner countries share similar objectives and/or standards,
6. countries with comparable economic, social, political, technological conditions,
7. domains where, upon regulatory rapprochement, sharing of testing, certification, inspection would be acceptable,
8. areas where authorities trust their respective regulatory/technical skills,
9. areas where bi-or multilateral frameworks exist and provide for regulatory coherence, including international standards.

Source: (Correia de Brito, Kauffmann and Pelkmans, 2016[9]), "The contribution of mutual recognition to international regulatory co-operation", *OECD Regulatory Policy Working Papers*, No. 2, OECD Publishing, Paris, http://dx.doi.org/10.1787/5jm56fqsfxmx-en.

Notes

[1] At the time of writing of this report there was an ongoing discussion in Congress to adopt a General Law of Regulatory Improvement that was passed on 18 May 2018. This new law led to a change in the name of the Federal Commission for Regulatory Improvement (COFEMER) for the National Commission for Regulatory Improvement (CONAMER).

[2] For example, specific commissions are set up to facilitate co-operation between the Federal Government of Mexico with the State on Arizona through the Arizona-Mexico Commission (www.azmc.org), or between the governments of New Mexico and of Sonora (www.governor.state.nm.us/Sonora.aspx).

[3] This is in line with (OECD, Forthcoming$_{[11]}$) according to which reinforced collaboration between the regulators and government agencies would contribute to an improved efficiency of the normalisation process.

[4] www.canada.ca/en/treasury-board-secretariat/services/regulatory-cooperation/learn-about-regulatory-cooperation.html.

[5] www.dof.gob.mx/nota_detalle.php?codigo=5266340&fecha=04/09/2012.

[6] www.dof.gob.mx/nota_detalle.php?codigo=5266340&fecha=04/09/2012.

Chapter 1. The context of international regulatory co-operation policies and practices in Mexico

Mexico's active efforts to embrace globalisation are reflected in many aspects of its domestic policies, practices and institutions. It has introduced international considerations into its domestic rule-making procedures and uses a variety of ways to co-operate internationally. This chapter sets the legal and institutional context in which international regulatory co-operation (IRC) takes place in Mexico. To do so, it gives an overview of Mexico's regulatory actors and instruments, describes the regulatory instruments subject to IRC, the main legislative and policy documents that encourage or require IRC, and the institutions that are involved in co-ordinating and overseeing IRC efforts in Mexico.

Introduction

Mexico's active efforts to embrace globalisation have permeated many aspects of its domestic policies, practices and institutions. Mexico has introduced international considerations into its domestic rule-making procedures and uses a variety of ways to co-operate internationally. These efforts amount to a range of IRC policies and practices that impact the activities of the Mexican government at highest political levels, as well as the everyday work of regulators.

Mexican domestic regulators increasingly have to take into account the international environment when regulating. Various laws include specific requirements to incentivise them to do so, whether within the disciplines of regulatory improvement or through the specific procedures applicable to the development of technical regulations and standards.

Mexican authorities also consider a range of different *fora* to share experiences and align regulatory approaches, bilaterally with specific countries, regionally with their neighbours in South or North America, or multilaterally, within international organisations. Selected success stories highlight the important benefits that co-operation efforts may have for domestic regulatory process. Different legal provisions enable these different forms of international co-operation to be undertaken both at technical level between regulators and at the political level, with commitment from the Mexican government as a whole.

The combination of unilateral, bilateral and multilateral forms of IRC has resulted in a variety of actors being involved. Regulators in particular are active in implementing these different forms of IRC. Bodies situated within the central government have the responsibility of ensuring that in their everyday work, regulators have necessary awareness and guidance to truly implement their IRC obligations. These authorities are also in charge of monitoring the practical steps undertaken to implement these IRC obligations.

At the same time, the experience in IRC in certain areas may still be enhanced and extended to a broader scope in its implementation to ensure that it benefits the Mexican population. On one hand, these important and visible efforts seem to have happened in an ad hoc manner and not as the direct result of a comprehensive IRC strategy. The legal policies concerning IRC tend to be fragmented throughout various different legal provisions, resulting in a variety of approaches to IRC. Trade-related measures, and in particular technical regulations and standards, have more systematic IRC requirements than subordinate regulations more broadly. In addition, a number of tools escape IRC more generally, such as those stemming from the legislative branch and subnational levels of government. Extending IRC to a broader range of regulatory tools may help leverage IRC not only for enhancing trade flows, an important objective of IRC, but also to improve evidence-based rule-making with international expertise and adapting Mexican policy framework to the global context.

On the other hand, when conducted, IRC does not necessarily deliver tangible outcomes. Some IRC tools embedded in domestic legal provisions remain underexploited, with limited evidence on their concrete effects on the regulatory process. Evidence is lacking on tangible outcomes of different co-operation efforts. Effective co-operation efforts resulting in common regulatory approaches seem to be the result of individual authorities, and not from a common and generalised approach. Overall, lack of awareness and understanding of their benefits for domestic regulations fail to provide sufficient incentives for authorities to consider IRC systematically, in their everyday work.

To understand the variety of Mexico's IRC practices, this chapter sets out the regulatory process in Mexico, the authorities that engage in or oversee IRC efforts, the range of regulatory instruments and the disciplines followed to ensure their quality.

Setting the scope of the study: Mexico's regulatory actors and instruments

This review focuses on the regulatory tools in which IRC practices are most embedded. In practice, this equates to the tools that fall under disciplines of regulatory improvement, or that are submitted to specific regulatory procedures. This covers regulations that stem from the federal executive branch encompassing centralised bodies such as line ministries, deconcentrated bodies and the energy regulators with ministerial status, as well as the autonomous and decentralised bodies. More specifically, the regulatory instruments subject to IRC, and thus part of the scope of the review, are those originating from the executive branch of government including subordinate regulation, technical regulation (NOMs) and standards (NMXs).

IRC is mostly absent from tools stemming from the legislative branch or regulations developed at the subnational level. While this can be logically explained by the specific processes such measures follow, this may be less justified from the perspective of regulated citizens or economic agents, for whom the origin of the rules that affect them is irrelevant. Recent legislative reforms and ongoing proposals should provide an enabling environment to broaden the scope of application of regulatory improvement when the reforms materialise. This could provide an opportunity to also extend the scope of application of IRC, and raise awareness about IRC namely at the subnational level and within the legislative body.

The actors of IRC in the Mexican public administration

The Mexican Federal government is divided into three branches of government: legislative, executive, and judiciary. Moreover, there are three different levels of government (Figure 1.1): federal, state and municipal; all of which can issue certain types of regulation depending on the attributions and powers stated in the Constitution.

The scope of this report covers regulation and co-operation efforts stemming from the federal executive branch (and relevant decentralised bodies) given that it is in this branch of government where subordinate regulation fall under regular and continuous regulatory improvement and where a series of efforts to systematically promote IRC are in place (Figure 1.1). With regards to sub-national levels of government, states (32) and municipalities (2 457),[1] there is a vast heterogeneity of regulatory practices with no systematic approaches to consider the international environment.

The work excludes the legislative branch which is not systematically subject to regulatory improvement disciplines and do not have explicit requirements to consider IRC when developing primary laws, beyond the technical and legal consistency appraisal. Indeed, normative instruments stemming from Congress are equally relevant and should embed good regulatory practices including IRC to increase their quality through implementing evidence-based processes, like it is done in some OECD countries (Box 1.1).

Box 1.1. Good regulatory practices in Congress: The Law Evaluation Department in Chile

Chile is one of the few OECD countries that have formalised the *ex post* review of laws in the legislative branch of government. The Law Evaluation Department (LED) was created by an agreement of the Commission on Internal Regime, Administration and Regulations, issued on 21 December 2010.[2] The main responsibilities of the LED are:

1. Evaluating the legal norms approved by the National Congress in co-ordination with the Secretary of the Commission in charge. The Department might propose corrective measures to improve the implementation of the law evaluated.
2. Creating and maintaining a network of social organisations interested in participating in the evaluation process.
3. Informing the Secretary-General, through the Commission of Internal Regime, Administration and Regulations, about the results of evaluations.
4. Suggesting amendments to the current legislation, if needed.

The LED is in charge of developing a three-stage project to evaluate the effectiveness of laws. The three stages cover the following issues: technical analysis, citizens´ perception and preparation of a final report. The analysis of laws has the following objectives:

- Determining the degree of compliance with the expected objectives when the law was passed.
- Identifying the externalities, impacts and non-desired effects when Congress was legislating.
- Knowing citizens´ perception about the law and its implementation.
- Proposing corrective measures to the law and its implementation.

Source: (OECD, 2016[11]), *Regulatory Policy in Chile: Government Capacity to Ensure High-Quality Regulation*, OECD Reviews of Regulatory Reform, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264254596-en.

Consequently, information on IRC activities at the subnational level and in the legislative branch is at best anecdotal and ad hoc as stated above. The General Law of Regulatory Improvement recently adopted (Box 1.3) mandates all levels and branches of government to embed good regulatory practices. In this sense, a window of opportunity is present to reflect upon the GRPs to be embedded and the possibility of including IRC to support better regulation in Mexico.

The federal executive branch relies on the president and the federal public administration, and its attributions and obligations stem from the Mexican Constitution. The federal public administration is composed of centralised bodies, including energy regulators which have ministerial status, and deconcentrated bodies according to the Organic Law of the Federal Public Administration, or LOAPF. In parallel, autonomous and decentralised bodies are considered separate from the three branches of government (Figure 1.2).

Sectoral ministries and energy regulators have attributions for and are subject both to unilateral disciplines to embed IRC in the rule-making process and to undergo regulatory co-operation efforts. Deconcentrated bodies are subject to COFEMER's [3] dispositions including the different IRC approaches with the caveat that they have to act through the line ministry they are attached to when exerting regulatory powers. For example, the Federal Commission for the Protection of Sanitary Risks (*Comisión Federal para la*

Protección contra Riesgos Sanitarios, COFEPRIS) legally acts through the Ministry of Health.

Box 1.2. Autonomous bodies: The Federal Telecommunications Institute as an example

The Federal Telecommunications Institute (IFT) is an autonomous body -by constitutional mandate- charged with developing an efficient telecommunication and broadcasting market. Besides the usual powers of telecom regulators, the IFT is also the competition authority for the telecommunication and broadcasting sectors.

The IFT cannot issue NOMs or NMX to regulate the telecoms market; however, the Federal Law on Telecommunications and Broadcasting (Ley Federal de Telecomunicaciones y Radiodifusión, LFTR) gives the regulator powers to issue mandatory "technical provisions" concerning the characteristics that telecommunication and broadcasting products and services need to comply with as well as the evaluation process and technical requirements needed for the installation of equipment, systems and/or infrastructure.

As stated, given the autonomy of the IFT, the process to draft and issue technical provisions is not subject to the supervision of DGN or COFEMER. Notwithstanding, art. 194 of the LFTR establishes a co-ordination mechanism with SE to issue technical regulation (NOMs) which establishes the specific obligations that the concessionaires and authorisation holders shall comply with, in order to guarantee the effective protection of consumers rights provided by the Federal Law of Consumers Protection and the LFTR.

During the drafting process, the IFT complies with three main objectives:

- The consideration of national and international technical regulation/standards;
- Foster technological innovation; and
- Protect and promote competition.

In issuing technical provisions, the regulator takes into account the Mexican stakeholders and its perspective and recommendations released by international bodies.

The IFT issues in its Annual Work Program a forward planning agenda containing the provisions, which will be examined by the IFT. By general rule, all provisions should be subject to public consultation and the exception is limited to those cases in which the publicity may compromise the effects intended to be solved or prevented in an emergency situation (LFTR, art. 51). The public consultation process is published on the IFT's website allowing third parties to submit comments.

When IFT's Regulatory Policy Unit presents a draft technical provision is obliged to complete a regulatory impact assessment including a competition analysis. The regulatory impact assessment is overseen and analysed by the Regulatory Improvement Bureau –an internal department pertaining to the IFT. To conclude, the draft is submitted to the Board of commissioners for approval. If approved, the technical provision is published in the Official Gazette and shall be systematically reviewed every 5 years. Since 2013, the IFT has issued 13 technical provisions with 6 technical provisions in 2016, and 3 in 2017.

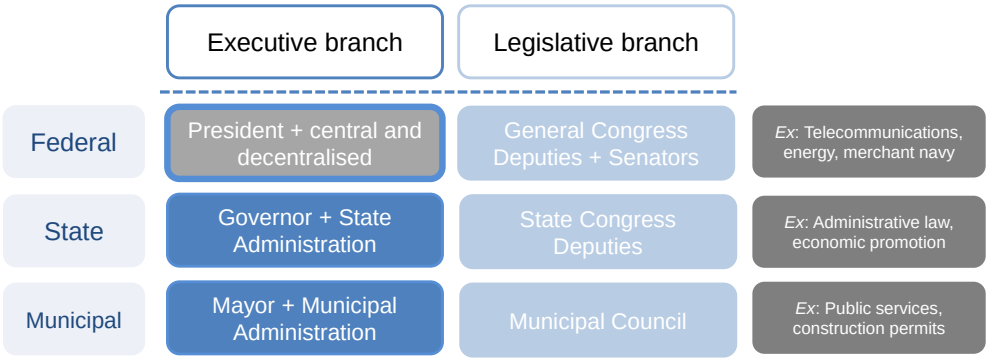
Source: Adapted from (OECD, Forthcoming[21]), "Standard-setting and competition in Mexico: a secretariat report" and arts. 7, 15, 41, 289 and 290 of LFTR; www.ift.org.mx/industria/politica-regulatoria/disposiciones-tecnicas.

Autonomous and decentralised bodies are not subject to COFEMER's dispositions as per their administrative autonomy. However, some of these institutions might have a regulatory improvement unit of their own (i.e. the Federal Telecommunications Institute, IFT); consequently, their regulatory practices, including IRC, might differ from those overseen by COFEMER (see Box 1.2 above). The law allows such institutions to voluntarily submit their regulatory proposals to COFEMER; however, that is not the case so far.

The autonomous and decentralised bodies that are not subject to COFEMER's dispositions when issuing regulation are as follows:

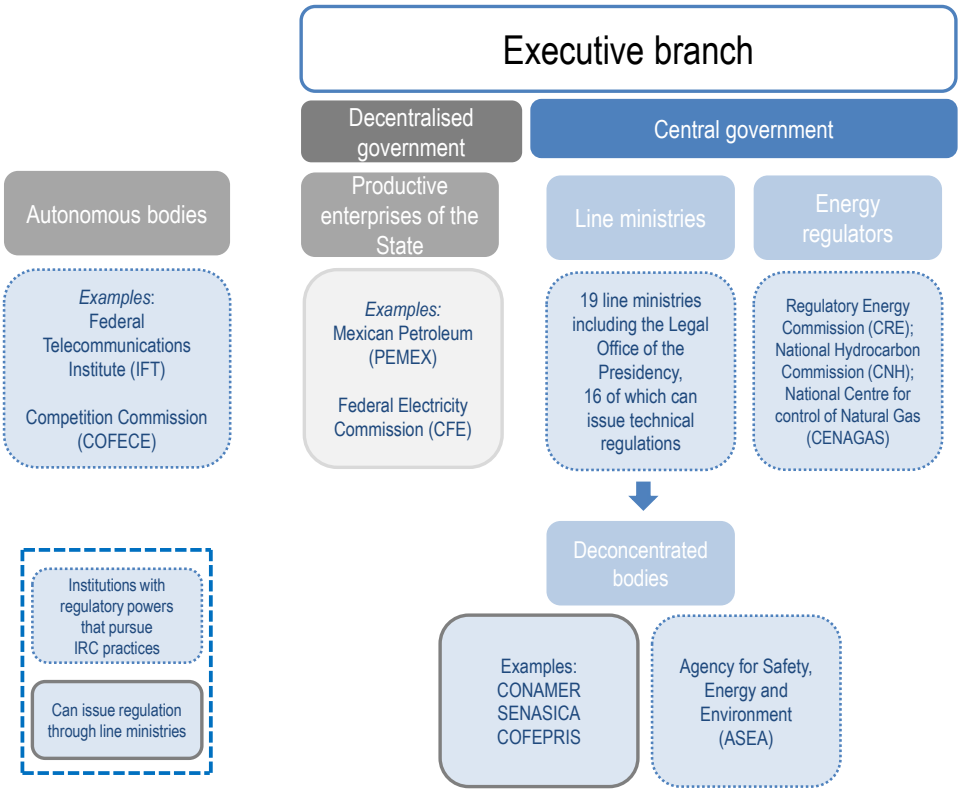
- The Central Bank of Mexico (*Banco de México*, BANXICO)
- National Electoral Institute (*Instituto Nacional Electoral*, INE)
- National Commission of Human Rights (*Comisión Nacional de Derechos Humanos*, CNDH)
- National Statistics and Geography Institute (*Instituto Nacional de Estadística y Geografía*, INEGI),
- Federal Telecommunications Institute (*Instituto Federal de Telecomunicaciones*, IFT)
- Federal Commission for Economic Competition (*Comisión Federal de Competencia Económica*, COFECE)
- National Institute of Transparency, Access to Information and Data Protection (*Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos*, INAI)
- National Attorney General (*Fiscalía General de la República*)
- National Institute for the Evaluation of Education (*Instituto Nacional para la Evaluación de la Educación*, INEE)
- National Council for the Evaluation of the Social Development Policy (*Consejo Nacional de Evaluación de la Política de Desarrollo Social*, CONEVAL).
- National University of Mexico (*Universidad Nacional Autónoma de México*, UNAM).

Figure 1.1. Levels of government for the executive and the legislative branches



Source: Author's own elaboration.

Figure 1.2. Types of bodies of the federal public administration related to IRC



Notes: The good regulatory practices are only reflected in case they have an IRC component. As part of the 2013 constitutional reform the energy regulators, CNH and CRE, have ministry-level status framed by the Law of the Co-ordinated Energy Regulators (*Ley de los Órganos Reguladores Coordinados en Materia Energética*, LORCME) and the Organic Law of the Federal Public Administration.
Source: Author's own elaboration as an adaptation from the Federal Law of Administrative Procedure and the Federal Law of Metrology and Standardisation, and art. 90 of Mexico's Political Constitution.

The subject of IRC: Mexico's regulatory instruments

The Mexican regulatory framework for the Executive branch consists of several regulatory instruments that stem from the large number of bodies with regulatory powers within the federal public administration. Amongst the different regulatory instruments there are four main categories of regulation according to their legal nature: i) primary laws; ii) subordinate regulation, iii) mandatory technical regulation; and iv) voluntary standards.

- *Primary laws*: formal document that bodies with regulatory powers, from the executive and legislative branches, introduce to any of the two chambers of Congress for its study, discussion and approval with the objective to create, reform, add, abolish constitutional or legal provisions.[4]
- *Subordinate regulation*: general administrative provisions with the objective to establish specific obligations, issued by the federal executive power.[5]
- *Technical regulation*: mandatory regulation that establish rules, specifications, attributes, directives, characteristics or provisions applicable to a product, process, installation, system, activity, service or method for production or operation, as well as the relative to terminology, symbols, packaging, labelling and the ones related to their enforcement or implementation.[6]

- *Standards*: voluntary requirements stemming from a National Standardisation Body (ONN) applicable for a repeated or common use of rules, specifications, attributes, directives, characteristics or provisions applicable to a product, process, installation, system, activity, service or method for production or operation, as well as the relative to terminology, symbols, packaging, labelling.[7]

The regulatory instruments subject to IRC disciplines and thus part of the scope of the present issues note are those that stem from the federal executive branch of government or autonomous and decentralised, and are shown in Table 1.1. This excludes, in particular, primary laws initiated by the Legislative branch (approximately 91% of the total universe of primary laws).

Table 1.1. Regulatory instruments under the scope of the current study

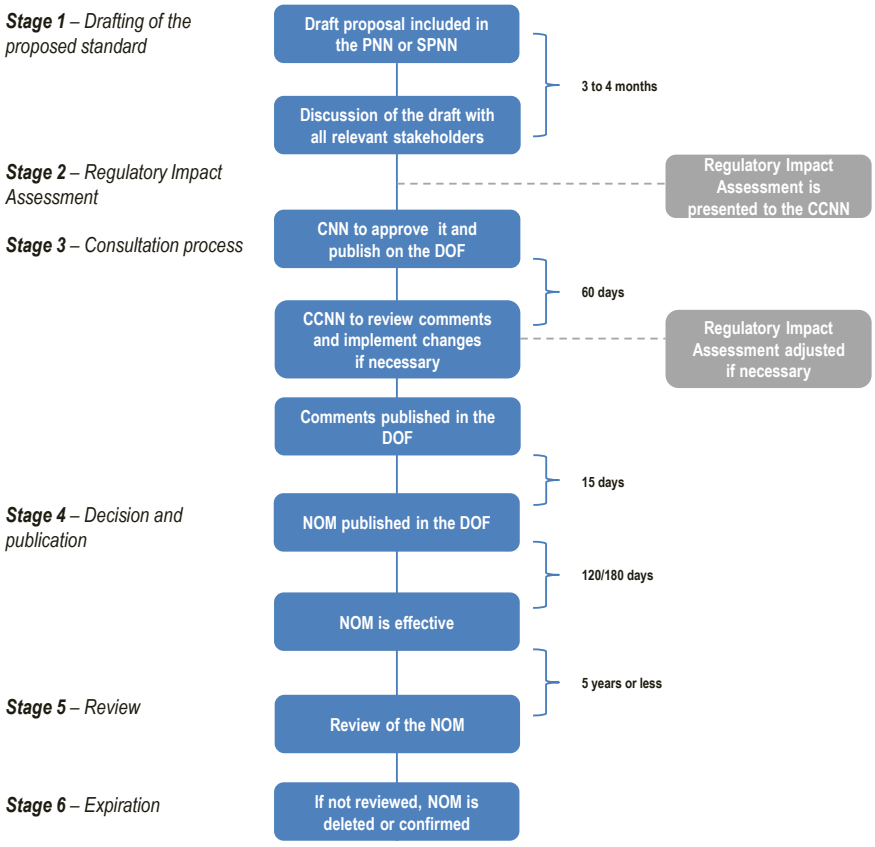
Regulatory instruments
Primary laws
Primary laws initiated in the executive branch (approximately 9% of the total universe of primary laws)
Subordinate Regulation
Bylaws
Decrees
Ministerial agreement or notice
Circulars
Manuals, methodologies, calls, programmatic rules of operation
Technical regulation
Official Mexican Standards – NOM
Standards
Mexican Standards – NMX

Note: The good regulatory practices are only reflected in case they have an IRC component.
Source: Author's own elaboration as an adaptation from the Federal Law of Administrative Procedure and the Federal Law of Metrology and Standardisation.

The choice between regulatory instruments depends on the subject matter which is regulated. By default, when a regulator develops a regulatory proposal, it develops a subordinate regulation. However, when the measure aims to establish rules, specifications, attributes, directives, characteristics or prescriptions applicable for a product, process, installation, system, activity, service or production method, or relates to terminology, symbols, packaging, labelling, the regulator develops a technical regulation (NOM), or standard (NMX), following a specific procedure described in Figure 1.3.

Table 1.2 offers insight into the yearly production of regulatory instruments in Mexico. It confirms that subordinate regulations are the regulatory instruments most commonly developed by the executive with 1 166 subordinate regulations (including technical regulations) and 32 primary laws initiated by the executive power. NOMs only represented 5.57% of regulatory proposals in 2017 (COFEMER, 2017[3]). The overall registry accounts for a total of 756 technical regulation (NOMs) and 4 908 standards (NMX) in force today.[8]

Figure 1.3. NOM life cycle



Source: (OECD, Forthcoming[2]), "Standard-Setting and Competition in Mexico: A Secretariat Report", OECD, Paris.

Table 1.2. Number of regulatory proposals according to their legal nature

Regulatory proposals submitted between December 2016 and October 2017

Regulatory instrument	Amount
Primary laws (initiated in the executive)	
Laws	32
Subordinate regulation	
Ministerial agreement	396
Notice	149
Rules of operation	88
Resolutions	73
Calls	65
Decrees	47
Guidelines	36
Manuals	45
International agreements	19
Other	183
Technical regulation	
Official Mexican Standards	65
Total	1 198

Source: (COFEMER, 2017[3]), "COFEMER's Annual Report 2016-2017", www.cofemer.gob.mx/docs-bin/dg/Informe_anual_2017.pdf (accessed 5 March 2018).

The agencies that issued the most subordinate regulation (Table 1.3) with compliance costs, including NOMs, in 2017 were the Ministry of Finance (80), the Ministry of Economy (39), the Ministry of Agriculture (34), and the Ministry of Environment and Natural Resources (34).[9]

Table 1.3. Production of subordinate regulation per agency

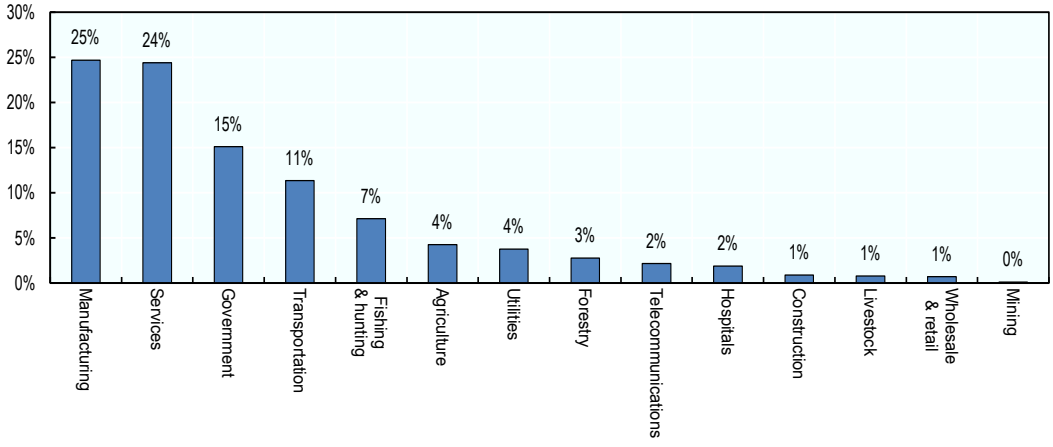
The proposals comprise the period from December 2016 to October 2017

Ministry/agency	Subordinate regulation	Percentage
Finance	80	27.40%
Economy	39	13.36%
Agriculture	34	11.64%
Environment and Natural Resources	34	11.64%
Energy	29	9.93%
Energy Commission	15	5.14%
Communications and Transport	15	5.14%
Health	13	4.45%
Attention to Victims Commission	5	1.71%
Interior	5	1.71%
Others	23	7.88%
Total	**292**	**100%**

Source: (COFEMER, 2017[3]), "COFEMER's Annual Report 2016-2017", www.cofemer.gob.mx/docs-bin/dg/Informe_anual_2017.pdf (accessed 5 March 2018).

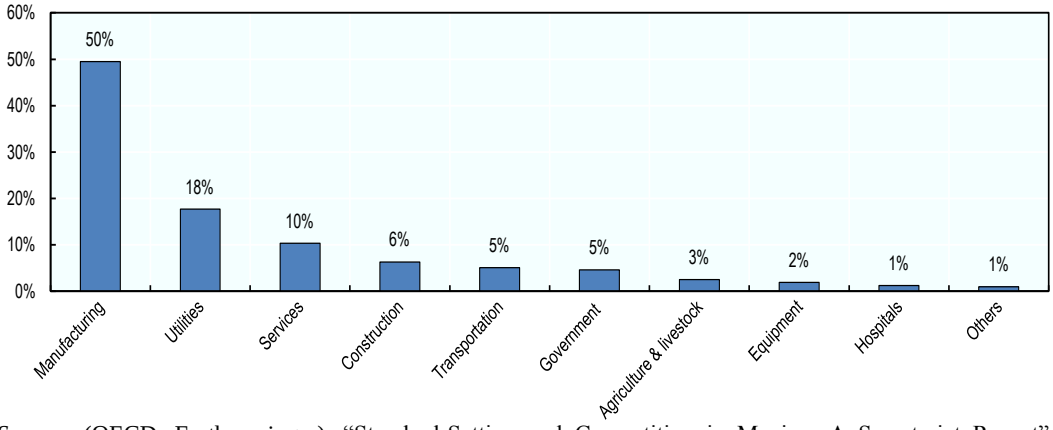
According to the forthcoming OECD report on standard-setting and competition in Mexico, 75% of NOMs are within four major sectors, i.e. manufacturing, services, government and transportation (Figure 1.4). In the case of NMXs, almost 50% relate to the manufacturing sector (Figure 1.5).

Figure 1.4. NOMs per economic activity



Source: (OECD, Forthcoming[2]), "Standard-Setting and Competition in Mexico: A Secretariat Report", OECD, Paris.

Figure 1.5. NMXs per economic activity

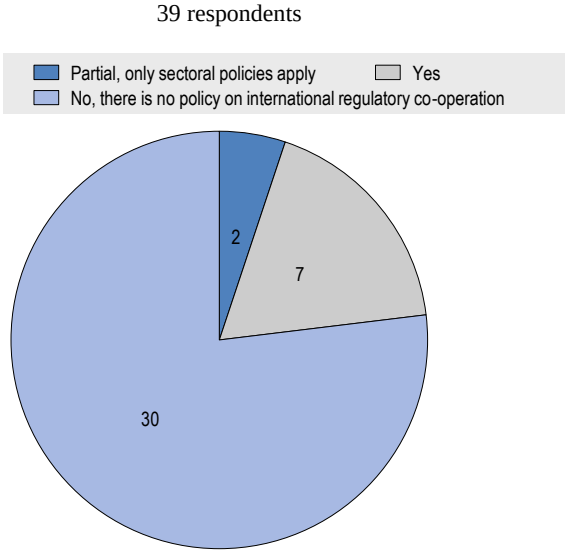


Source: (OECD, Forthcoming[2]), "Standard-Setting and Competition in Mexico: A Secretariat Report", OECD, Paris.

Overview of the legal and policy framework on IRC in Mexico

There are considerable efforts to promote IRC in Mexico, from the embedding of key international considerations in the rule-making of domestic regulators to the active participation of Mexican regulators and the State in international regulatory *fora*. Despite this intense activity, Mexico has not articulated its IRC strategy in a single legal or policy document that cuts across sectors and government. Instead, the legal and policy framework on IRC is embedded within a number of documents. Mexico is nevertheless among the few OECD countries with a policy and legal basis framing some aspects of IRC (OECD, 2018[4]) (Figure 1.6).

Figure 1.6. Number of jurisdictions with an explicit, published policy or a legal basis on IRC



Note: Data for OECD countries is based on the 35 OECD member countries, the European Union, and three accession countries.
Source: (OECD, 2018[4]), *OECD Regulatory Policy Outlook 2018*, OECD Publishing, Paris, http://dx.doi.org/10.1787/g2g90cb3-en.

The IRC legal framework is divided into two sets of legal provisions: i) two key documents framing IRC practices in domestic rule-making, namely the Federal Law of Administrative Procedure (LFPA),[10] and the Federal Law of Metrology and Standardisation (LFMN); and ii) the legal and policy documents framing Mexico's regulatory co-operation efforts, including the Law on Celebration of Treaties and the Law on Foreign Trade.

It is worth noting that a new legislative framework was introduced on 18 May 2018 with the issuance of the General Law of Regulatory Improvement in the Official Gazette (see Box 1.3 for the elements that concern IRC). However, the practices examined in this review are still valid. Furthermore, with regard to the IRC components, the transitory clauses of the new general law foresee a period for implementation that goes beyond the timeline of this report. For ease of reference, we will continue to cite the provisions of the LFPA.

Legal provisions framing unilateral IRC approaches

The unilateral disciplines of regulators to embed IRC in rule-making are framed by two key documents that reflect the dual approach to regulation in Mexico: on one hand the regulatory process covering subordinate regulation and law proposals presented by the Executive; and on the other, what is referred to as the "standardisation" process, covering the development of technical regulations and standards.

The **Federal Law of Administrative Procedure** (*Ley Federal de Procedimiento Administrativo,* LFPA) sets the framework for good regulatory practices in Mexico. It introduces in particular: i) *ex ante* and *ex post* regulatory impact assessments with the possibility of assessment of trade impacts; ii) an open process for public consultation, including foreign parties; iii) an assessment of benefits for international treaties, including mutual recognition agreements (*see the detailed explanation of each point in the next chapter*). The new General Law of Regulatory Improvement reaffirms a high priority on regulatory improvement disciplines that existed previously, while replacing the legal provisions in the LFPA regarding regulatory procedure. This General Law foresees the introduction of an explicit legal instrument on better regulation including elements for IRC (Box 1.3).

The **Federal Law of Metrology and Standardisation** (*Ley Federal de Metrología y Normalización,* LFMN) includes the procedures and entities involved in the standard-setting process in Mexico (applicable to both mandatory NOMs and voluntary NMXs), metrology, accreditation and conformity assessment. The law introduces: i) an open 60-day consultation process; ii) a biannual forward planning agenda for NOMs and NMXs; iii) systematic *ex post* evaluations (at least) every 5 years. This law is currently under revision, namely with the objective of reducing the timeframe for the elaboration of NOMs. A reform for the LFMN was tabled at Congress and is currently under debate. The reform would streamline the process and improve the procedure for mutual recognition agreement and conformity assessment that could further enable IRC (see Box 1.3).

Beyond these two main legal provisions, the **Law on Foreign Trade** (*Ley de Comercio Exterior,* LCE) provides a legal framework on Mexico's trade practices that includes provisions related to good regulatory practices. In particular, it identifies the regulations that may represent non-tariff barriers to exports and imports,[11] and as such must be submitted to the Foreign Trade Commission for opinion prior to adoption, and published in the Official Gazette, (LCE, art. 17).

Box 1.3. Ongoing reforms of the General Law of Regulatory Improvement and the Federal Law of Metrology and Standardisation and their relevance to international regulatory co-operation

General Law of Regulatory Improvement

The constitutional reform on regulatory improvement of February 2017 introduces the possibility for Congress to issue a General Law on regulatory improvement that would be mandatory for all levels of government. Consequently, in December 2017, the Executive branch introduced a law proposal which proposes to change the name of the current COFEMER to CONAMER while preserving its current legal status as a deconcentrated body from the Ministry of Economy with technical and administrative autonomy. The law was adopted 18 May 2018 with its issuance in the Official Gazette. The Commission is now led by a Commissioner with attributions over the federal and the national sphere.

According to article 25 of the new general law, the National Commission for Regulatory Improvement would be tasked with:

- promoting co-operation and regulatory improvement at the international level;
- signing inter-institutional agreements on regulatory improvement with other countries;
- participating in international fora and within international organisations in the area of regulatory improvement.

Furthermore, the General Law of Regulatory Improvement obliges the Legislative and Judicial branches of government and the autonomous and decentralised bodies (at the federal and the subnational level) to appoint a body inside their organisational structure in charge of embedding and carrying out regulatory improvement. The General Law abolishes the articles related to regulatory procedure of the LFPA.

Reform of the Federal Law of Metrology and Standardisation

In December 2017, a proposal to reform the LFMN was presented in Congress, with the objective to reduce the timeframe for the development and revision of technical regulations and to ensure better quality of conformity assessment procedures. The reform proposal contains the following elements, which may have an impact on fostering IRC:

- regulating the process, elaboration, consultation and publication of mutual recognition agreements;
- setting guidelines for enforcement, inspections and sanctions for conformity assessment;
- increasing transparency by having the System for Norms and Conformity Assessment (SINEC) as a digital platform to integrate, monitor and evaluate the activities of the standardisation system of Mexico.

The proposal is currently under debate in Congress.

Source: (COFEMER, 2017[31]), "COFEMER's Annual Report 2016-2017", www.cofemer.gob.mx/docs-bin/dg/Informe_anual_2017.pdf (accessed 5 March 2018).

Legal and policy framework for co-operative IRC approaches

The legislative and policy framework framing the co-operation activities of regulators is more fragmented. The Constitution of Mexico provides for the general status given to international law within the Mexican legal system, placing international treaties which conform with the Mexican constitution as supreme law.[12] The Law on Celebration of Treaties establishes the requirements for all agreements concluded with foreign institutions, and the LFMN covers the participation in private standard-setting bodies and the conclusion of mutual recognition agreements. However, a number of international co-operation efforts are not subject to a common legal framework, and rather fall under sectoral provisions. In addition, the High Level Regulatory Cooperation Council benefits from specific terms of reference.

The **Law on Celebration of Treaties** (*Ley de Celebración de Tratados*, LCT) frames the procedures for signing treaties and inter-institutional agreements at the international level. It provides that treaties may only be concluded between the Federal Mexican Government and one or more subjects of public international law. By contrast, inter-institutional agreements may be subscribed between any entity of the federal, state or municipal public administration and one or more foreign governments or international organisations. The law is coupled with specific guidelines for the conclusion of treaties and interinstitutional agreements. This law also governs the international and inter-institutional agreements related to better regulation (art.69, E, 6 LFPA). In particular, this law provides for i) inter-institutional agreements; ii) trade agreements, including mutual recognition agreements.

The **Law on International Co-operation for Development** (*Ley de Cooperación Internacional para el Desarrollo*, LCID) created the Mexican Agency for International Development Co-operation (AMEXCID). AMEXCID is responsible of administering the national register on co-operation for development, which should include the agreements as well as projects and reports on results (art. 28), amongst other things.

The **LFMN** and its implementing regulation cover Mexico's co-operation efforts within international standard-setting bodies and mutual recognition. In particular, the LFMN provides that specific committees should be set up to participate in international standard-setting process and elaborate and address draft international standards.[13] The Ministry of Economy co-presides committees with the Ministry of Foreign Affairs. The LFMN also sets broad guidelines for mutual recognition, to be conducted with foreign and/or international entities, so long as they are truly reciprocal; they are mutually beneficial for trade of both parties; and they are concluded between bodies of the same legal nature (cf. art. 87 A and B).

The **LFPA** (art. 69 H) also entails that proposals of trade agreements take into account the opinion of the COFEMER as shown in Table 1.5.

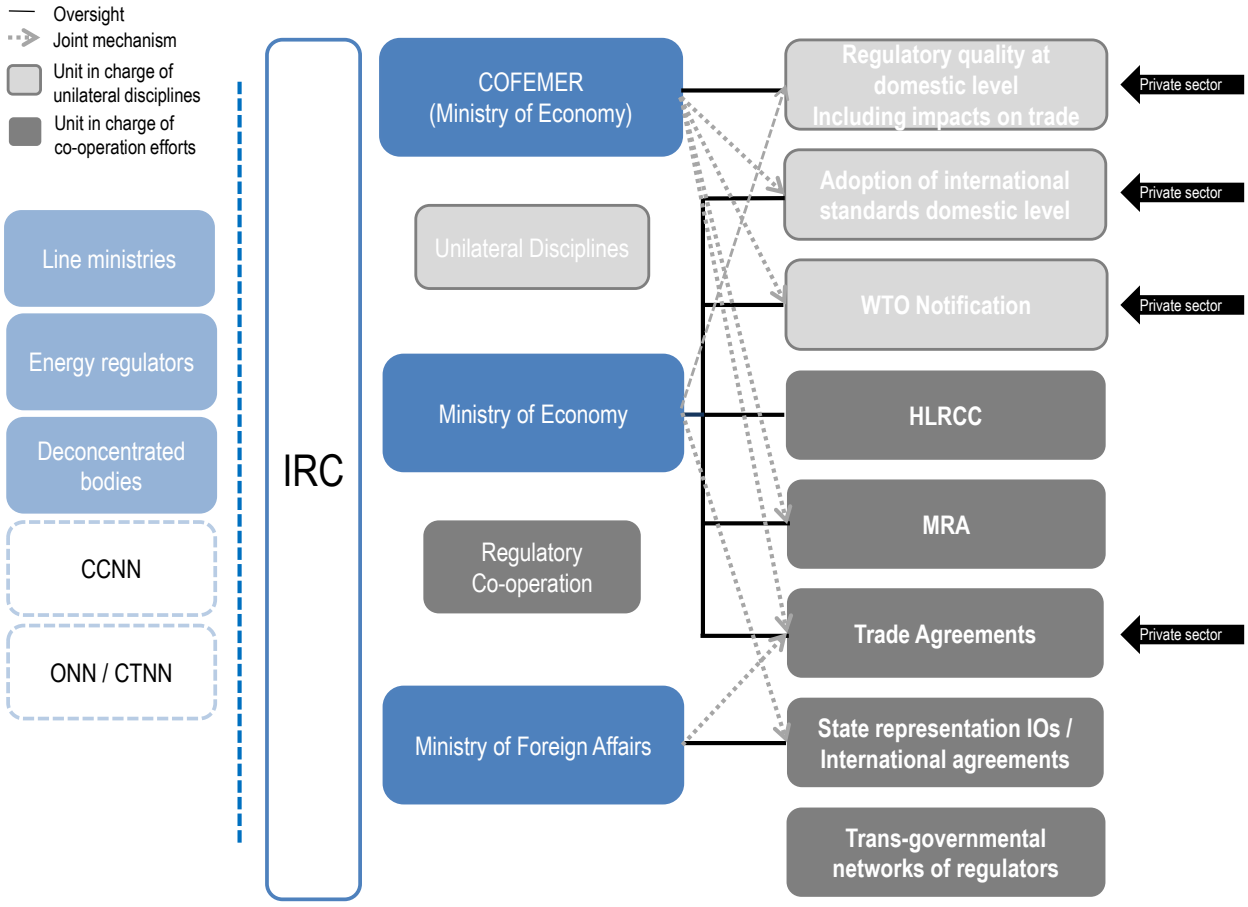
The **Federal Law on Transparency and Access to Public Information** (art. 6) guarantees the right to freedom of information regarding public information stemming from any authority with public funding; furthermore, it obliges agencies to disclose information in their websites. In this sense, the Federal Law on Transparency applies explicitly to all international agreements to which Mexico is party, as well as resolutions and related judicial decisions that are made by specialised international bodies. For example, the Ministry of Foreign Affairs is obliged to make public all the international and inter-institutional agreements that Mexico is part of.

Concerning the legal framework for a regulator's participation in international fora, there is an inherent heterogeneity and the different mandates rely on the provisions for each sector or agency.

Institutions involved in overseeing IRC in Mexico

There are three authorities that play a key role in overseeing the broad range of IRC practices in Mexico (Figure 1.7): the Federal Commission for Regulatory Improvement (COFEMER), the Ministry of Economy, and the Ministry of Foreign Affairs. They intervene respectively in relation to embedding IRC in regulatory management tools (COFEMER), specific international obligations implemented at the domestic level (Ministry of Economy), or to ensure coherence of Mexico's position in international treaties, agreements or *fora* (Ministry of Foreign Affairs). This divide of IRC responsibilities is common across OECD countries (OECD, 2018[4]) (Figure 1.8).

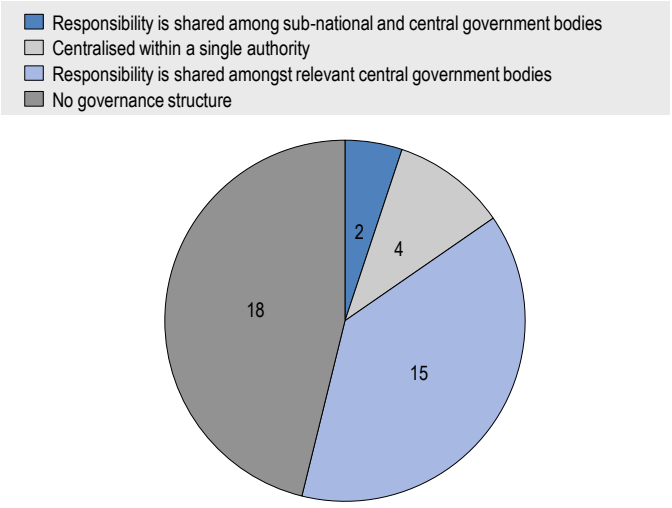
Figure 1.7. Mexico's oversight of IRC activities



Note: The good regulatory practices are only reflected in case they have an IRC component.
Source: Author's own elaboration as an adaptation from the Federal Law of Administrative Procedure, the Federal Law of Metrology and Standardisation, the Law on Foreign Trade, and the Law on Celebration of Treaties.

Figure 1.8. Organisation of oversight of IRC practices or activities in OECD countries

39 respondents



Note: Data for OECD countries is based on the 35 OECD member countries, the European Union, and three accession countries.
Source: (OECD, 2018[4]), *OECD Regulatory Policy Outlook 2018*, OECD Publishing, Paris, http://dx.doi.org/10.1787/g2g90cb3-en.

COFEMER is the central oversight body for better regulation in Mexico and as such is mandated with ensuring regulatory quality at the domestic level for primary laws initiated in the Executive, subordinate regulation and NOMs.[14] This includes overseeing regulatory management tools such as stakeholder engagement, *ex ante* and *ex post* regulatory impact assessments which might include an assessment of competition, risk, consumer rights and trade impacts. COFEMER also collaborates with the Ministry of Economy in alerting when a notification to the WTO needs to be done. Furthermore, COFEMER's opinion on trade agreements and mutual recognition agreements is sought before they come into force.

The **Ministry of Economy**, and in particular as embodied by the Vice-Ministry on Competition and Business Regulation (*Subsecretaría de Competitividad y Normatividad*, SCN), pursues the general objective of reinforcing economic competitiveness of the national economy, generating trust in the Mexican economy and attracting foreign investments. It therefore promotes economic growth by ensuring the development and implementation of a clear, effective and simplified standardisation process (General Organisation Guidelines of Ministry of Economy).[15]

In this context, the General Bureau of Standards within the Ministry of Economy (*Dirección General de Normas*, DGN) oversees the procedure for technical regulations (NOMs) and standards (NMXs). The Ministry is in charge of the Mexican Standardisation System which includes, inter alia, steering the process for the forward planning agenda for technical regulations and standards, and overseeing the adoption of international standards, as well as the 60-day consultation period in the Official Gazette, and the 5-year *ex post* reviews. In addition, the General Bureau of Standards is in charge of notifying new technical regulations to the WTO either through the standardisation process itself or the alert triggered by the quality checks implemented by COFEMER.

The LFMN also gives the responsibility to the Ministry of Economy (*Subsecretaría de Comercio Exterior*, SCE) to head the discussions of trade agreements, as well as to conclude mutual recognition agreements (MRAs). The same law mandates the Ministry of Economy to be in charge of Mexico's representation in international bodies with an economic mandate and international standard-setting bodies such ISO, IEC, COPANT, PASC, APEC, and Codex Alimentarius. Moreover, attributions for the Ministry include signing Memoranda of Understanding with foreign public and/or private standardisation entities to exchange information and technical skills.

According to the Organic Law of the Federal Public Administration (LOAPF), the **Ministry of Foreign Affairs** (*Secretaría de Relaciones Exteriores*, SRE) is in charge of foreign policy, as well as of promoting and ensuring co-ordination of all the actions carried out internationally, including international treaties and binding interinstitutional agreements. In addition, regulators and decentralised agencies must inform the SRE of all such agreements they intend to conclude, for the SRE to give an opinion for such agreements to the agency (LCT, art. 7).

There is no systematic oversight of the regulatory co-operation that sectoral agencies and ministries may choose to enter into with their peers in other jurisdictions unless the co-operation is done through an inter-institutional agreement with legally binding wording for Mexico; in which case, the agreement would need to be approved by the SRE. In practice, agencies tend to seek the opinion of the SRE before signature of agreements with foreign peers and/or international organisations, whether binding or not (see the detailed explanation in Chapter 3).

In summary, Table 1.4 highlights Mexico's regulatory instruments, the related IRC requirements as part of good regulatory practices, as well as the legal provisions from where the requirements stem, and oversight and co-ordination bodies. Table 1.5 lists the legal or policy provisions that set the general framework for each of Mexico's co-operation efforts, together with the institutions that may engage in such co-operation and the bodies that oversee, enforce or co-ordinate the IRC activities of Mexican authorities.

Table 1.4. Summary of entry points for IRC in the quality management of Mexico's domestic regulatory instruments

Regulatory instrument	Good regulatory practices	Legal/policy provisions	Oversight, enforcement and/or co-ordination
Primary laws Primary regulation initiated in the executive branch (9% of all primary laws) **Subordinate regulation** Bylaws Decrees Ministerial agreement or notice Circulars Manuals, methodologies, calls, programmatic rules of operation	Regulatory impact assessment Trade impacts (moderate or high impact RIAs) International considerations Incorporation of international instruments Consultation (open to foreign parties) RIA process Regulator on its own initiative (not systematic) *Ex post* review (On regulator's initiative and/ or if it did moderate or high impact RIA)	Federal Law of Administrative Procedure - LFPA RIA Guidelines 2016 *Ex Post* RIA Agreement	COFEMER
Technical regulation Official Mexican Standards - NOM	Forward Planning (PNN) Regulatory impact assessment (Same as above) Consultation (open to foreign parties) RIA process	Federal Law of Administrative Procedure – LFPA RIA Guidelines 2016 and	COFEMER RIA procedure Consultation Min. Economy Forward planning

Regulatory instrument	Good regulatory practices	Legal/policy provisions	Oversight, enforcement and/or co-ordination
	60-day O.G. WTO notification Within the CCNN Systematic *ex post* review (min. every 5 years) Consideration of international standards	Federal Law of Metrology and Standardisation – LFMN World Trade Organization – TBT and SPS agreements	Consultation Overall procedure WTO notification *Ex post* reviews
Standards Mexican Standards – NMX	Forward planning Consultation 60-day O.G. Within the ONN or Ministry of Economy	Federal Law of Metrology and Standardisation - LFMN	Min. Economy Forward planning Consultation

Note: The good regulatory practices are only reflected in case they have an IRC component.
Source: Author's own elaboration.

Table 1.5. Summary of Mexico's international regulatory co-operation efforts

Co-operation instrument	Legal provision/policy	Institutions involved	Oversight, enforcement and/or co-ordination
Memorandum of Understanding	Law on Celebration of Treaties (LCT)	Bodies from the Federal Public Administration	Ministry of Foreign Affairs AMEXCID COFEMER
High Level – Regulatory Co-operation Council	Terms of Reference of HLRCC, March 2011	*Line ministries* Ministry of Economy SAGARPA SEMARNAT SCT SSA CNH *Deconcentrated* COFEPRIS SENASICA CENAM	Min. Economy
North American Leaders' Summit	N/A	N/A	Office of the Presidency of the Republic
International Organisations	N/A	Sectoral Agencies and Ministries	Ministry of Foreign Affairs AMEXCID Min. Economy
Trans-governmental Networks of Regulators	N/A	Sectoral Agencies and Ministries	N/A
Mutual Recognition Agreements	Law on Celebration of Treaties (LCT)	Sectoral Agencies and Ministries EMA	Min. Economy
Trade Agreements	Law on Celebration of Treaties (LCT) Law on Foreign Trade (LCE) Federal Law of Administrative Procedure (LFPA)	Sectoral Agencies and Ministries	Min. Economy COFEMER

Source: Author's own elaboration.

Notes

[1] INEGI: http://cuentame.inegi.org.mx/territorio/division/default.aspx?tema=T (accessed 5 March 2018).

[2] This was formalised by Official Note 381 of the Presidency of the Chamber of Deputies. The agreement was ratified by Resolution 857 of 27 January 2011 signed by the Secretary-General of the Chamber of Deputies.

[3] At the time of writing of this report there was an ongoing discussion in Congress to adopt a General Law of Regulatory Improvement that was passed on 18 May 2018. This new law led to a change in the name of the Federal Commission for Regulatory Improvement (COFEMER) for the National Commission for Regulatory Improvement (CONAMER).

[4] Glossary from the Ministry of Interior: www.sil.gobernacion.gob.mx/Glosario/definicionpop.php?ID=123 (accessed 20 December 2017).

[5] Adapted from article 4 Federal Law of Administrative Procedure.

[6] Article 3, XI Federal Law of Metrology and Standardisation.

[7] Article 3, X Federal Law of Metrology and Standardisation.

[8] Data received from Ministry of Economy, June 2018.

[9] The figures concerning the production of regulation of each Ministry consider regulatory projects with compliance costs according to COFEMER's Annual Report 2016-2017.

[10] At the time of writing of this report there was an ongoing discussion in Congress to adopt a General Law of Regulatory Improvement that was passed on 18 May 2018. This new law maintained existing disciplines of regulatory improvement while replacing the Federal Law of Administrative Procedure.

[11] The LCE considers that regulations that may represent non-tariff barriers to imports for example regulations that ensure the supply of products for basic consumption, ensure compliance with Mexico's international obligations, regulate the commercialisation of specific products subject to restrictions, aim to preserve fauna and flora against the risk of extinction or ensure the conservation or exploitation of species, or regulate goods with a historic, artistic or archaeological value. (art.15).

[12] According to the Constitution of Mexico, "… all the treaties that are in accord with it that have been concluded and that are to be concluded by the President of the Republic with the approval of the Senate, are the Supreme Law of all the Union." In other words, international treaties that have been approved by the Senate and published in the official journal of the Federation become "supreme" laws, and their provisions prevail over national laws. An issuance of a specific domestic law is not necessary. Still, international treaties may be challenged if they are considered contrary to the Constitution, through an "action of unconstitutionality" (*acción de inconstitucionalidad*), either within thirty days after the publication of the treaty, or by 33% of Senators.

[13] Art. 63, Bylaw of the LFMN.

[14] According to the General Law of Regulatory Improvement passed on 18 May 2018, COFEMER's functions will include promoting co-operation and regulatory improvement at the international level.

[15] www.dof.gob.mx/nota_detalle.php?codigo=5307431&fecha=19/07/2013.

References

COFEMER (2017), *Informe Anual de Desempeño - COFEMER*, COFFEMER, Mexico, http://www.cofemer.gob.mx/docs-bin/dg/Informe_anual_2017.pdf. [3]

OECD (2018), *OECD Regulatory Policy Outlook 2018*, OECD Publishing, Paris, http://dx.doi.org/10.1787/g2g90cb3-en. [4]

OECD (2016), *Regulatory Policy in Chile: Government Capacity to Ensure High-Quality Regulation*, OECD Reviews of Regulatory Reform, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264254596-en. [1]

OECD (Forthcoming), *Standard-Setting and Competition in Mexico: A Secretariat Report*, OECD, Paris. [2]

Chapter 2. Unilateral approaches to international regulatory co-operation: how Mexico embeds international considerations in its domestic rule-making processes

Countries may take unilateral steps to avoid regulatory divergences, notably in their domestic rule-making procedure. This is a foundational step towards regulatory quality and coherence and one that is likely to facilitate the development of more ambitious international regulatory co-operation (IRC) approaches. This chapter identifies the various avenues through which international considerations have been embedded into domestic rule-making, either through considering foreign and international standards in domestic rule-making, assessing international impacts in the RIA procedures, or engaging foreign stakeholders on regulatory developments.

Introduction

Mexico has an advanced and ambitious legal framework embedding international considerations throughout its domestic rule-making process. It has done so through the introduction of specific procedures, such as:

- Embedding questions and procedures in the *ex ante* impact assessment aimed at assessing the trade impacts of new regulatory measures or collecting the experience of foreign jurisdictions in the same field.
- Considering international standards in the development of regulation; legally and systematically required for technical regulations, and ad hoc for subordinate regulation more broadly.
- Reinforcing the connection between the notification procedure to the WTO and the RIA process to obtain feedback on draft measures from foreign stakeholders.

In addition, it has existing procedures for forward planning and *ex post* assessment which may offer avenues for further embedding IRC.

The GRP processes with IRC considerations are largely geared towards lowering impacts of regulations on international trade, in line with obligations Mexico has subscribed to under the WTO. Consequently and logically, IRC is more systematically embedded into the development of technical regulations (NOMs) which by definition have an effect on trade in goods, rather than the impacts stemming from non-technical subordinate regulations.

Nevertheless, regulators face challenges when implementing IRC practices. In particular, anecdotal evidence from interviews shows difficulties for regulators when estimating trade costs in regulatory impact assessments, or when looking for guidance on the applicable international standards. Furthermore, *ex post* evaluation (for subordinate and technical regulation) remains very little used to assess the international impacts of a regulatory measure or to identify divergence from international standards, norms or best practices.

This chapter identifies the various avenues through which international considerations have been embedded into domestic rule-making, whether by contributing to the assessment of impacts of regulations through specific questions in the RIA procedures, by considering inputs from foreign stakeholders, or by applying foreign and international experiences in rule-making. Overall, this chapter finds that numerous provisions have been included in what is becoming a comprehensive *de jure* framework on IRC.

Regulatory impact assessment as a tool to consider the international environment

RIAs provide a practical tool to integrate international considerations within evidenced-based rule-making, following the 2012 OECD Recommendation to "give consideration to all relevant international standards and frameworks for co-operation". RIAs may increase the attention of policy makers for trade impacts and thus ensure a conscious balancing of trade and other public policy considerations. In addition, the RIA process provides a point in time to reflect on alternative options, to consider how other jurisdictions are addressing similar challenges and to map the existence of international legal instruments and policy standards in the same field (OECD, 2017[1]).

Mexico has a procedure for *ex ante* RIA mandatory for all subordinate regulators, the quality of which is overseen by COFEMER. The RIA requirements differ depending on the estimated impacts of the RIA proposals. Indeed, Mexico's RIA Manual distinguishes

between moderate- and high-impact regulatory proposals, and includes specific questions depending on whether the measure is estimated to have impacts on competition, on trade or aims at reducing risks for human, animal or vegetal health, for public security, labour hazards, the environment, or consumer protection.

In addition, Mexico introduced in 2016 specific procedures to take into account systematically, and when relevant, the trade impacts of regulation in its *ex ante* regulatory impact assessment. Mirroring the similar procedure to assess competition impacts through RIAs, this new procedure allows namely to ensure automatic co-ordination among relevant authorities to ensure notifications of regulations with trade impacts to the WTO, or FTA partners. This strong connection between the RIA and the notification processes is largely unprecedented among OECD countries (OECD, 2018[2]) as an effort to leverage the impact assessment procedure to identify measures with trade impacts.

Less than a year since the reform entered into force, it is still early to evaluate the impacts of its implementation. Nevertheless, it is already possible to identify a number of areas where the Mexican authorities could build on the strong existing regulatory improvement apparatus, to further the benefits of IRC for domestic rule-making. In particular, it seems that the new RIA procedures are used more to guarantee WTO notifications, and less to estimate (and potentially reduce) trade costs of new regulations.

It is worth noting that competition may be trade and investment enhancing in itself. Indeed, by ensuring that regulation is pro-competitive, this may create an enabling environment for foreign businesses to operate in Mexico in equal terms as Mexican firms. Ultimately, this may increase or improve choices for consumers, allowing them to choose between products or services with the price and quality characteristics that most closely match their needs (OECD, 2018[2]). Therefore, this report is complementary to the recent report on *Standard-setting and competition in Mexico: A Secretariat Report,* which provides an in-depth assessment into competition considerations in the Mexican regulatory process.

Finally, Mexico has procedures for *ex post* assessment of the impact of regulations. Individual examples show that they provide a strong mechanism to embed international considerations in the revision of laws and regulations. However, international considerations are not systematically embedded in these procedures, and more broadly, the use of these procedures remains very limited in practice. Mexico could benefit from tapping more systematically into the potential of *ex post* evaluation to learn from evidence gathered during the implementation of regulations on trade impacts and on the benefits and costs of deviating from international practice.

IRC throughout the process of ex ante *RIAs*

The RIA procedures in Mexico have been significantly developed to take into account international trade considerations. Until 2016, the RIA process required merely that regulators describe foreign and international practices relevant to the submitted draft for high-impact RIAs. The RIA procedure was reformed significantly on 22 December 2016, with the objective of establishing a system of alerts to comply with WTO TBT and SPS notification commitments, to identify regulations with an effect on trade and to avoid regulatory proposals that, unnecessarily, generate negative effects on Mexico's foreign trade. Beyond this procedure, COFEMER is also envisaging broadening this range of RIAs to other forms of specific impacts beyond the existing procedures on competition impacts and on risk prevention, such as impacts on human rights.

Today, the Mexican RIA procedures, overseen by COFEMER, embed references / considerations of the international environment at three stages of the process: i) when justifying the legal basis to issue a given regulation; ii) when filling in the regulatory impact calculator to determine the type of RIA to conduct; iii) when conducting the RIA itself if the trade impact calculator is positive, both for the assessment of impacts and as a benchmark of international regulations and practices as a source for policy alternatives.

The same impact assessment procedures apply both to subordinate regulations and technical regulations (NOMs) (art. 4 LFPA, art. 45 LFMN), and both are overseen by COFEMER. However, RIAs conducted for NOMs are submitted both to COFEMER and to National Advisory Committees (*Comites Consultivos Nacionales de Normalizacion*, or CCNN) responsible to develop and monitor implementation of a given NOM. In practice, NOMs are therefore subject to a double quality control.

As voluntary instruments, NMXs do not in principle fall under the RIA procedures. Their trade impact is therefore not considered systematically (OECD, 2018[2]).[1]

Beyond these general RIA procedures, a number of autonomous decentralised bodies have developed their own procedures. This is the case for example for the IFT, see Box 2.1. The IRC considerations within IFT's RIA procedures are similar to those of the general RIAs, but apply to IFT regulations – whether technical regulations or not. The RIA Guidelines do not have as detailed questions about trade impacts, but do ask for slightly more elements when identifying relevant regulatory approaches abroad. The IFT emits an average of 18 regulations per year following its own RIA procedure.

Box 2.1. International considerations in IFT guidelines for RIAs

As a constitutionally autonomous body, the IFT is not subject to the same regulatory improvement procedures as other regulatory bodies in Mexico.

In November 2017, the IFT published in the Official Gazette its Guidelines for Public Consultations and RIAs.

The international environment is taken into account in the consideration of alternatives to the regulatory proposal, as well as in the assessment of its impacts.

Assessment of alternatives

Question 7 in the IFT RIA Guidelines has a similar question as for high-impact RIAs under the general procedures. The IFT adds a number of options to fill in when replying to this question, incentivising more detailed responses.

Include a comparative that contemplates the regulations implemented in other countries in order to solve the problem previously detected or something similar.

For each analysed case, include the following information:

Analysed country or region
Name of regulation
Main results
Official legal reference of regulation
Electronic link
Additional information

Assessment of impacts

Question 11 of the IFT RIA Guidelines asks the regulator to identify the impacts of the regulation on national and international trade. This question is less detailed than the equivalent questions that are included in the general RIA procedures. However, the question applies to all IFT regulatory proposals, and not only to measures that have gone through a trade RIA calculator as is the case in the general procedures.

Indicate and describe if the proposed regulation will affect national and international trade.

Select all that apply and add the rows that you consider necessary.

Source: Author's development on the basis of information provided by IFT and publically available information, www.dof.gob.mx/nota_detalle.php?codigo=5503960&fecha=08/11/2017.

International experience to justify the regulation

International commitments provide a justification in itself to issue a new regulation – it is a direct application of international law into domestic rule-making. Indeed, following guidelines for the emission of new regulation,[2] regulators can emit a regulation only if it falls under one of the following scenarios:

1. Regulation is directed at an emergency situation with the following conditions: not exceeding six months of validity, avoiding an imminent hazard (health, well-being, animal and plant health, environment, or the economy), and not being regulated previously.
2. The regulator fulfils a legal commitment that obliges them to issue certain regulations.
3. The regulation fulfils international commitments.
4. The regulation is in need of update(s).
5. The benefits of the regulation, in terms of competition and efficiency of markets, amongst others, are superior to the compliance costs.
6. It is a rule of operation that is emitted to comply with terms of reference of annual budget regulations.

In practice, when initiating the RIA procedure, regulators are asked to select among six scenarios to justify their regulation. COFEMER analyses the justification before proceeding to the assessment of the RIA and draft regulation. If it does not fulfil one of the six justifications, such as fulfilment of international commitments, the regulation is rejected by COFEMER directly.

By applying this requirement as a first step to all regulators, it is likely to encourage regulators to search for, identify and potentially apply international commitments, therefore facilitating their integration in domestic rule-making. In addition, it provides COFEMER the opportunity to monitor the share of Mexican regulation stemming from international commitments.

International impacts in determining the type of RIA to conduct, i.e. in the "Regulatory Impact Calculator"

A new trade RIA filter was added in 2016 to the RIA calculator, embedding international trade impacts in the RIA process from the outsets of the process. The questions aim to guide regulators in determining whether their draft may affect international trade.

After the initial 'justification' phase, the actual RIA process in Mexico is launched with a "regulatory impact calculator", which allows regulators to identify potential impacts of their draft regulation, and thus determine which type of RIA to prepare. This calculator comprises three verification filters: i) foreign trade impacts, ii) risk, iii) competition. The verification filter on foreign trade impacts consists of nine questions, which aim to determine whether the assessed draft has an impact on foreign trade (Table 2.1).[3]

Table 2.1. Trade verification filter

Indicate if the regulatory measure:		Answer
1.	Creates or adds to measures or represents a burden to imports or exports of products, that implies additional monetary costs for economic agents?	Yes / No
2.	Establishes a prohibition on imports?	Yes / No
3.	Establishes a prohibition on exports?	Yes / No
4.	Creates or restricts the requirements to obtain authorisations to trade or authorisations to commercialise a product on the domestic territory (for e.g. licences, certificates, permits, authorisation, certification)?	Yes / No
5.	Establishes or modifies the technical characteristics, the process or production method related to a product or service, with which compliance is mandatory for the product to be commercialised or provided in Mexico?	Yes / No
6.	Establishes or modifies a measure applied to protect health and life of people and animals or to preserve animals?	Yes / No
7.	Establishes or modifies any measure related to the control of entry of goods to the national territory due to risks resulting from the presence of additives, pollutants, toxins, pathogen organisms in food products; spread of epidemics, sicknesses or organisms containing pathogens or sicknesses; or to prevent or limit the damages that could be caused as a result of the entry, establishment or spread of epidemics?	Yes / No
8.	Creates or modifies conformity assessment procedures?	Yes / No
9.	Creates or modifies the rules on packaging, marking or mandatory labelling for the import of goods and their commercialisation on the national territory?	Yes / No

Source: Based on RIA Guidelines, www.dof.gob.mx/nota_detalle.php?codigo=5466670&fecha=22/12/2016.

The result of this calculator will lead the agency to carrying out one of the 14 types of RIAs, 6 of which concern foreign trade, and are therefore referred to as "Foreign Trade RIAs":

- Regular update
- High impact
- High impact with risk assessment
- High impact with foreign trade assessment
- High impact with risk and competition assessment
- High impact with competition assessment
- High impact with competition and foreign trade assessment
- High impact with risk and foreign trade assessment
- High impact with risk, foreign trade and competition assessment
- Moderate impact
- Moderate impact with foreign trade assessment

- Moderate impact with competition assessment
- Moderate impact with competition and foreign trade assessment
- Emergency

International considerations in conduct of RIA

The RIA guidelines established by COFEMER require that regulators take into account the international environment both in the assessment of impacts, and in the assessment of regulatory alternatives. These questions do not however apply in all RIAs: as indicated below, they apply respectively to RIAs on foreign trade and to RIAs with a high impact.

As part of its oversight of the RIA procedure, COFEMER oversees the regulators' answers to both assessments, asking for regulators to substantiate their assessment if it considers it insufficient. It does not ask specific units of the Ministry of Economy specialised in trade to assess the regulators' trade impact analysis in the manner that it does on competition, for the RIAs with a competition assessment. The foreign trade RIA therefore differs from the procedure followed for the RIA procedures with effects on competition, for which COFEMER refers all RIAs with a positive or negative impact on competition to the competition authority (COFECE), to verify the accuracy of the assessment conducted by the regulator (OECD, 2018[2]).

Assessment of impacts of RIAs on foreign trade

In all six RIAs on foreign trade, five specific questions on the impact of the regulation entail consideration of the international environment:

- Identify the regulatory actions (NOMs, import/export measures, SPS measures, conformity assessment procedures) of the draft text that have an effect on foreign trade, describe how they would affect trade, and justify why this effect on trade is necessary.
- Is the draft text related to any of Mexico's international commitments? If so, please indicate the international commitment with a specific reference.
- Was the draft text elaborated based on any international or foreign standards, and if so, which ones?
- Is the draft text different to NOMs, import/export measures, SPS measures, conformity assessment procedures, but still has an effect on foreign trade (e.g. quotas or safeguard measures)?
- List the principal effects of the proposal on the imports or exports of goods and/ or services. Quantify the monetary impacts and incorporate the results at the end of the cost/ benefit analysis.

To help regulators answer these questions, the DGRCI and the COFEMER have organised specific workshops. However, specific guidance on the quantification of trade impacts is not available to the regulators. Indeed, they are not provided with a specific methodology to quantify, or monetise, trade impacts, although a generic cost-benefit analysis methodology is provided by COFEMER.[4]

Assessment of alternatives in high impact RIAs

For RIAs with high impact, the assessment of alternatives requires a consideration of foreign and international practices. Indeed, a specific question asks to "*Describe the manner in which the problematic is being regulated in other countries and/or the good international practices in this matter*".

Trade impacts in practice: the experience to date

Since the reform entered into force in March 2017, and as of end October 2017, 10 Foreign Trade RIAs have been submitted to COFEMER (Table 2.2), a small share of the 292 total RIAs conducted between December 2016 and October 2017 (COFEMER, 2017[3]). Out of these 10 Foreign Trade RIAs, 7 were for NOMs and 3 were for subordinate regulation. For all foreign trade RIAs, regulators are asked to respond to the five questions specific to trade impacts. The trade impact analysis conducted by the regulators in this context allows namely to identify the international or foreign standards used as a basis and give an estimated quantification of the trade effects of the proposal.

Table 2.2. Trade RIAs submitted in 2017

List of RIAs with an impact on foreign trade submitted to COFEMER in 2017, by regulating agency

Agency	Name (with hyperlink included)	Type of regulatory instrument	Type of RIA	Status
SE	NOM-220-SCFI-2017, NOM on specificities and requirements of cellular phone signal blocking equipment for prisons	NOM	Moderate impact with analysis on trade and competition	Concluded
SCT	NOM on driving and pausing times for drivers of the federal auto transports with the purpose of mitigating accidents	NOM	High impact with analysis on trade and risk	Under revision by COFEMER
SCT	Federal Auto transport and Auxiliary Services Bylaw	Subordinate regulation (bylaw)	High impact with analysis on trade, competition and risk	Concluded
SAGARPA	Ministerial agreement on the use of a national distinction for organic product and labelling criteria	Subordinate regulation (agreement)	Moderate impact with analysis on trade	Pending regulators response to COFEMER opinion
SE	NOM on concrete revolving mixers. Mixers and agitators of front discharge and rear discharge, mounted on automotive vehicle - safety specifications and test methods	NOM	High impact with analysis on trade, competition and risk	Under revision by COFEMER
SE	NOM on safety requirements and testing methods applicable to indoor and outdoor luminaries.	NOM	High impact with analysis on trade, competition and risk	Concluded
SEMARNAT	NOM on maximum emission from new diesel motors.	NOM	Moderate impact with analysis on trade and competition	Cancelled
SENER	Catalogue of equipment and appliances for which manufacturers, importers, distributors and marketers must include information on their energy consumption; and the forms to be included	Subordinate regulation (catalogue)	Moderate impact with analysis on trade	Concluded
SEGOB	NOM on security measures for facilities intended for childcare, public or private	NOM	Moderate impact with analysis on trade	Pending regulators response to COFEMER opinion
SEMARNAT	NOM on phytosanitary measures and internationally recognised labelling for Wood packaging	NOM	Moderate impact with analysis on trade	Under revision by COFEMER

Note: This list includes RIAs submitted by 31 October 2017.
Source: Information provided by COFEMER.

However, in the absence of a specific methodology, the depth of the trade impact analysis carried out by regulators is heterogeneous. Certain foreign trade RIAs include detailed studies on estimated effects of measures. Others include a basic description of the possible provisions that may present an effect on trade. Finally, in some Foreign Trade RIAs, regulators have indicated that they see no effect on trade, contradictory with the very essence of the procedure they are undergoing. When describing trade impacts, regulators do not specify the methodology that they use in the quantification exercise. Indeed, they are not required to follow a specific methodology to quantify, or monetise, trade impacts (although a generic cost-benefit analysis methodology is provided by COFEMER).[5]

In the conduct of a high impact foreign trade RIA, regulators are asked to consider the foreign and international practices when assessing regulatory alternatives. Five high impact RIA following trade assessment have been conducted to date, on measures developed by the Ministry of Communications and Transport (2), the Ministry of Agriculture (1), and the Ministry of Economy (3). Among these, both international and foreign standards are considered as alternatives, namely from Australia, Canada (SOR/88-45 1 SOR/88-45 177), New Zealand and the European Union, United States, or the IEC.

Ex post *assessments and reviews*

After the implementation of measures, regulators may use a variety of tools to assess the use made of their instruments, their achievement of the intended objectives, the unintended impacts, and their relevance in light of possible evolutions in the regulated context. In this view, Mexico has made some approaches available to regulators, with guidelines and oversight ensured by COFEMER. In addition, COFEMER itself conducts a number of studies of certain specific sectors, to assess the regulatory framework, in particular in light of existing approaches abroad and internationally. Also, sporadic reviews commissioned by the Ministry of Economy from international organisations such as the OECD may help evaluate the existing regulatory framework for specific impacts. This is the case, for example, of the competition assessment carried out based on the OECD Competition Toolkit (see for e.g. (OECD, 2018[4])). While several individual examples show that foreign approaches and international guidance, rules and standards are used as benchmarks in the various approaches, the use of *ex post* assessment and reviews remains occasional, making it difficult to conclude in systematic leveraging of international experience.

Ex post *assessments*

Ex post assessments may provide for a privileged avenue to observe the impacts of a regulatory measure once it is adopted, including the frictions generated on trade and other international flows, and to estimate the costs/ benefits of its potential deviation from international practice. However, *ex post* assessments are not yet fully exploited to this effect in Mexico. On one hand, *ex post* assessments remain a rarely used tool, systematically applied only for technical regulations regarding the need to update or not. On the other hand, the assessments conducted only consider the international environment when the same regulation had been subject to an *ex ante* RIA, and that questions on international considerations had been considered in this context.

Ex post evaluations are required for NOMs (at least) every five years (art. 51 LFMN). These evaluations do not comprise measuring the impact of the regulation but rather assessing if a given regulation needs to be updated or not. In addition, the CCNNs or

COFEMER can also recommend a regulatory agency to conduct an *ex post* assessment of a NOM's implementation, effects and compliance within the year after its entry into force.

In addition, COFEMER has set specific guidelines on *ex post* assessment[6] applicable to NOMs and subordinate regulation, which were previously subject to an *ex ante* RIA. As per these guidelines, however, only one question includes reference to international practices.

In identifying the possible alternatives to regulation, regulators are asked to identify the practice in other countries and/or as recommended by international organisations or associations, to explain the applicability of such approaches in Mexico, and the reasons for which they were not sustained. An example of a RIA procedure in which this is addressed is described in Box 2.2.

In the analysis of the impact of the regulation, regulators are asked about the actual effects that the regulation has had on consumers and trade and in particular, on the prices, quality and availability on goods and services. This question does not however specifically refer to international trade. This contrasts with the international environment and trade impacts considered in *ex ante* RIAs, and does not exploit the information basis acquired while conducting *ex ante* RIA.

Box 2.2. International considerations in *ex post* assessment

Technical regulation on essential safety requirements in new motor vehicles – safety specifications (NOM-194-SCFI-2015)

The Ministry of Economy (DGN) developed a NOM regarding the essential safety requirements in new motor vehicles. It was submitted to an *ex ante* RIA with high impact on competition and risk in November 2014.

In response to the question on regulatory approaches in foreign countries, the regulator listed similar existing regulations in the United States and in the European Union on motor vehicle safety. To justify the different position adopted from these two regulations, the regulator put forward the specific context of Mexico that differentiated it from other countries, namely as an important exporter country of motor vehicles and parts of motor vehicles, and due to the absence of previous regulations on safety of motor vehicles.[1]

In its opinion about the *ex post* assessment, COFEMER did not pronounce itself on the alternative approaches adopted in foreign countries, but recommended in particular that the regulator consider the relevance of including several safety requirements envisaged by the World Health Organisation.[2]

[1] www.cofemersimir.gob.mx/mirs/44249.
[2] www.cofemersimir.gob.mx/expediente/21179/emitido/47768/COFEME.

In practice, *ex post* assessments are seldom conducted, both for NOMs and subordinate regulations. Regarding technical regulation, the 5-year obligation to do an *ex post* assessment is in practice a decision made by the CCNN to update, maintain or repeal a given NOM without a detailed measurement of the impacts the NOM had during its implementation. Regarding subordinate regulations more broadly, five *ex post* assessments have been conducted to date, one regarding a subordinate regulation and four regarding technical regulations.[7] At this occasion, international considerations have been introduced both by the regulator in its assessment and by COFEMER in its opinion about the assessment (see Box 2.2).

Diagnostic studies of regulatory framework in place

Separate from the *ex post* assessment procedures, COFEMER has the faculty to conduct studies on the national regulatory framework, and issue reform proposals drawing on its findings (art.69-E I LFPA). In recent years, COFEMER has conducted around 40 studies analysing the existing regulatory framework in different sectors, in order to promote options for regulatory improvement.[8] In some of these studies, the international context is considered as a benchmark to identify possibilities for reform.

For example, in a study from 2017, when considering a possible revision of the Mexican regulatory framework concerning e-commerce, COFEMER examined the existing framework applicable in Mexico, the United States and Canada. In addition, it gave an overview of relevant international *fora* with policies applicable to e-commerce, such as the OECD, the WTO, the United Nations Commission on International Trade Law, as well as the chapter on e-commerce of the Trans-pacific partnership.[9] This study helped identify areas of focus to improve the Mexican framework on e-commerce and resulted in broad conclusions, recommending among other things to co-operate internationally with foreign governments, specifically with regards to the development of an open and safe cyberspace to gain trust of consumers, and to harmonise border measures between Canada, Mexico and the United States to facilitate e-commerce of goods in North America.

Information and engagement of foreign stakeholders

Mexico has a variety of means to inform and obtain feedback from foreign stakeholders on its draft regulations, both at the domestic level and the international, through notification to trading partners and the WTO on TBT and SPS matters. They include the systematic publication of forward planning agendas for NOMs, systematic co-regulation within the development of NOMs, consultations on RIAs for all subordinate regulations, and occasional multi-stakeholder working groups for subordinate regulations. Most significantly, all draft regulations available on COFEMER's website include a summary in English, a key undertaking for ensuring international outreach, still exceptional among OECD countries (Figure 1.5). The potential avenues for receiving foreign views on regulation are therefore significant.

At the same time, the procedures to receive such feedback are fragmented, and there is uneven openness to foreign stakeholders among them. As a result, the different avenues for foreign stakeholders to truly get their voice heard are unevenly effective. Without general monitoring of all foreign stakeholders consulted, the benefits of these different procedures are difficult to identify. In practice, evidence suggests that inputs from foreign stakeholders are consistently received through the WTO notification procedures, but less so through the national stakeholder engagement procedures. As a result, the foreign inputs received concern mainly the trade effects of the regulations.

Forward planning

Forward planning tools provide a basis to inform stakeholders of upcoming regulations, thus ensuring predictability of the regulatory framework. They are also an opportunity to inform stakeholders about upcoming consultations, thus increasing awareness of stakeholders about their opportunities to submit views.

Such transparency about prospective agendas is useful for trading partners. Indeed, the WTO TBT for instance requires that WTO Members developing a technical regulation or conformity assessment procedure which is not based on international standards and has a significant effect on trade:

> *"…publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties in other Members to become acquainted with it, that they propose to introduce a particular technical regulation" (art. 2.9.1. TBT Agreement).*[10]

Mexico has developed a forward planning tool made public through its official gazette, in line with its WTO obligations, specific for NOMs and NMXs. It is the first step in the development of NOMs and NMXs. The national standardisation programme (*Programa Nacional de Normalización*, PNN*)* is the instrument for planning, co-ordination and information with regards to the development of technical regulations and standards stemming both from the public and the private sector (art. 55 of bylaws of LFMN). The PNN includes the list of NOMs and NMXs to be developed, updated, modified or cancelled along an objective for each standard as well as a work calendar. There is a supplement where regulators can introduce new proposals to be approved and published in August (art. 55-58 Bylaw LFMN).

The PNN is developed by the Ministry of Economy and published in the Official Gazette once a year (a supplement can be issued mid-year) for informational purposes. The Official Gazette was therefore designated by Mexico to the WTO TBT Committee as the source to find planned technical regulations and standards (within the PNN), as well as the adopted texts. On its own initiative, Mexico is the only WTO Member to circulate its PNN as a WTO document to all WTO Members, going beyond TBT Agreement obligations and committee recommendations. This has the benefit of giving considerable visibility to this instrument, which has the potential of serving as a baseline for early consultations, including with foreign stakeholders.

Box 2.3. Forward planning in the European Union

The European Commission uses the opportunity of the publication of its work programme to inform stakeholders about upcoming regulations and their potential impacts. The European Commission's work programme sets out the overall planned action for the upcoming 12 months. For some specific measures, the European Commission publishes initial ideas for new laws or on plans for evaluations of individual laws and "fitness checks". Proposed actions are set out in documents called roadmaps and inception impact assessments, which are publicly consulted on. These documents usually contain a section called "Consultation of citizens and stakeholders", where the EC outlines how and what kind of stakeholders have been/will be consulted.

The inception impact assessments in particular provide with an initial overview of policy objectives, different solutions and an initial assessment of their possible impacts. They therefore offer stakeholders the opportunity to provide feedback on these elements in the early stages of development of legislation before a full RIA is prepared.

Source: https://ec.europa.eu/info/strategy/strategy-documents_en.

Regarding subordinate regulation, regulators are required to carry out regulatory improvement programmes every two years for simplification purposes. The programmes are subject to COFEMERs oversight and require regulators to set out a list of regulation and/or administrative procedures foreseen to be created, modified or abolished. The regulatory improvement programme proposals are published only during the public consultation phase. After the consultation, COFEMER reviews the programmes and makes comments to which the regulators need to reply. The final regulatory improvement programmes are used for internal monitoring of commitments. COFEMER, along with the Ministry of Public Administration, carry out internal progress evaluations that are made public in COFEMER's annual report.

The General Law of Regulatory Improvement includes a provision introducing a new forward planning agenda mandatory for all subordinate regulations. The regulators are required to present their regulatory agenda during the first five days of May and November of each year. The proposed regulatory agenda will be submitted to public consultation for a minimum period of 20 days (cf. art. 11 and 64).

Domestic stakeholder consultation procedures for subordinate regulations and "co-regulation" for NOMs

Mexico has several different means for stakeholder consultation, during the process of development of subordinate regulations, technical regulations, or both (see Box 2.4).

Box 2.4. Single consultation for subordinate regulation and triple consultation for NOMs

1) Stakeholder engagement for all subordinate regulations and NOMs

All subordinate regulations and NOMs are submitted to public consultations as an integral part of the RIA process. As soon as COFEMER receives a regulatory draft and the accompanying RIA, both are submitted to public consultation, until the publication, in the Official Gazette, of the definitive regulation. In parallel, the regulatory project can be made public on the website of the Ministry or the regulatory agency. Quality is ensured by COFEMER who publishes and considers the comments and inputs from stakeholders, and submits a final opinion on the RIA.

In practice, beyond this procedure, regulators may choose to consult with stakeholders at their own initiative in the early stages of drafting. To verify whether regulators chose to do so, the RIA questionnaire includes a section to verify the conduct of prior consultations. Regulators are asked to indicate among others which means they used to conduct stakeholder consultations, and particularly if authorities from foreign countries or international organisations were consulted (question 18).

2) Additional stakeholder engagement processes for NOMs

The NOM development process opens various opportunities to engage with stakeholders. They are consulted both while drafting the NOMs and after the publication in of the drafts in the Official Gazette, as follows:

- Regulators developing NOMs must do so within the framework of an established National Advisory Committees for Standardisation (*Comites Consultivos Nacionales de Normalizacion*, or CCNN). These committees are

themselves composed of private stakeholders, as well as social, academic and consumers' representatives.

- When a draft NOM is published in the Official Gazette. This publication opens a consultation period of 60 days. After the 60-day period, each CCNN analyses the comments received and responds to them. The responses are also published on the Official Gazette. After this consultation, the final NOM is published on the Official Gazette. The process is overseen by the Ministry of Economy.

Beyond these procedures, regulators may receive feedback to their regulations from foreign stakeholders or countries through the WTO notification process.

There is a general consultation procedure applicable to all regulations that go through a regulatory quality appraisal, co-ordinated by COFEMER. Any stakeholder can participate in this public consultation process, regardless of their nationality. The consideration given to foreign stakeholders is the same as the national one. Still, to facilitate inputs from a broader range of foreign stakeholders, Mexico is one of the few OECD countries to have English summaries of all of draft regulations, with only two other countries providing translated texts for subordinate regulations (OECD, 2018[2]). All regulations available on COFEMER's website are accompanied by a summary in English.

The consultation process followed for NOM-setting has two more layers of engagement. The first one corresponds to a "co-regulation" with industry, social, academic and even consumers' representatives during the early stages of the drafting of the proposal within the framework of the National Advisory Committee for Standardisation. This procedure is not in principle open to participation of foreign stakeholders. The second one is a mandatory 60-day consultation after publishing the proposal in the Official Gazette. Given the public nature of the publication in the Official Gazette, comments through this 60-day consultation may be submitted by any stakeholder, including foreign stakeholders. Here, there is no specific effort to engage foreign stakeholders.

Stakeholder engagement through trade notification procedures

Mexico stands out with well-developed domestic procedures to ensure notifications to the WTO and FTA partners, which are well embedded into its domestic regulatory improvement agenda. The recent reform in the RIA system introducing the trade RIAs strengthen even further this process, ensuring systematic alerts on new trade-relevant regulations and thus institutionalising the identification of technical regulations to report to the WTO or FTA partners.

Mexico's domestic procedures to submit notifications to the WTO and other Free Trade Agreements (FTAs)

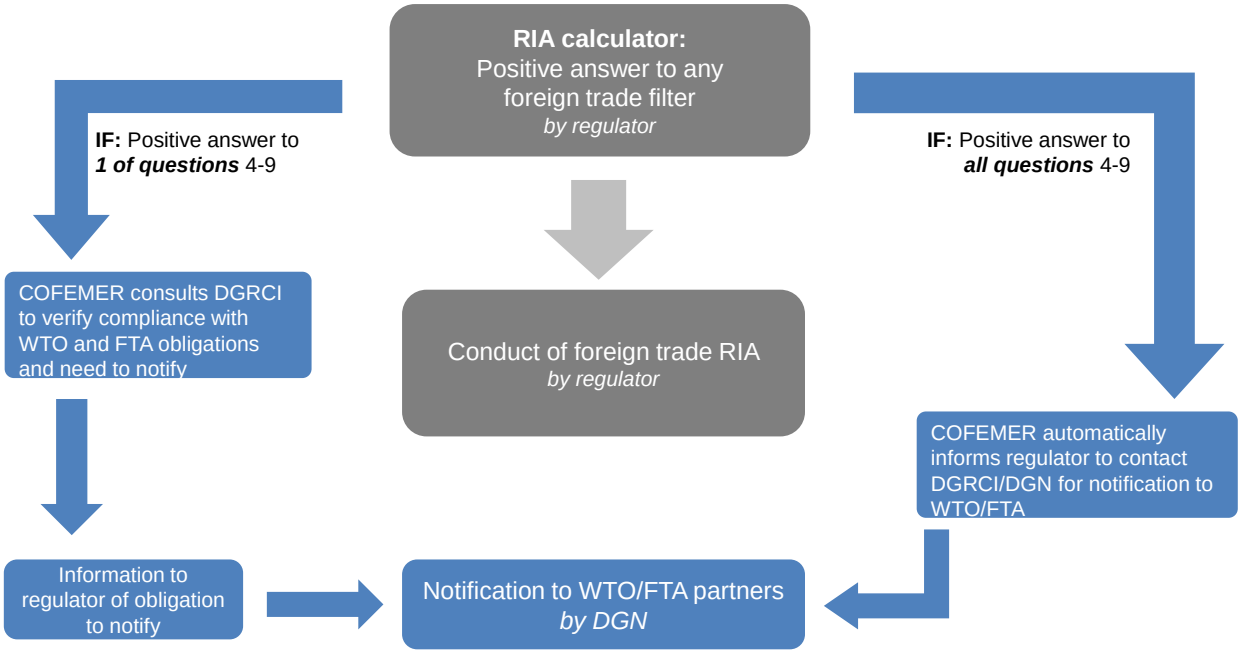
In Mexico, the notifications to WTO or FTA partners are under the responsibility of the Ministry of Economy. The General Direction of International Trade Rules, under the Vice-Ministry of Foreign Trade of the Ministry of Economy is responsible for negotiating and implementing the trade agreements signed by Mexico (*Dirección General de Reglas de Comercio Internacional*, DGRCI). The General Bureau of Standards (DGN) under the Vice Ministry of Competitiveness and Business Regulation of the Ministry of Economy has been appointed as the notification authority and enquiry point for the SPS and TBT Agreements.[11] Both authorities within the Ministry of Economy are therefore closely involved in the process of notifications to the WTO and FTA partners.

In practice, the DGN and DGRCI from the Ministry of Economy go through the Official Gazette to identify all regulations with potential trade effects. They chose to notify any regulations with potential effects on trade, whether they predict significant effects or not, and whether they comply with international standards or not. In particular, they notify by default all NOMs because their very nature of technical regulations implies an impact on trade.

Despite this practice, a specific procedure was created to ensure co-ordination prior to notifications and prevent any regulations with an effect on trade to go unnoticed. Since the 2016 reform of the RIA procedures, COFEMER plays an important role in identifying proposed measures with trade impacts. Based on the new trade filters introduced in the RIA procedure in 2016, COFEMER is able to systematically alert the Ministry of Economy (DGN and/or DGRCI) about new regulatory projects (*anteproyectos*) that may need to be notified to the WTO as well as to other specific trading partners in virtue of bilateral or regional FTAs.[12]

This alert takes place at the stage of the foreign trade filter, and launches a parallel procedure to the conduct of the RIA, as pictured in blue in Figure 2.1. A slightly different approach is launched depending if the measure may have an impact on trade and require further analysis, or measures that clearly have an impact on trade.

Figure 2.1. WTO notifications embedded in Mexico's RIA Procedure



Notes: The stages pictured in blue describe the specific steps followed to ensure notification to the WTO. These are conducted in parallel to the regular conduct of the RIA by the regulator, pictured in grey.
Source: Author's development, based on information provided by the COFEMER, DGRCI and DGN.

When the regulator has answered positively one of questions 4-9 of the trade filter, the effect of the measure is considered uncertain: the COFEMER asks the DGRCI to determine whether the measure complies with trade agreement obligations and must be notified. The DGRCI then has 7 days to assess the measure for moderate impact RIAs, and 20 days for high impact RIAs. When processing draft regulations, the DGRCI does

not have a specific methodology to estimate the impact that the draft may have on trade. This is determined on a case by case basis based on information provided by the regulators, and when a doubt remains on the significance of a trade impact, the DGRCI encourages notification. If DGRCI determines that the measure has a significant trade impact and deviates from international standards, it then sends an official letter to the regulating agency, with COFEMER on copy, requesting them to contact DGN to ensure the notification of the measure to the WTO and/or to FTA partners.

When the regulator has answered all questions 4-9 of the trade filter positively, the trade effect of the measure is considered more certain: COFEMER alerts the regulator directly about the need to notify the measure, keeping the DGRCI on copy, and encouraging them to contact the DGN. If the measure is notified to the WTO and/or FTA partners, COFEMER will attach the opinion of the Ministry of Economy to the RIA for transparency purposes.

Notification of Mexican measures to the WTO allows other WTO Members to comment on them. In practice, the public nature of the notifications enable interested stakeholders from other WTO Members to also submit comments, and specific alert mechanisms are also available to facilitate access to notifications by stakeholders globally.[13] The comments received from foreign stakeholders to WTO notifications do not go through the regular stakeholder engagement process overseen by COFEMER. They are processed by DGN, which shares them with the relevant regulatory authorities.

Conversely, Mexico also has domestic procedures in place to co-ordinate comments on foreign measures notified to the WTO by other WTO Members. All notifications to the SPS and TBT Committee are received by DGN and DGRCI, who share them with industry representatives within the special mirror Committees on SPS and TBT set up at the national level, under the authority of the Ministry of Economy. If these Committees express an interest on the measure, it is the DGRCI who submits the comments to the foreign counterpart, either bilaterally or by raising a specific trade concern in the relevant WTO Committee. Such comments may include a request for further information on the measure, a request for an additional delay before implementation, or manifestation of a specific concern with the effects that the measure may have on trade.

Mexico's notification practices to the WTO

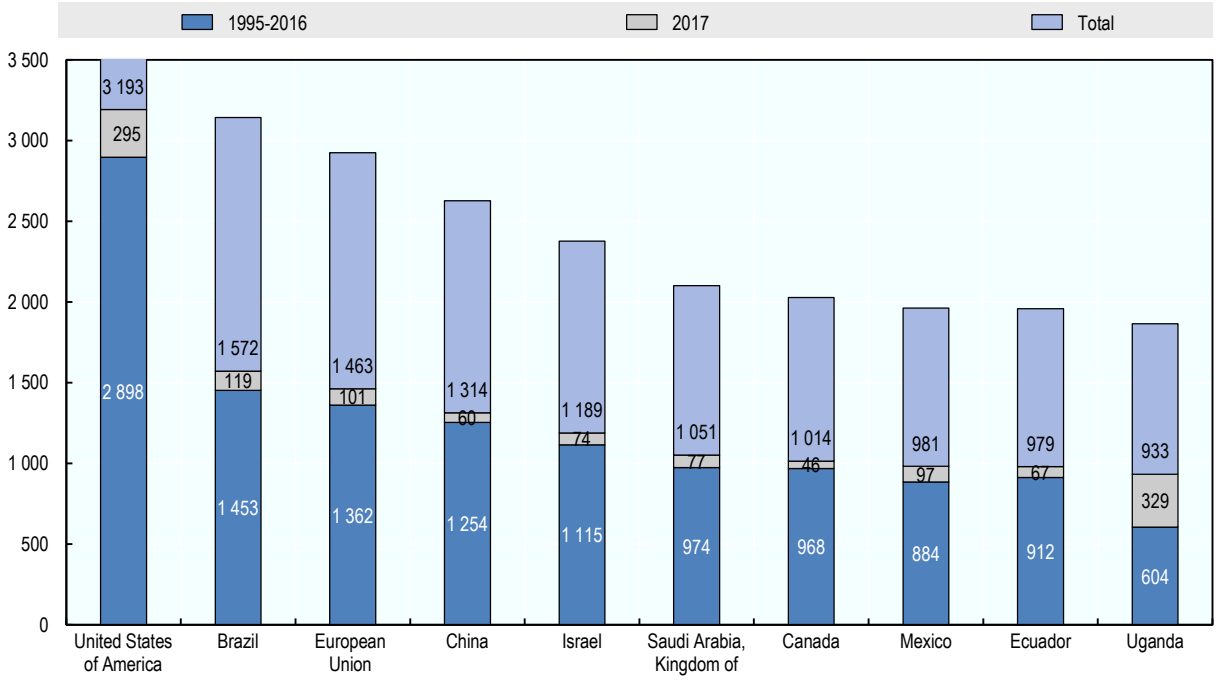
Notifications of draft regulations to international *fora* may inform foreign governments and interested stakeholders of the existence of new drafts. This is particularly the case of the transparency framework set up under the World Trade Organisation, under the agreements on Technical Barriers to Trade (TBT Agreement) and Sanitary and Phytosanitary measures (SPS Agreement). Both agreements require that WTO Members notify to other Members the drafts mandatory regulations which may have a significant effect on trade and are not based on international standards. In addition, both the SPS and TBT Committees encourage WTO Members to notify measures even when they are based on international standards (WTO, 2008[5]) (WTO, 2009[6]). Indeed, even if *based on* international standards they are not necessarily identical to them, and they may still have effects on international trade. This notification should be done at an early appropriate stage, when amendments can still be introduced and comments taken into account.[14]

To ensure such notifications are effectively submitted, the SPS and TBT agreements required WTO Members to establish a single central government authority responsible for these notifications[15]. These procedures allow to centralise information about draft measures throughout all WTO Members within one information source (the WTO

website), thus facilitating the access to the draft regulations and related information. In practice, the draft texts are submitted by the relevant authorities in each WTO Member to the WTO Secretariat. Once draft measures are notified to the WTO, the WTO Secretariat makes these drafts publically accessible on its website, and provides the contact details of the enquiry points of all WTO Members.[16]

In practice, Mexico is an active notifier to the WTO and most of its measures which affect its trading partners are notified, whether their effect on trade is significant or not and whether they are based on international standards or not. To date, Mexico has submitted a total of 1046 notifications of TBT measures since 1995 and 516 of SPS measures.[17] It is among the top notifying WTO Members of both TBT and SPS measures (Figure 2.2 and Table 2.3), and this even before the reform on the new Foreign Trade RIA was introduced, to further enhance WTO notifications. It is still early to tell how the new Trade RIA procedure will impact Mexico's notifications to the WTO.

Figure 2.2. Ten members that submitted most notifications to the TBT Committee



Notes: The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.
Source: (WTO, 2018[7]), "Twenty-Third Annual Review of the Implementation and Operation of the TBT Agreement", Note by the Secretariat, G/TBT/40, https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/TBT/40.pdf, 12 March.

Both SPS[18] and TBT[19] information portals list the agency responsible for the draft measure and in some instances, when different, the agency responsible for handling comments. In 2017, the agency responsible for most SPS measures notified to the WTO was the Ministry of Agriculture (SAGARPA), with 16 out of 18 submitted SPS notifications. One was submitted by the Ministry of Environment (SEMARNAT) and one was notified without specification of a responsible authority.

Table 2.3. Members which have submitted the most notifications to the SPS Committee since 1995

Regular notifications			Emergency notifications		
Member	Number of notifications	Share of total	Member	Number of notifications	Share of total
United States	2 810	20%	Philippines	185	10%
Brazil	1 213	9%	Albania	166	9%
China, People's Republic of	1 162	8%	New Zealand	116	7%
Canada	1 069	8%	United States	83	5%
Peru	605	4%	Colombia	76	4%
Korea, Republic of	527	4%	Ukraine	74	4%
European Union	523	4%	European Union	65	4%
Chile	497	4%	Peru	64	4%
Japan	462	3%	Russian Federation	62	3%
New Zealand	426	3%	Saudi Arabia, Kingdom of	58	3%
Chinese Taipei	414	3%	United Arab Emirates	51	3%
Australia	369	3%	Thailand	46	3%
Mexico	267	2%	Chile	37	2%
Thailand	209	2%	Mexico	37	2%
Colombia	188	1%	Australia	32	2%

Source: Overview regarding the level of implementation of the transparency provisions of the SPS Agreement, 10 October 2016, G/SPS/GEN/804/Rev.9.

The authorities involved in TBT notifications are more diversified, because of the broader scope of the TBT Agreement. Table 2.4 shows the agencies that are responsible for the TBT notifications in 2017. The Ministry of Economy is most cited (10 TBT notifications), without precision of the body within the Ministry. The National Agency for Industrial Safety and Environmental Protection in the Hydrocarbon Sector, the Ministry of Communications and Transport and the Ministry of Environment and Natural Resources came second, with 3 notifications each.

Table 2.4. Regular TBT notifications submitted by Mexico to the WTO in 2017

Responsible Agency	Number of TBT Notifications in 2017 (excluding addenda, corrigenda and revisions)
Ministry of the Economy	10
National Agency for Industrial Safety and Environmental Protection in the Hydrocarbon Sector	3
N/A [Enquiry Point]	3
Ministry of Communications and Transport	3
Ministry of the Environment and Natural Resources	3
Ministry of Agriculture, Livestock, Rural Development, Fisheries & Food	2
Ministry of Energy	2
Ministry of Health	2
National Commission for Nuclear Safety and Safeguards	1
Energy Regulatory Commission	1
National Advisory Committee on Standardization of the Ministry of the Economy	1
Federal Telecommunications Institute	1
Ministry of Labour and Social Welfare	1

Note: Data gathered in October 2017.
Source: WTO TBT Information Management System, http://tbtims.wto.org/.

Leveraging multilateral co-operation for domestic rule-making

Complementing the notification procedures which allow for consultations with foreign stakeholders, the TBT and SPS Committees provide the opportunity for discussions about draft regulations within a multilateral context. This helps improve transparency of measures and may result in useful inputs about the effects of measures perceived by other countries.

Since 2010, only two specific trade concerns (STCs) were raised in the TBT Committee against Mexican measures that were not notified (out of a total of eight STCs raised against Mexican measures).[20] In the SPS Committee, only three concerns were raised against Mexican measures since 2010, although all of them related to measures which had not been notified to the WTO. It is nevertheless a small number of concerns raised against Mexican measures, compared to the 238 notifications submitted in the same timeframe. Mexican authorities seem to prevent STCs from being raised as much as possible, by maintaining discussions bilaterally to the extent possible.

Mexico also makes active use of the WTO framework to raise Specific Trade Concerns regarding measures of other countries. Since 1995, it has raised 81 STCs in the TBT Committee, and 41 in the SPS Committee, participating in around 10-15% of all STCs. Although this is much less active than the United States or the European Union (responsible respectively for 233 and 255 STCs in the TBT Committee and 175 and 212 in the SPS Committee), it is close to Canada's activity (with 110 STCs in the TBT Committee and 74 in the SPS Committee). Overall, Mexico is among the 10 most active WTO Members raising concerns in both Committees (WTO, 2017).

Table 2.5. Countries whose measures are most challenged by Mexico in TBT Committee

1995-2017

WTO Member	Number of TBT STCs
European Union	18
Ecuador	10
United States	8
Brazil	7
Colombia	5
Korea	4

Source: http://tbtims.wto.org/.

In the TBT Committee, Mexico raises most concerns regarding the EU and Ecuador (Table 2.5), although US measures presumably have most trade impact on the Mexican market. This suggests that Mexico and the United States may have other *fora* for discussing such measures.

Mexico also raises more concerns about technical regulations than conformity assessment procedures, suggesting that the trade barriers affecting Mexican exporters tend to be more on foreign regulations themselves than on conformity assessment. This is contrary to the general trend in the TBT Committee, where a majority of STCs are raised regarding conformity assessment procedures (Karttunen and McDaniels, 2016[8]). It may reflect the fact that lack of harmonisation of Mexico's regulations with foreign and international standards remains a key concern for its trading partners.

Mexico's notifications to other trade agreements

Bilateral and regional trade agreements provide for an additional means for Mexico to engage more directly with foreign stakeholders. To date, it seems that these notifications are used in a similar way as WTO notifications, and no specific evidence indicates that a closer dialogue takes place despite the more direct relation that bilateral or regional trade agreements may entail.

Most of Mexico's bilateral and regional trade agreements include SPS and TBT chapters, including notification obligations. These allow to increase information sharing with FTA partners, and operate in parallel to WTO SPS and TBT notification obligations, without replacing them. Some of these require notification to the WTO (e.g. Pacific Alliance) but a majority of these obligations entail direct notification either in writing or electronically to the other party. In certain cases, the same obligation is reiterated (e.g. Mexico-Costa Rica FTA, Mexico-Boliva FTA). In others, the notification obligation is more detailed, for example with a broader or more specific range of measures to be notified to trading partners (e.g. Mexico-Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua Free Trade Agreement). Finally, a number of agreements require the opening of stakeholder consultations to stakeholders from other party (e.g. NAFTA, Mexico-Chile), or provide for the creation of a SPS or TBT Committee, enabling a dedicated setting for the authorities to discuss concerns about notified measures directly (e.g. Mexico-Nicaragua).

Adoption of international instruments in domestic regulations

International instruments[21] may serve as a basis for regulators when developing a new regulation, to enhance their evidence-basis and align approaches with foreign countries. In particular, the adoption of voluntary international standards into domestic regulations is usually required from regulators in order to reduce unnecessary barriers to trade when developing new regulations, in line with WTO obligations.[22] The adoption of international standards in domestic legislation has significant potential to lower costs of international trade (OECD, 2017), and foster competition, by facilitating access to the Mexican market, including by foreign competitors (OECD, 2018) (see Box 2.5). It supports the harmonisation of technical specification of products across export markets, and may also help to harmonise conformity assessment procedures across countries. Beyond trade cost reduction, international instruments may allow regulators to adopt state of the art rules that benefit from the experience of other regulators in dealing with similar issues.

Mexico has various provisions encouraging the adoption of international standards, mostly bearing on technical regulations and standards (NOMs and NMXs). If international standards do not exist, the consideration of foreign standards is encouraged, in particular standards of two major trading partners, the United States and the EU. To support regulators in this obligation, a guidance document on how to embed international standards in domestic technical regulations or standards was developed, and some examples of international and foreign standards are listed in the legal obligation. In practice, however, only few of the existing technical regulations or standards are actually based on international standards.

Regulators are less systematically encouraged to consider international instruments or other jurisdictions' regulatory approaches in the drafting of subordinate regulations. The consideration of international instruments for subordinate regulations (beyond NOMs) intervenes after a first draft is submitted to COFEMER, during the RIA process. Little evidence exists on the actual use of international instruments or consideration of relevant foreign regulatory frameworks in subordinate regulation in general.

Box 2.5. IRC for enhancing competition

IRC supports regulators in the development of effective regulations and improving the openness and efficiency of the Mexican market. (OECD, 2018[4]) includes recommendations on how to improve competition, particularly in the medicines and meat product sectors. Certain entail the enhancement of IRC practices, such as the selected examples below.

- **Adoption of international standards in NOMs and NMX on meat products and in the medicine sector:**

  Non-harmonisation with international standards – be it partial or total – may hinder foreign competitors' access to the Mexican market, as well as access to foreign markets by Mexican producers.

  (OECD, 2018[4]) recommends that 27 NOMs and 1 NMX regarding meat products and 10 NOMs in the medicine sector are brought into line with international standards.[1] Interviews with industry participants revealed that some current practices may already be in accordance with international standards, which would significantly ease the transition, but confusion among market participants might result if the legal text is not updated. The NOMs and NMX should also contain mentions when there are no existing international standards or best practices.

- Eliminating double authorisation requirements for import of animals, their products and sub-products through mutual recognition agreements:

  Animals, their products and sub-products must come from authorised establishments within authorised countries. For a foreign country to be authorised, its veterinary services must be recognised by SAGARPA as working to standards at least equivalent to the ones applied in Mexico. In addition, SAGARPA must authorise and inspect establishments in foreign countries, which might be seen as an unnecessary additional barrier to entry for foreign producers.

  (OECD, 2018[4]) recommends eliminating that additional establishment authorisation. However, this should be based on bilateral agreements with countries that abolish additional requirements for authorisation of Mexican exporters by their sanitary authorities. In these bilateral agreements, each country's sanitary authorities will ensure the quality of all exporting establishments and their products within their jurisdiction.

- **Recognition of foreign test results of interchangeability studies on generic medicines conducted abroad by equivalent control systems:**

  When introducing a new generic to the Mexican market, tests performed to determine whether the generic medicine produces a similar effect to the reference product, known as interchangeability tests, must be performed by authorised third parties in Mexican territory with a Mexican population sample, even if similar studies have already been performed before abroad. This requirement may impose unnecessary extra costs on pharmaceutical companies that operate abroad, discouraging them to sell generic medicines in Mexico.

The OECD recommends abolishing the requirement that pharmaceutical companies conduct tests on the Mexican territory and population and accept interchangeability studies that have been accepted by foreign authorities as long as their control systems are regarded as at least equivalent to the Mexican one. COFEPRIS should recognise those authorities (similar to COFEPRIS recognising eight foreign authorities for the issuance of Good Manufacturing Practice certificates). Only in exceptional cases, for which there must be guidelines, should the Ministry of Health order additional tests with the Mexican population.

1. See full list of NOMs and NMX to be harmonised in (OECD, 2018[4]).
Source: (OECD, 2018[4]), *OECD Competition Assessment Reviews: Mexico*, OECD Competition Assessment Reviews, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264288218-en.

The consideration of international instruments in domestic regulatory regulations

International instruments are considered at various stages in the Mexican regulatory process, albeit differently depending on the regulatory tools at stake. By law, international standards should be systematically considered in the drafting stage of technical regulations and standards. As a result, regulators developing technical regulations and standards are required to take into account international standards at an early stage and therefore have stronger incentive to choose regulatory approaches compatible with international instruments. For subordinate regulations more broadly, the requirement to consider international instruments is much less systematic. It intervenes when undergoing RIAs, and only if the draft regulation is submitted to certain types of RIA procedures.

For international standards to become applicable in Mexico, they must be incorporated into the Mexican regulatory framework through a technical regulation or standard (NOM or NMX), and thus go through the Mexican regulatory process. The law does not however prescribe the specific form in which international standards should be adopted/ incorporated in domestic legislation. Guidance is given to regulators on different forms through which they can adopt international standards:[23]

- Reproduction (*reimpresión*): the international standard is adopted as a NOM or NMX by directly reproducing the original standard, for example by photography, scan or electronic archive. This does not exclude that the Mexican measure includes an introduction, is translated to Spanish, has a different title, has minor technical modifications or editorial changes, or annexes additional informative material.
- Translation (with or without reproduction of original international standard): the international standard may be published in Spanish or in both relevant languages.
- Redrafting: if the international standard was not adopted through reproduction or translation, it is considered to be redrafted.

Regulators are free to choose the form through which they adopt an international standard. They are encouraged to adopt them by "reproduction". They are discouraged to redraft international standards, as the level of conformity with the international standard is more difficult to establish.

In the development of technical regulations and standards, under the LFMN, regulators are required to systematically consider international standards:

- Mexican technical regulations (NOMs) must be elaborated in consideration of international standards and guidelines. In so doing, regulators must indicate the level of compliance with these international standards and guidelines, and with Mexican standards used as a basis for its elaboration (art. 41 VI LFMN). The NOMs must therefore specify whether the NOM is identical, equivalent or non-equivalent[24] and the NOM's Bibliography Chapter must include the international/foreign standards or guidelines that were considered to develop a NOM (art. 28 LFMN bylaws). In addition, each NOM has a reference to the "international classification for standards", helping facilitate understanding of Mexican technical regulations abroad.[25] When international standards are not an efficient or appropriate means to meet the objectives of the NOM, the regulator will have to communicate it to the Ministry of Economy prior to publication (art. 44 LMFN).
- Mexican voluntary standards (NMX) must be elaborated "… based on international standards, unless these international standards are inefficient or inadequate to fulfil its objectives and this is duly justified." (art. 51-A.II LFMN)

Finally, the laws governing the mandate of specific regulators also reiterate the obligation to adopt international standards in the development of technical regulations. For example, art. 6.I.a, ASEA's law states that, when regulating operational and industrial safety matters, ASEA should ensure the adoption and observance of the best national and international technical standards.

DGN monitors the references to foreign and international standards in technical regulations (NOMs) and standards (NMXs), and may return to the regulators if an existing international standard is not referenced. In practice, DGN may be informed about existing international standards by the private sector. DGN may also return to the regulator if there is an issue with the standard that is referenced. For example, it examines whether it considers the standard referred to as an international standard, and whether it can serve as a basis for the NOM or NMX.

By contrast, there is no systematic requirement for regulators to consider relevant international instruments (standards or other) in the drafting of new primary and subordinate regulations more broadly, beyond technical regulations. However, they must be considered as part of the RIA procedure in case of the high-impact RIAs. Indeed, regulators are required to identify relevant international and foreign standards when conducting RIA, to estimate the impact of the regulation or consider alternatives to the regulation. This obligation is similar to practice in Australia, where the Best Practice Regulation Handbook recommends that a Regulatory Impact Statement should "document any relevant international standards and, if the proposed regulation differs from them, identify the implications and justify the variations".[26]

Relevant international instruments

The legal provisions do not set a clear definition or set of criteria to determine the relevance of international standards for the purposes of the LFMN or the LFPA in the rule-making process of NOMs and subordinate regulations. A number of examples are listed to guide regulators in considering international standards, and if relevant, regulators are also encouraged to look towards foreign standards.

In 2015, a standard (NMX) was developed on the adoption of international standards in NOMs and NMX,[27] based on the relevant ISO standard.[28] In particular, this NMX defines the different intensities of compliance with international standards (identical, modified, not equivalent), which are to be specified when submitting the NOM or NMX and remain in the adopted text available to the public.

The LFMN defines international standards as:

> *"The standard, guideline or normative document issued by an international standardization body or other international organisation, recognized as such by the Mexican government according to international law." (Article 3, fraction X-A)*

This definition is broad, and seems to go beyond technical standards. Indeed, it does not limit the international standardisation bodies to public or private bodies, or to bodies with certain governance structures. The LFMN does provide that further details be given in order to assist regulators in finding relevant international standards (art. 39 LFMN). A list has been developed by DGN in which 17 bodies are listed as international standardisation bodies "recognised by the Mexican government".[29] In addition, a searchable online database exists for Mexican NOMs and NMX (SINEC). The same website includes links towards standards developed by ISO.[30]

For subordinate regulations, the questions in the RIA Guidelines include some examples on international instruments, which may be considered. In particular, they list the Codex Alimentarius, the IPPC, the OIE, ISO, IEC or IMO, but also to international export-control agencies such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, or to free trade agreements broadly speaking.

Foreign standards are also mentioned as relevant models for regulators by the RIA Guidelines for all regulations. The approach to identify useful standards is also case by case, depending on the subject matter. The Guidelines include broad examples, namely from the US, the EU and Japan. In particular, the Guidelines explicitly mention standards developed by the European Commission, by Underwriters Laboratories (UL), American National Standards Institute (ANSI), ASTM International, Discipline Core Ideas (DCI), or Japanese Industrial Standards (JIS).

Use of international instruments in practice

In practice, the evidence shows that the use of foreign and international instruments remains limited, although beneficial when it is the case (Box 2.6). According to DGN data, 30% of NMX and only 18% of the NOMs contain a reference to international or foreign standards.[31] 7% of NOMs contain partial references to international or foreign standards, and 11% adopt the international or foreign instruments identically (see further details in Figure 2.3). Concretely, no Mexican technical regulation or standard has entirely "reproduced" an international standard as defined by NMX-Z-021, as in practice certain elements are always added to the text when adopting into a Mexican NOM or NMX.

Among the 133 NOMs that reference either totally or partially international standards, a large majority reference ISO standards, followed by Codex Alimentarius, IEC, ICAO, UNECE and OIML (Figure 2.4). Foreign standards are more anecdotally referenced by NOMs, as it is indeed not a legal obligation to do so according to LFMN. However, in 16 cases there is complete or partial reference to foreign standards. Thirteen of these

reference US standards, three reference EU standards, and one reference a standard from New Zealand (one references both a US and an EU standard).

Box 2.6. Examples of NOMs using international instruments

NOM-003-SCFI-2014 NOM-003-SCFI-2014, Safety specifications for electrical products (*productos eléctricos: especificaciones de seguridad*).

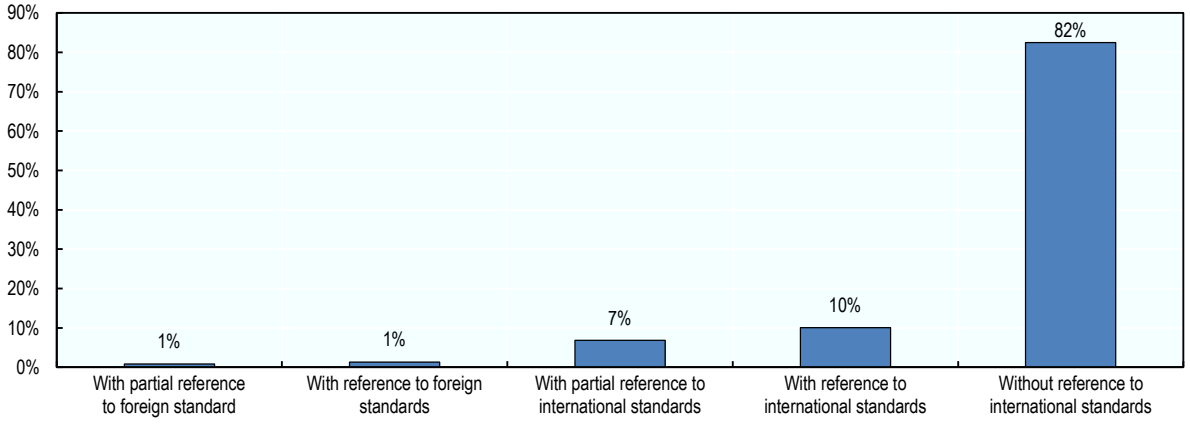
This technical regulation was developed based on the safety aspects of the international guideline IEC Guide 104:2010 The preparation of safety publications and the use of basic safety publications and group safety publications. Likewise, this Mexican official standard is based on other pre-existing Mexican standards, which in turn were based on the international standards IEC 60335-1, IEC 60745-1, IEC 60974-1, and IEC 60598-1, respectively. DGN estimates that such adoption has contributed to limit the market entry of unsafe products and reduce the damages of seasonal and electrical items such as fires and electric shocks.

NOM-010-SCFI-1994, Measuring instrument; instruments for weighing non-automatic operation; technical and metrological requirements (*instrumentos de medición; Instrumentos para pesar de funcionamiento no automático; Requisitos técnicos y metrológicos*).

This technical regulation was developed on the basis of International Recommendation R-76-1 of the OIML. DGN considers that the use of this OIML International Recommendation has helped to reduce the specification costs of duplicative weighing requirements, which was estimated to amount in losses of the order of MEX 300 million prior to the adoption of the NOM.

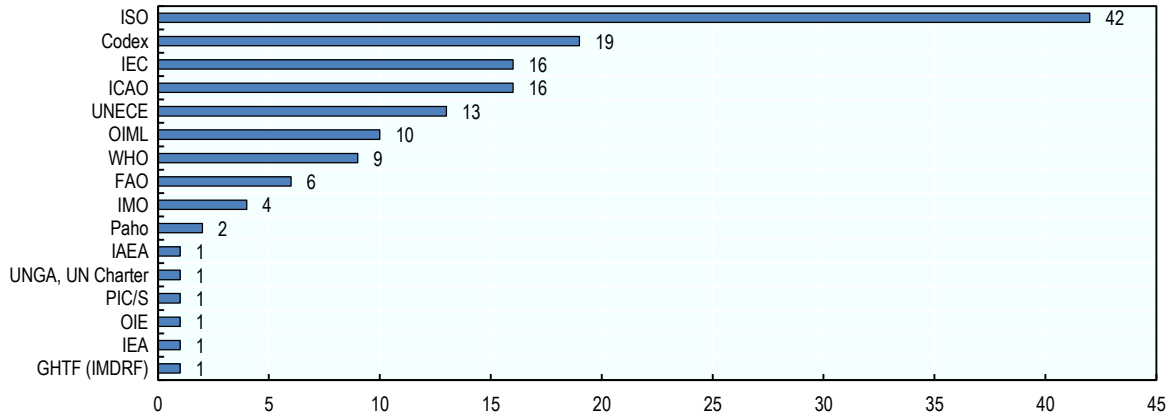
The limited reference to international instruments may be explained by the broad definition, the lack of centralised availability and difficulty to access existing international instruments, as well as by the limited guidance on the identification of international instruments.

Figure 2.3. NOMs based on international and foreign standards



Notes: The total does not add up to 100% because some NOMs refer to both foreign and international standards. The dataset does not specify the time period nor the stock of listed instruments. The most recent NOMs listed date back to 2017 and the oldest to 1993.
Source: Data provided by DGN.

Figure 2.4. International standards referenced by NOMs



Notes: Based on same dataset as Figure 2.3.Some NOMs may refer to standards of several organisations at once. Excludes references to foreign standards.
Source: Data provided by DGN.

The information about international standards and their consideration are in practice decentralised. *De facto*, regulators follow standard development in their own area. For example, the Federal Telecommunications Institute ("IFT") looks at standards produced not only by intergovernmental organisations such as International Telecommunications Union, but also at standards produced by private standard-setting bodies such as ETSI,[32] recognised as a European Standards Organisation, or 3GPP,[33] which originated from US industry demand. The Secretariat of Communications and Transportation relies essentially on standards developed under the framework of the IMO, and has a special unit monitoring the adoption of international new standards in that field.

Some regulators are informed about relevant international standards mostly through industry representatives, who inform them of the benefits of aligning the Mexican standards with international standards. CONUEE for example benefits from information brought to them by CANAME or CANIETI on international standards in the sector of energy efficiency. ASEA also finds out about international standards through the private sector, namely in the context of the CCNNs set up to develop NOMs on energy safety. In particular, given ASEA's recent creation, has developed a pragmatic approach to identifying relevant international standards, based on those implemented by its industry (see Box 2.7).

The DGN, as a participant in relevant international standard-setting bodies, has in principle access to all of these standards. However, the business model of international standard-setting limits the scope of activity DGN may have in making international standards available to Mexican regulators. Indeed, because many international standards are sold, and therefore not publically available, the DGN is not able to make them publically available. It shares the relevant standards with regulators on request. This requires however that regulators are already aware of the existence of a standard in the regulated field.

Box 2.7. ASEA Safety and Environmental Management Systems

ASEA has developed a unique approach to identify relevant international standards applied by the industry.

Before granting Mexican companies the possibility to engage in any activities within the hydrocarbons sector, ASEA requests them to submit a Safety and Environmental Management Systems (SEMS), where they have to observe 18 elements related to Environmental Protection and Industrial Safety. When presenting the SEMS, companies must identify and incorporate international best practices and standards, in order to improve their performance. If the company complies with the needed requirements, ASEA approves and follows-up the System's implementation, throughout verifications and inspections.

Through this means, ASEA becomes aware of relevant foreign and international standards and builds a reference database for the area of energy safety.

Source: https://www.bsee.gov/newsroom/latest-news/statements-and-releases/press-releases/us-mexico-regulators-workshop-convened (accessed 2 May 2018).

Finally, some stakeholders raised the lack of translation of standards in Spanish as a challenge to the incorporation of international standards in national legislation. In this regard, it is noteworthy that a special Translation Management Group for Spanish was set up in 2006 at ISO, chaired by Spain. Mexico is a member of this Translation Group. The number of standards translated is limited but chosen on a strategic basis. It is determined by the group in a work programme for the year (i.e. the list of standards they want to translate, based on market need in their countries).

Notes

[1] For broader information on the regulatory improvement disciplines that apply to NMX and those that do not apply, see (OECD, Forthcoming$_{[11]}$) spec. p. 58.

[2] According to the Presidential Agreement on setting guidelines for the emission of new regulation, which replaces the previous Agreement of Regulatory Quality. See official Gazette, March 8th, 2017, www.dof.gob.mx/nota_detalle.php?codigo=5475498&fecha=08/03/2017.

[3] See art. 4 of update of RIA Guidelines.

[4] www.cofemer.gob.mx/presentaciones/espa%f1ol_vol%20i.%20metodos%20y%20metodologias_final.pdf.

[5] www.cofemer.gob.mx/presentaciones/espa%f1ol_vol%20i.%20metodos%20y%20metodologias_final.pdf.

[6] Acuerdo de evaluación *ex post.*

[7] NOM-012: www.cofemersimir.gob.mx/expedientes/13391.

NOM-133: http://cofemersimir.gob.mx/expedientes/20309.

NOM-194: http://cofemersimir.gob.mx/expedientes/21179.

NOM-005: www.cofemersimir.gob.mx/expedientes/21403.

NOM-193 : www.cofemersimir.gob.mx/expedientes/19234.

Regulation: www.cofemersimir.gob.mx/expedientes/17526.

[8] www.gob.mx/cofemer/acciones-y-programas/estudios-y-diagnosticos.

[9] www.cofemer.gob.mx/documentos/transparencia/Diagnostico_05.pdf.

[10] See also art. 5.6.1 TBT Agreement for conformity assessment procedures.

[11] See list of enquiry points and notification authorities at www.epingalert.org/en#/enquiry-points/.

[12] Art. 14 Annex VII of High Impact RIA on risk, foreign trade and competition assessment, 2016 RIA Guidelines.

[13] www.epingalert.org/en.

[14] See Art. 2.9 TBT Agreement; Annex B para. 5 SPS Agreement.

[15] Art. 1.10 TBT Agreement; Annex B para. 10 SPS Agreement.

[16] See TBT Information Management System http://tbtims.wto.org/; and SPS Information Management system http://spsims.wto.org/.

[17] As of 31 May 2018. This includes notifications of draft measures, emergency measures as well as addenda and corrigenda.

[18] http://spsims.wto.org/.

[19] http://tbtims.wto.org/.

[20] Data from 2010-2018, as of 31 May 2018.

[21] For the purpose of this review, international instruments cover legally binding requirements that are meant to be directly binding on member states and non-legally binding instruments (including technical standards) that may be given binding value through transposition in domestic legislation or recognition in international legal instruments. This broad notion therefore covers e.g. treaties, legally binding decisions, non-legally binding recommendations, model treaties or laws, declarations and voluntary international standards.

[22] See for example obligations to use international standards as a basis for domestic measures formulated in framework of the World Trade Organization: for e.g. article 2.4 of the Agreement on Technical Barriers to Trade, "*Where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems*." or article 3 of the Agreement on the Application of Sanitary and Phytosanitary Measures, "*To harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist* (…)". See also article 5.4 TBT Agreement for a similar obligation regarding conformity assessment procedures.

[23] NMX-Z-021/1-SCFI-2015.

[24] NMX-Z-013-SCFI-2015.

[25] About the International Classifications System of ISO, see www.iso.org/files/live/sites/isoorg/files/archive/pdf/en/international_classification_for_standards.pdf.

[26] www.finance.gov.au/obpr/proposal/gov-requirements.html#handbook.

[27] NMX-Z-021/1-SCFI-2015.

[28] ISO/IEC Guide 21-1:2005 Regional or national adoption of International Standards and other deliverables-Part 1: Adoption of International Standards.

[29] www.dof.gob.mx/nota_detalle.php?codigo=5266340&fecha=04/09/2012.

[30] https://dgn.isolutions.iso.org/es_MX/sites/dgn-nws/home.html.

[31] This is estimated on the basis of database of NOMs and NMX received from DGN in June 2018.

[32] www.etsi.org/.

[33] www.3gpp.org/about-3gpp.

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WTO (2009), *Fifth Triennial Review of the Operation and Implementation of the Agreement on Technical Barriers to Trade Under Article 15.4. G/TBT/26*. [6]

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Chapter 3. Co-operative international regulatory co-operation efforts: how Mexico engages internationally on regulatory matters

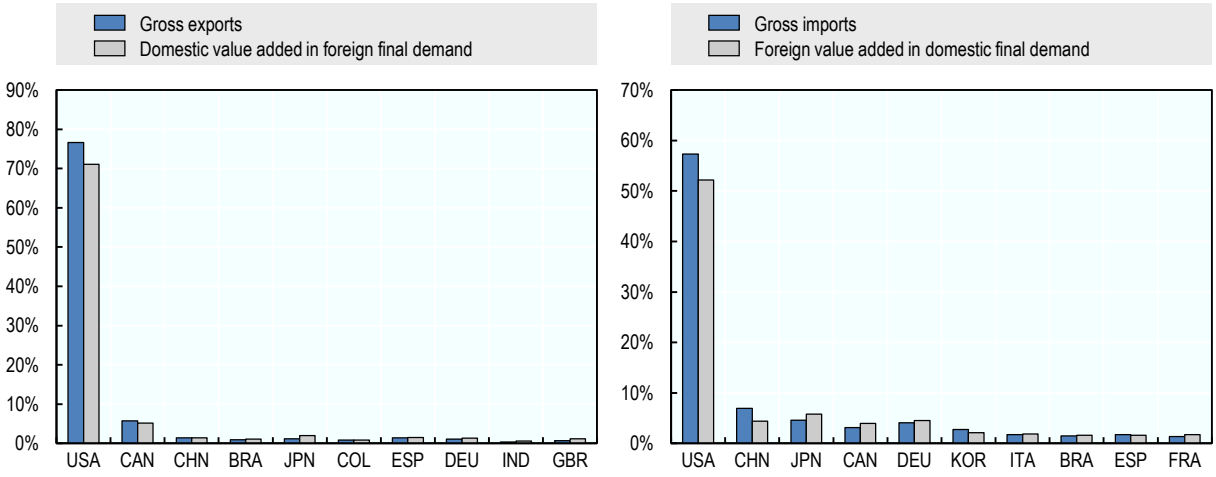
In a largely globalised and highly integrated world economy, co-ordination between countries on regulatory matters is essential to tackle the challenges that cross borders and achieve a coherent and effective regulatory response at least costs for business and citizens. International regulatory co-operation (IRC) provides the opportunity for countries to develop common regulatory positions and instruments with their peers. This chapter gives an overview of Mexico's efforts to co-operate internationally on regulatory matters, be it bilaterally, regionally or multilaterally. It highlights the regulatory co-operation efforts that have resulted from high economic incentives, often with high-level political traction as is the case with the High Level Regulatory Cooperation Council, trade agreements, or mutual recognition approaches. The chapter also acknowledges the numerous co-operation efforts undertaken in a variety of different sectors by line ministries and regulators. Often in the form of voluntary Memoranda of Understanding or participation in various different types of international bodies, information about these efforts tends to be more fragmented.

Introduction

Mexico is a highly open economy, particularly reliant on trade, which represents more than a third of its GDP. Its main destination market and source of imports is the United States, representing over 70% of its exports and around 60% of its imports, both in gross and value added terms. Its other major import and export partners include Canada, People's Republic of China, Brazil, Japan, Korea, Colombia Germany, Spain, France and Italy, see Figure 3.1.

Figure 3.1. Mexico's exports to and imports from main partner countries

Percent of total gross and value added exports and imports, 1995-2011



Source: http://oe.cd/tiva.

As a result, trade and economic integration are major considerations driving Mexico's international co-operation activities. Mexico is very active on the international scene. It shows consistent political resolve to engage internationally, making significant high level political commitments towards regulatory co-operation, be it bilaterally, regionally or multilaterally.

Mexico's high-level co-operation efforts are particularly driven by its close trade ties with its neighbours of North America, the United States and Canada, with whom it is heavily integrated, particularly in terms of trade and investment flows. In particular, reflecting the significance of economic integration with North America, Mexico has established high level political commitments to regulatory co-operation applicable to a variety of sectors. Mexico and the United States agreed on a High Level Regulatory Cooperation Council, and the Canada, Mexico and the United States together meet regularly within the North American Leaders' Summit. In addition, Mexico has concluded a number of governmental mutual recognition agreements with Canada and the United States. Recently, Mexico has also started modernising its trade agreements with its major trading partners by including good regulatory practices (GRP) or IRC provisions, namely with modernisation of the NAFTA Agreement, a bilateral agreement with the European Union, as well as an agreement with the MERCOSUR countries. Finally, Mexico also recently signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CP-TPP) with 10 other countries of the Pacific region, including sectoral annexes with specific IRC provisions.

Mexico's high-level political willingness to co-operate is shared by the regulators themselves, who undertake bilateral co-operation efforts directly with their foreign peers. This collaboration generally goes beyond economic motivations and differs in nature and in geographic scope from the high-level initiatives. Mexican regulators have a broader range of partners across the world, with whom they tend to co-operate on specific themes or sectors. Mexico has a strong "development" strategy with its neighbours from the South American region, with whom it shares its regulatory experience in particular through MoUs. Beyond this, Mexican regulators seek to gain information about regulatory approaches and standards abroad, for instance by signing MoUs with developed countries, from Asia, Europe and North America, or by participating in trans-governmental networks of regulators (TGNs).

Finally, the Mexican government is also very active in its participation in a number of multilateral organisations. Through its Membership in various multilateral bodies, it therefore contributes Mexico's position to the design and development of international rules and standards, and ensures its perspective and specificity is taken into account in global settings.

From this variety of co-operation efforts at the bilateral, regional and multilateral levels, Mexico has been building long-lasting relationships with a number of partners, particularly in the North and South American region, and has acquired and exported expertise and practices, including through multilateral bodies, via its intense international activity. Nevertheless, there is limited evidence on how effective Mexico's co-operation efforts have been at improving the Mexican regulatory process. Political will without a more structured approach cannot guarantee implementation. Indeed, a closer look at the agreements signed suggests that many include significant political willingness to co-operate or to exchange information, whereas technical co-operation on regulatory matters remains less frequent.

This chapter highlights on one hand the regulatory co-operation efforts that have resulted from high economic incentives, often with high-level political traction as is the case with the HLRCC, trade agreements, or mutual recognition approaches. On the other hand, the chapter acknowledges the numerous co-operation efforts undertaken in a variety of different sectors by line ministries and regulators. Often in the form of voluntary Memoranda of Understanding or participation in various different types of international bodies, information about these efforts tends to be more fragmented.

High level co-operation initiatives

The Mexican Government is committed at the highest political level to engage in regulatory co-operation with its two neighbours from North America, the United States and Canada. This co-operation follows logically the high level of economic integration and is focused on areas of mutual interest in the region. High-level co-operation has taken the form of the High Level Regulatory Cooperation Council (HLRCC), a commitment to improve co-ordination in regulatory practices between Mexico and the United States, and of regular Leaders' Summits on selected issues driven by the evolving political context.

While the HLRCC showed limited results to follow-up with high-level commitments, other more informal *fora* for co-operation have managed to create an impetus for continuous dialogue among regulators. This was the case for example of the North American Leaders' Summit (NALS) between the Heads of State of Canada, Mexico and

the United States or other more specific Ministerial meetings. However, their informal nature may prevent them from guaranteeing continuity in the long term.

High Level Regulatory Cooperation Council between Mexico and the United States

The High Level Regulatory Cooperation Council (HLRCC) was created with a view to develop permanent and lasting co-ordination of regulatory practices, processes, and activities between Mexico and the United States. It represented an important political commitment at the highest levels of the United States and Mexico, mirroring namely a similar initiative between the United States and Canada, the Regulatory Cooperation Council (OECD, 2013[1]). However, after the first work plan 2012-2014, the HLRCC reached a stalemate, without a political agreement for the future.

Background about HLRCC

In May 2010, the President of the United States and Mexico mandated the creation of the High Level Regulatory Cooperation Council, aiming "To increase regulatory transparency; provide early warning of regulations with potential bilateral effects; strengthen the analytic basis of regulations; and help make regulations more compatible". The HLRCC was developed in parallel with the Regulatory Cooperation Council (RCC) launched by Canada and the United States in February 2011. These Councils opened the way for stronger regulatory co-operation with the United States, as established under Executive Order 13609 on "Promoting International Regulatory Co-operation".

The Terms of Reference document adopted in March 2011 instructed the HLRCC to identify sectors for co-operation in line with the following key principles:

1. Making regulations more compatible, increasing simplification, and reducing burdens without compromising public health, public safety, environmental protection, or national security;
2. Increasing regulatory transparency to build national regulatory frameworks designed to achieve higher levels of competitiveness and to promote development;
3. Simplifying regulatory requirements through public involvement;
4. Improving and simplifying regulation by strengthening the analytic basis of regulations;
5. Linking harmonisation and regulatory simplification to improvements in border-crossing and custom procedures; and
6. Increasing technical co-operation, to increase the level of development of their regulatory systems.

The first task of the HLRCC was to elaborate a work plan, which was adopted in February 2012 for the biennium 2012-14. This work plan was developed following a public consultation by both Mexico and the United States. In this context, Mexico received 252 proposals for better regulation among the two countries, with the participation of 79 companies and 26 chambers of commerce.[1] The United States received 48 proposals.

The work issued in February 2012 pursued the broad objectives of reducing administrative burdens, aligning regulations and creating new trading opportunities in the region. It focuses on the following seven priority sectors: i) Food safety modernisation, ii) E-certification for plants and plant products, iii) Transportation: commercial motor

vehicle safety standards and procedures, iv) Nanotechnology, v) Electronic health record (EHR) certification (E-HEALTH), vi) Offshore oil and gas development standards, vii) Cross-sectoral issue: accreditation of conformity assessment bodies.

These seven sectors reflect broadly the areas raised as priorities during the public consultation.

Table 3.1. Comments received through consultation in the context of the HLRCC

Results for 2011 consultation, per sector

Sector	Number of comments	Share of total
Trade/customs	81	33%
International standards/ technical regulations/Conformity assessment	31	13%
Administrative Simplification	31	12%
Electricity/Electronics	24	10%
Pharmaceuticals	22	9%
Agriculture	19	8%
SPS	14	6%
Transport	11	4%
Food	7	3%
Energy	5	2%
Financial	1	0%
Public Procurement	1	0%
Total	245	100%

Source: Results of public consultation www.gob.mx/cms/uploads/attachment/file/3607/cr_publicos_20110627.pdf.

Achievement of the HLRCC

To date, the HLRCC has involved nine regulators in Mexico (including Ministry of Economy) and 11 in the United States. The Council is presided from the Mexican side by the Vice-minister of Competitiveness and Business Regulation and the Vice-minister of International Trade, and from the United States side by the head of OIRA and of USTR.[2]

A first progress report was published in August 2013.[3] It reported on a number of collaboration efforts and dialogues between US and Mexican regulators and envisaged deliverables to achieve each goal of the first work plan. According to this report, the main outputs of the first work plan consisted in improving US and Mexican mutual understanding of their respective regulations. For example, US and Mexican regulators from different sectors met at several occasions and exchanged views on their respective draft regulations to encourage regulatory coherence (e.g. Consultation of Mexico on draft texts such as Policy Principles on Policy Principles for the U.S. Decision-making Concerning Regulation and Oversight Applications of Nanotechnology and Nanomaterials; Mexican comments to the U.S. Food Safety Modernization Act; U.S. Comments to Mexico's NOM project on vehicle safety; respective reviews of E-health certification programmes), and workshops held throughout Mexico to facilitate understanding about US regulations (e.g. about FDAs rules and regulations on Food safety).

Despite this positive progress report and the value of the stakeholder engagement platform provided by the HLRCC to help regulators on the two sides of the border identify burdensome regulations and areas for improvement, political support to the HLRCC has stalled. Beyond specific examples mentioned in the progress report, there is some evidence that the work of the HLRCC may not have trickled down to all relevant regulators and that more could be done to link the high-level political commitment to a deeper engagement of regulators. Mexico acknowledged a number of practical challenges that slowed down the implementation of the first work plan. Lack of resources and bureaucratic layers resulted in delays to implement the specific projects. The work stream was not focused around a critical path, dispersing the scope of the work conducted under each working group. The dynamics were not adapted to specific working groups, failing to consider the specificities of each regulator, sector and objective. Finally, there was insufficient co-ordination, resulting in unequal process among the work streams of the HLRCC.

Taking note of these lessons learned and to ensure the effectiveness of the HLRCC going forward, Mexico has highlighted in particular the need to focus priority topics on interests of both countries and industry; to foster more active engagement of regulators; as well as to identify financial, material and human resources. A second work plan proposal was sent by Mexico to the United States in 2015, to which the United States responded in December 2015. In July 2016, in the context of the broader "*High Level Economic Dialogue"*, the US and Mexican ministers reiterated commitment to work towards a second work plan.[4] However, the work plan has remained pending further discussions between the authorities of the two countries.[5]

North American Leaders' Summit between Canada, Mexico and the United States

Another high level initiative that Mexico has undertaken with its North American partner countries is the North American Leaders' Summit (NALS), between the heads of government of Canada, Mexico and the United States. The meeting has been held on nine occasions since 2005 in rotating host countries. Having a broad policy scope, this Leaders' Summit participates *inter alia* in setting common policy objectives in the region and aligning their positions in multilateral *fora*.

While it is not supported by a dedicated secretariat to implement the commitments of the Leaders, some evidence suggests that some of the high-level commitments have trickled down to the regulators' level, resulting in coherent policy approaches.

The last summit was held in 2016 in Ottawa, Canada. The Leaders' Statement announced the establishment of a North American Climate, Energy, and Environment Partnership and the launch of an Action Plan that identified activities and deliverables for the Partnership. Five key areas of work were included in the Action Plan: 1) Advancing clean and secure energy; 2) Driving Down Short-Lived Climate Pollutants; 3) Promoting Clean and Efficient Transportation; 4) Protecting Nature and Advancing Science; and 5) Showing Global Leadership in Addressing Climate Change.

The main mechanisms of collaboration for these purposes included joint research, setting common goals and/or targets and develop regulation to achieve them, develop national strategies to reduce pollutants, aligning applicable regulations in specific sectors, encouraging the adoption of international standards or implementation of international commitments more generally, *inter alia*.

Some concrete commitments included time-bound objectives for regulatory alignment between the three countries. For example in their latest Action Plan, the Leaders' committed to improving energy efficiency, namely by aligning six energy efficiency standards or test procedures for equipment by the end of 2017, and a total of 10 standards or test procedures by the end of 2019. To date, four regulations on energy efficiency have been harmonised and further discussions are still on-going, demonstrating that there is follow-up to this commitment of the three Leaders. This concrete "top-down" commitment was made in parallel to informal discussions taking place between energy regulators of the three countries as a result of a "bottom-up" demand, from their respective industry representatives. As a result, it is likely that the combination of both a high-level impetus and an industry-led demand proved to be a positive combination to ensure effective results of IRC.

Another concrete output implementing the Leaders' commitments of this is the North American Plan for Animal and Pandemic Influenza (NAPAPI) launched at the 2012 NALS. This was the result of renewed commitments by Leaders since 2005 to address the threat of avian and pandemic influenza. In particular, the three Leaders agreed to a continued and deepened co-operation on pandemic influenza preparedness, including enhancing public health capabilities and facilitating routine and efficient information sharing among the three countries. Such commitments at various Leaders Summits resulted in close dialogue between senior policy makers, health, agriculture and security experts as well as representatives of foreign affairs, ultimately delivering the NAPAPI. This collaborative policy framework sets a co-ordinated trilateral emergency response to pandemic influenza, aimed at complementing national emergency management plans in each of the three countries and builds upon the core principles of the International Partnership on Avian and Pandemic Influenza, the standards and guidelines of the World Organisation for Animal Health (OIE) and of the World Health Organization (WHO) – including the IHR (2005).[6]

Ministerial-level meetings

A number of meetings are convened at the ministerial level to provide impetus for co-operation in specific sectors. This is particularly the case for example in the energy sector, where regular ministerial level meetings have facilitated the bilateral/trilateral collaboration between energy regulators in Canada, Mexico and the United States on energy efficiency standards harmonisation. These meetings take place for instance in the context of the North America Energy Working Group, the Clean Energy and Climate Change Task Group and, more recently, the North America Energy Ministerial. Thanks to regular meetings of these groups, the regulators have also developed a close working relationship, and continue collaboration despite variations in high-level political priorities.

Ministerial-level meetings result in concrete outputs particularly when they address issues that originated from industry demand. This is the case namely in the area of energy efficiency, where four technical regulations have been harmonised between Canada and the United States: "Minimum energy performance standards" (MEPS) and test procedures were harmonised for domestic refrigerators and freezers, for three-phase motors, in room-type air-conditioning, and in external power supplies.[7]

Industry representatives frequently inform their national energy regulators of the unnecessary costs of regulatory divergences and the benefits that a harmonised standard would have. In this context, the four harmonised regulations were considered by the three

regulators through regular informal exchanges of experiences and technical workshops about the existing regulatory frameworks in Canada (NRCan), Mexico (CONUEE) and the United States (Department of Energy). After agreement on the type of harmonisation to pursue (regulation, test procedure, or both), the regulator of each country pursued their domestic regulatory procedure to introduce the regulation into their domestic legal framework. In the case of Mexico, the four harmonised regulations resulted in NOMs. Beyond these four harmonised regulations, close dialogue with the private sector maintains the energy regulators informed of regulations in other countries and encourages them to take foreign regulations into consideration when developing their own.

IRC in trade agreements

Within a large majority of its trade agreements, Mexico has included provisions to encourage good regulatory practices (GRPs). A few provisions also encourage international regulatory co-operation more directly. In particular, Mexico and its negotiating partners have included detailed regulatory components in sectoral chapters, annexed to the Technical Obstacle to Trade chapters in its recent trade agreements (i.e., CPTPP; Pacific Alliance, EU-Mexico Free Trade Agreement, NAFTA, among others). The information flow between trade and regulatory authorities has been increasingly fluid, with regulators invited to most recent trade negotiations.

Overview of Mexico's trade agreements

Mexico has trade agreements with its major (import and export) trading partners, except with China and Korea (Table 3.2). It also has an active strategy to further integrate regional markets, through recent or ongoing negotiations. In addition to its existing trade agreements, Mexico has recently concluded or is still undergoing, trade negotiations with a number of countries beyond its traditional partners. This is the case with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CP-TPP) and the Pacific Alliance for instance. Finally, Mexico is also in the process of modernising the trade agreement it has with the European Union, as well as the NAFTA with Canada and the United States.

Due to the successive conclusions of bilateral and regional agreements, Mexico even has several agreements with certain countries. With Colombia and Chile, for instance, Mexico is linked through three agreements: a bilateral agreement, concluded in 1995 and 1999 respectively, the Pacific Alliance, as well as the CP-TPP.

Table 3.2. Trade agreements to which Mexico is party

Trade agreement	Date of signature
Tratado de Montevideo 1980 (establishment of ALADI) With Specific Agreement on Technical Barriers to Trade	22 March 1981
Global System of Trade Preferences among Developing Countries (GSTP)	19 April 1989
North America Free Trade Agreement (NAFTA)	1 January 1994 (*currently under renegotiation*)
Mexico-Colombia Free Trade Agreement	1 January 1995
Mexico - Costa Rica Free Trade Agreement	1 January 1995
Mexico-Nicaragua Free Trade Agreement	1 July 1998
Mexico-Chile Free Trade Agreement	1 August 1999
Mexico-Israel Free Trade Agreement	1 July 2000

Trade agreement	Date of signature
Mexico and European Free Trade Association Free Trade Agreement	1 July 2001
Mexico-Japan Economic Association Agreement	1 April 2005
MERCOSUR	5 January 2006
Mexico - Bolivia Free Trade Agreement	7 June 2010
Mexico-Peru Trade Integration Agreement	30 January 2012
Mexico-Costa Rica, El Salvador, Guatemala, Honduras y Nicaragua Free Trade Agreement	1 January 2013
Uruguay-Mexico Free Trade Agreement	July 15, 2004 (Additional Protocol 27 February 2013)
Additional Protocol to Framework Agreement of Pacific Alliance	1 March 2016
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CP-TPP)	8 March 2018
EU-Mexico Global Agreement	Original agreement concluded in October 2000. This agreement was modernised and an Agreement on Principle on the new text was reached 21 April 2018. The drafts until now are available at: http://trade.ec.europa.eu/doclib/press/index.cfm?id=1833

Source: www.economia-snci.gob.mx/sicait/5.0/ and www.sice.oas.org/ctyindex/MEX/MEXagreements_s.asp.

GRP and IRC in trade agreements

Mexico considers trade facilitation and reducing unnecessary barriers to trade as important objectives of their IRC and regulatory improvement efforts, as seen in Chapter 2. In turn, trade agreements can also serve as an avenue to encourage IRC, in a wide range of policy areas such as competition policy, anti-corruption, and specific goods and services sectors. By ensuring and maintaining the principle of non-discrimination in domestic regulations and putting great emphasis on designing least-trade restrictive regulations, trade agreements can contribute to more coherence and convergence in regulatory matters. Trade agreements are therefore increasingly seen as a portal to foster IRC through different mechanisms that promote transparency and encourage parties to the agreements to initiate co-operation (OECD, 2017[2]).

Over time, Mexico has increasingly incorporated provisions concerning regulatory practices and co-operation in its trade agreements, following the broader global trend in trade negotiations. In particular, all of Mexico's trade agreements have included some sort of provisions related to good regulatory practices (GRPs), ranging from transparency, risk assessment, the adoption of international standards, and enabling international regulatory co-operation, for instance by encouraging equivalence of rules, mutual recognition of conformity assessment, or creating special Committees to enable regulatory co-operation, particular on TBT and SPS. Such provisions are included either in the general text of the Agreement, within horizontal or thematic chapters, or in sectoral annexes, as described below.

Typically, all Mexico's trade agreements since 1990 have included some forms of regulatory transparency provisions, from publication of laws to notification of draft and/or adopted measures directly to trading partners. Most agreements include a horizontal transparency chapter, setting a broader requirement for a transparent and predictable policy environment for traders (e.g. NAFTA; Mexico-Colombia; etc.) In addition, transparency provisions are included throughout the agreements in specific chapters. Transparency for regulatory purposes is most common in the specific chapters

on SPS or TBT in line with the WTO, with equivalent or slightly more detailed notification requirements of SPS and TBT measures. Some agreements also include transparency obligations for all measures relating to trade in goods (e.g. Mexico-Costa Rica; or Mexico-Uruguay) or services (e.g. Mexico-Japan), for a number of sector-specific measures such as telecommunications (e.g. Mexico-Nicaragua), financial services (e.g. Mexico-Peru) or automobile (e.g. Mexico-Colombia).

Building on regulatory transparency, regulators may be encouraged to conduct consultations early on in the rule-making process, particularly on SPS measures (e.g. Mexico-Costa Rica). Many trade agreements also envisage the establishment of a specific TBT or SPS Committee in which government officials and regulatory agencies from both parties can meet to discuss respective draft regulations or trade-restrictive measures (e.g. Mexico-Nicaragua, Mexico-Bolivia, Mexico-Japan). Finally, certain trade agreements include specific provisions allowing foreign stakeholders to participate in domestic stakeholder engagement procedures to the same extent as national stakeholders (e.g. Mexico-Costa Rica; Mexico-Chile; Mexico-Uruguay; NAFTA).

Among the agreements currently in force, only the Pacific Alliance has a horizontal chapter on GRPs *per se* (Box 3.1). The text of the CPTPP included a horizontal Chapter on Regulatory Coherence, which was agreed on but is not yet operational.[8] Going forward, Mexico has an active strategy to include a more horizontal approach to GRPs in trade agreements. The strategy in this regard is led by the Ministry of Economy, with expert inputs from the COFEMER. In particular, four trade agreements under negotiation potentially include a horizontal chapter on GRPs:

- Partial Scope agreement with Brazil.
- The Free Trade Agreement between Mexico and the European Union.
- The renegotiated version of the NAFTA.
- Partial Scope Agreement with Argentina.

Other provisions in Mexico's trade agreements have aimed more directly at reducing unnecessary regulatory divergences. For instance, commitments to adopt international standards are commonly included in SPS and TBT Chapters, with specific bodies listed, going beyond the WTO SPS Agreement (e.g. NAFTA; Mexico-Colombia Trade Agreement). Overall, Mexico's trade agreements frequently set up an enabling environment for regulators to exchange throughout their regulatory process. Most agreements encourage collaboration to achieve equivalence of rules, and particularly of technical regulations (e.g. ALADI Agreement on TBT) or SPS measures, for instance with dialogue starting from common work plans for SPS measures (e.g. Mexico-Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua Free Trade Agreement).

A number of provisions also recognise the burdens imposed on trade by conformity assessment procedures and include an engagement to make conformity assessment procedures compatible as much as possible or to accredit conformity assessment bodies of other parties without discrimination (e.g. NAFTA, TLCUEM, AP, CPTPP). Among possible means to reduce burdens resulting from conformity assessment, agreements include commitments of the parties to embark in negotiations of mutual recognition agreements (e.g. Mexico-Peru) and participation in regional or international bodies such as the Inter-American Accreditation Co-operation (IAAC) (cf. for e.g. ALADI Agreement on TBT).

Box 3.1. GRPs and IRC in the Pacific Alliance

The Pacific Alliance was established in April 2011, as a regional integration initiative between Chile, Colombia, Mexico and Peru to strengthen integration between these economies and create a trade hub with facilitated exchanges with the Asian-Pacific region. After the definition of institutional foundations of the Pacific Alliance in a Framework Agreement, the parties launched the negotiation of a trade agreement, the "Additional Protocol to the Framework Agreement", which entered into force on 1 May 2016.

The negotiations of the Additional Protocol have involved extensive consultations with the private sector from the very early stages of negotiations to identify Technical Obstacles to Trade, and throughout the various stages of negotiation. In particular, the private sector has actively contributed to the trade negotiations from a "side room", ensuring them a more efficient way to conduct consultations through the negotiation process.

The text of this Additional Protocol is the most detailed of Mexico's trade agreements in terms of international regulator co-operation. This aims to increase trading opportunities with other countries of the Pacific Alliance and more broadly to further increase integration in the Latin American region.

IRC in Sectoral Annexes to the Framework Agreement of the Pacific Alliance

The parties to the Pacific Alliance negotiations adopted a substantive strategy to strengthen regulatory co-operation in the Sectoral Annexes: with the "Regulatory Co-operation Pathway", the four economies selected initiatives of common interest to all of them with the aim to eliminate unnecessary obstacles to trade. To date, the parties have negotiated/ are negotiating additional annexes to the Additional Protocol in the areas of pharmaceutical products, cosmetics products, organics products, food supplements, and medical devices. Further sectoral chapters are under consideration. Specific working groups are set up to implement these annexes, and the TBT Committee of the Pacific Alliance monitors this implementation. These working groups are composed of relevant regulators and a representative from the Ministry of Economy or Commerce of each Party.

Chapter 15 bis on Regulatory Improvement, Annex 4 to First Protocol Modifying Additional Protocol of Framework Agreement of the Pacific Alliance

At the Paracas Summit of July 2015, the Heads of State of Chile, Colombia, Mexico and Peru agreed on the First Protocol Modifying Additional Protocol of Framework Agreement of the Pacific Alliance. This Protocol included namely Chapter 15 bis on Regulatory Improvement (*Mejora Regulatoria*).

It defines GRPs as the international good regulatory practices in the process of planning, development, adoption, implementation and revision of regulatory measures in view of facilitating the achievement of national public policy objectives; and as the efforts conducted by governments to improve regulatory co-operation in view of achieving such public policy objectives and to facilitate international trade, investment, economic growth and employment.

Overall, parties agree to establishing and/or maintaining a body to ensure co-ordination of regulatory improvement efforts across government; to conducting RIAs; to consider foreign and international measures when developing new regulation; to transparency and access to regulations; to forward planning. The Chapter establishes a Committee on Regulatory Improvement to ensure the implementation of the Chapter and identify future priorities on regulatory improvement in the Pacific Alliance, for instance sectorial initiatives of regulatory co-operation. The Committee will take stock of the events on international GPRs and of the Parties' efforts related to regulatory improvement, in view of considering the necessary update of Chapter 15 bis.

Source: www.sice.oas.org/tpd/pacific_alliance/pacific_alliance_s.asp and www.acuerdoscomerciales.gob.pe/images/stories/alianza/docs/anexo_4_6_7_15.pdf.

Regulatory provisions of trade agreements in practice

To fulfil intended objectives of regulatory coherence among trading partners, the regulatory provisions in trade agreements require follow-up by domestic regulators, either by a change in their procedures or practices, an active dialogue with their foreign peers or through the setting up of a specific institutional framework for co-operation.

A number of regulatory practices committed to in its trade agreements are already part of the domestic regulatory process. For instance, Mexico already has publication requirements of laws and regulations, opens its stakeholder consultations to all stakeholders, including foreign stakeholders, as part of its commitment to regulatory improvement overseen by the COFEMER. Trade agreements merely reaffirm Mexico's commitment in this area and may promote such disciplines in countries (in particular in Latin America) where they are less embedded into the domestic rule-making. Negotiations of NAFTA may change this dynamic, given the high-level of commitment and implementation of all partners to GRPs.

Beyond the existing disciplines of regulatory improvement, the notification provisions promoted by trade agreements may be the ones which have resulted in most concrete dialogue and exchange of information on regulatory matters. Thanks to the already well established notification procedure to the WTO, the Mexican Ministry of Economy has in place well-functioning domestic procedures to make the best of these provisions in bilateral and regional trade agreements as well. However, even though some notifications are more detailed than in WTO agreements, the notifications to FTA partners are not publically available. The benefits of these notifications are therefore much more limited than notifications to the WTO: they result in information to the trade authorities of the partner country directly, but not necessarily in the information of all stakeholders in the partner countries as is the case thanks to the public WTO information management system.

Evidence on implementation of GRP and IRC provisions in trade agreements by regulators themselves is difficult to obtain. In line with international practice so far (OECD, 2017[2]) the majority of these provisions in force to date contain best endeavour language, confirming the parties' willingness to promote regulatory coherence to reduce trade costs, without committing to do so through legally binding provisions. In addition, monitoring of their implementation is rarely done. As a result, evidence on their impacts on Mexican regulator's activity remains limited today, as is the case for most countries.

This may change with more recently negotiated FTAs, which have ambitious sectoral provisions but have not yet entered into force.[9]

Mutual recognition agreements and arrangements

Mexico has actively developed a variety of mutual recognition approaches, both governmental and non-governmental; on goods and services; unilateral, bilateral and multilateral. It is one of the few countries to have a centralised authority that keeps track of existing governmental recognition efforts. However, Mexico faces challenges in establishing the quality conformity assessment infrastructure, which constitute the backbone of well-functioning MRAs. As a result, it is not clear how intensely MRAs are used, which may explain Mexico's difficulty to show their results. Indeed, not unique to the country, there is limited evidence on the implementation / use of recognition to facilitate market entry and on the trade and other impacts of these agreements.

The institutional framework for MRAs in Mexico

The institutional framework behind mutual recognition is an important component of concluding and implementing effective recognition agreements. In Mexico, a central body has an oversight function over mutual recognition, whereas a single independent body – the Mexican Accreditation Entity (EMA) ensures the accreditation of all Conformity Assessment Bodies in Mexico, which comprise testing laboratories, calibration laboratories, medical laboratories, inspection bodies and certification bodies, Proficiency Testing Providers and the Greenhouse Gas Emissions Verification / Validation Bodies.

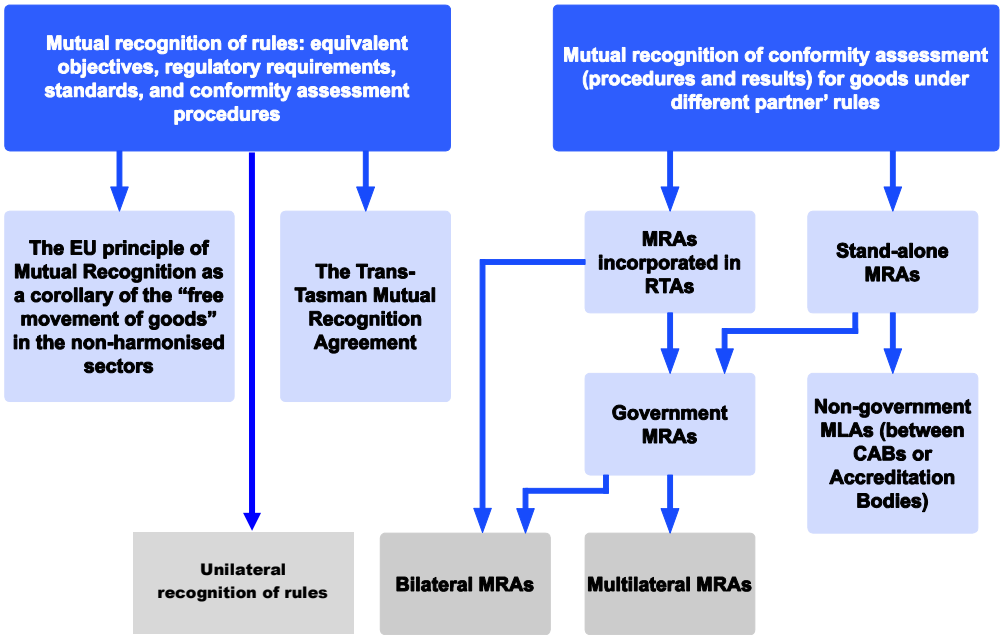
The General Bureau of Standards (DGN) within the Ministry of Economy oversees the conclusion of Mutual Recognition Agreements (MRAs) and Arrangements (MLAs). The texts of the MRAs are therefore negotiated by the Ministry of Economy and the relevant authorities. COFEMER assesses the cost-benefit of the MRAs that are concluded by public entities.[10] It does not however oversee the arrangements concluded directly between private bodies.

Thanks to this broad oversight by the Ministry of Economy, Mexico has a general overview of the agreements that have been concluded and their implementation, as well as of the areas where further recognition agreements may still be necessary. This access to information about the agreements concluded is not however published in a central source, leaving scope for improving information among regulators and conformity assessment bodies about the agreements and their potential and actual benefits.

Overview of recognition efforts in Mexico

Mexico makes use of mutual recognition of conformity assessment procedures in several sectors, particularly important for its goods and services trade. It therefore has experience with different forms of mutual recognition defined in OECD (2016), as reflected in Figure 3.2.

Figure 3.2. Mutual recognition: spectrum of modalities



Source: (OECD, 2017[2]), *International Regulatory Co-operation and Trade: Understanding the Trade Costs of Regulatory Divergence and the Remedies*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264275942-en.

Based on information collected from previous OECD surveys and interviews, Mexico has developed:

- Unilateral recognition efforts of specific measures
- 4 bilateral governmental MRAs with its NAFTA partners
- 30 arrangements between conformity assessment bodies in the sector of electronic products/electrical appliances
- 7 MRAs on professional qualifications (healthcare, law, engineering, architecture, accountability/ auditing, and in the training and certification of seafarers)
- Multilateral recognition in APEC.

Unilateral recognition

Mexico engages in selected efforts to unilaterally recognise the conformity assessment procedures of other countries. This seems to be done in selected sectors by regulators' own initiative, when justified by the subject matter. It is the case for instance in the area of pharmaceutical products, in which Mexico recognises the certificates for innovative medical products emitted by the United States, Canada, Australia, Japan and Switzerland for example, to speed up their market entry.

Bilateral MRAs between governments

Mexico has developed a total of five governmental MRAs, with the United States and Canada, for tequila, tyres, telecommunications and food safety.

- Agreement between the Office of the United States Trade Representative and the Ministry of Economy of the United Mexican States on Trade in Tequila (2006)

- Agreement between the Government of the United Mexican States and the Government of the United States on the certification of tyres
- Mutual Recognition Agreement between the Government of the United Mexican States and the Government of the United States for Conformity Assessment of Telecommunications Equipment (2011)
- Mutual Recognition Agreement between the Government of the United Mexican States and the Government of Canada for Conformity Assessment of Telecommunications Equipment (2012)
- Mutual Recognition Agreement between the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food (*Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación*, SAGARPA), United States Department of Agriculture (USDA), and the Canadian Food Inspection Agency (CFIA) (2017)

These MRAs include provisions envisaging the creation of joint bodies responsible for monitoring the application by the parties of the agreement, as well as periodic reporting obligations (e.g. Box 3.2).

Box 3.2. Agreement between the Office of the United States Trade Representative and the Ministry of Economy of the United Mexican States on Trade in Tequila

The MRA on Tequila between the United States and Mexico establishes a Working Group on Tequila which monitors the implementation and administration of the MRA, has period reporting obligations, and includes an enforcement procedure. The working group monitors implementation namely through ongoing dialogue between authorities of both countries and exchange of statistical information on trade in tequila. Ultimately, the WG is encouraged to also consult with non-governmental authorities, including industry representatives, to obtain information about implementation of the MRA. To ensure regular reporting, the importers from both Canada and the United States are required to provide quarterly reports documenting the use of bulk Tequila. Finally, when concerned with incidents of alleged non-compliance with the MRA, the Mexican Ministry of Economy may submit an enquiry or complaint to USTR. USTR will review or investigate the issue and if appropriate, take the necessary action.

Source: www.ttb.gov/pdf/tequila-agreement.pdf.

In practice, however, there are challenges in the implementation of these MRAs. The MRA on tyres is no longer operational because the Mexican NOM which served as its basis is no longer in force. Implementation of the two MRAs on telecommunications was delayed because of a Constitutional reform in the sector of telecommunications. The two agreements are currently in force, though implementation has recently been initiated only between the United States and Mexico. In practice, the United States National Institute of Standards and Technology (NIST) has opened the possibility for US testing laboratories to seek recognition by IFT under the terms of the MRA.[11]Three US laboratories have been recognised by the IFT to date.[12] Mexico and Canada are still in the course of settling procedural details before the agreement can be fully implemented.[13]

Other attempts to develop governmental MRAs seem to have stalled. For example, Mexico has encountered most difficulty in establishing MRAs in the electric and electronic sectors due to the specific technical features of the industry.[14]

Finally, a number of provisions encouraging mutual recognition are embedded in bilateral trade agreements concluded by Mexico. Nevertheless, evidence on their implementation remains limited.

Recognition of professional qualifications

Mexico has 7 bilateral agreements concluded for the mutual recognition of professional qualifications, with Latin American countries, Spain, Singapore and China. These are in the sectors of healthcare, law, engineering, architecture, accountability/ auditing. In addition, it has a number of MoUs in which it recognises foreign qualifications regarding the training and certification of seafarers. In addition, Mexico has a number of MoUs with countries recognising unilaterally the qualifications of seafarers.

The agreements on recognition of the training and certification of seafarers establish an automatic recognition of professional qualifications on the basis of the regulation I/10 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention). There are three countries with which Mexico has agreed on mutual recognition of the training and certification of seafarers (e.g. Singapore, Spain, Panama). In practice, it has done so through two separate MoUs – recognising separately the qualification of Mexican seafarers on foreign ships in one MoU, or those of foreign seafarers on Mexican ships in another MoU.

In addition, Mexico has also concluded 8 MoUs with foreign countries in which the recognition is unilateral. Six of these MoUs include recognition by the other country of the qualification of seafarers originating from Mexico exclusively (e.g. Barbados, Cyprus,[15] Indonesia, Isle of Man, Belgium, Luxembourg). Two of these MoUs include recognition from Mexico of the qualifications in another country (Vanuatu, Marshall Islands).

All MRAs related to education are subject to Cost/ Benefit Analysis. Some of the MRAs regarding education set up a specific body to ensure information exchange, define the terms and procedures for the professional qualification recognition process, summon participants to meetings, give information on the application and implementation of the MRAs. Other MRAs, namely on the training and certification of seafarers, agree on setting up a contact point for review and compliance.

Arrangements between conformity assessment bodies

As of 2014, Mexican conformity assessment bodies had 30 co-operative non-governmental arrangements with foreign bodies (see Annex B). A large majority of these are between private bodies in the sector of electronic products/electrical appliances. This is also the sector in which there is most developed conformity assessment infrastructure.

Mutual recognition of inspection schemes

There is also anecdotal evidence of mutual recognition initiatives in the downstream phase of the rule-making cycle, in particular among inspection authorities. In particular, an agreement has recently been concluded directly between the inspection agencies of Mexico, United States and Canada, in the area of food safety. It aims to ensure

continuous communication between veterinary services in the three countries to guarantee fair and open trade of meat, poultry and eggs (Box 3.3).

Box 3.3. Terms of reference for the operational relationship in the trade of meat, poultry and egg products

In January 2017, the National Service of Food and Agriculture Health, Safety and Quality (SENASICA) of the United Mexican States, the Food and Inspection Agency (CFIA) of Canada, and the Food Safety Inspection Service (FSIS) of the United States signed terms of reference for the Operational Relationship in the trade of meat, poultry and egg products.

The terms of reference set out protocols for the three countries to audit one another and outline provisions regarding equivalency, which will enhance market access. Overall, it aims to strengthen the trilateral, scientific and technical relationship, as well as the capacity of the agencies to address issues that arise concerning trade in meat, poultry and egg products.

This agreement implies the mutual recognition of the Meat Products Inspection Systems of the three countries, which represents for Mexico to maintain markets for domestic companies interested in consolidating their products in the United States and Canada.

In addition, the renewal and modernisation of the document introduced new elements to optimise communication between the authorities, speed up the inspection of products at the border and establish the procedures to deal with border rejections. For instance, the terms of reference explore the use of electronic certification as a tool to facilitate the trilateral trade.

Source: SENASICA answer to OECD questionnaire, November 2017.

Like for government-to-government agreements, Mexican certification bodies have a number of arrangements with bodies from Canada and the United States (3 with Canadian bodies, 7 with US bodies). Nevertheless, it also has a significant number of agreements with bodies in China (5). This is significant, as it confirms the need for co-operation at the technical level, despite lack of impetus from the political level. Indeed, Mexico has not engaged in governmental recognition agreements, trade agreements or high-level political co-operation with China.

These arrangements are underpinned by regional and multilateral platforms of accreditation bodies that promote a quality infrastructure system. Mexico, represented by the Mexican Accreditation Entity (EMA) is a member of both International Laboratories Accreditation Commission (ILAC) and International Accreditation Forum (IAF) at the multilateral level. EMA is also a member of the regional pillars of the accreditation system: Inter-american Accreditation Cooperation (*Cooperación InterAmericana de Acreditación*, IAAC); Pacific Accreditation Cooperation (*Cooperación de Acreditación del Pacífico*, PAC); Asia Pacific Laboratory Accreditation Cooperation (*Cooperación de Acreditación de Laboratorios de Asia-Pacífico*, APLAC). It also participates in specific fora, as those related to the OECD Good Laboratory Practices and the Mutual Acceptance of Data, as well as the joint ILAC/World Anti-doping Agency (WADA). As such EMA's accreditation services have received recognition from all of these bodies.

Multilateral MRAs

Other attempts at multilateral MRAs have remained unsuccessful so far. For example, the APEC TEL MRA, which aimed to recognise conformity assessment of telecommunications equipment throughout APEC Economies, is not operational. The MRA was first concluded in 1999, and reformed in 2010. It includes a reporting mechanism within APEC that monitors the implementation of the MRA in all signatory countries. However, the Agreement has never been formally ratified by Mexico.

Recognition in practice

In Mexico, recognition is more frequently concluded through arrangements between conformity assessment bodies themselves than at the governmental level. This reflects broader practice among OECD countries. Indeed, MRAs are perceived by regulators and the administration costly to develop and to maintain. MRAs are generally perceived as requiring countries to have pre-established a solid conformity assessment infrastructure that ensure confidence in conformity assessment results. In addition, MRAs are seen as costly and challenging to negotiate and maintain (Correia de Brito, Kauffmann and Pelkmans, 2016[3]). In Mexico, both challenges seem to prevent Mexico from fully benefitting from mutual recognition.

On one hand, the conformity assessment infrastructure is still insufficient to demonstrate conformity with Mexican regulations. This discrepancy between conformity assessment infrastructure and the NOMs developed was highlighted by several stakeholders as a priority to address. According to EMA's responses to OECD questionnaire, only around 30% of NOMs today have an accredited body in Mexico that may assess conformity with the relevant NOM. As of January 2018, out of 768 NOMs in force, 510 required a conformity assessment, and of these only 278 have accredited bodies in place capable of assessing their implementation.

The shortcomings in Mexico's conformity assessment infrastructure may be explained by several factors. For example, lack of sufficient resources in testing laboratories make it difficult for them to fulfil the necessary requirements to become accredited. The costs of accreditation services imposed by EMA are among the lowest in comparison with international practice, particularly for verification units and laboratories, but lack of awareness about the benefits of accreditation provides little incentive to invest in the lasting infrastructure and human capital to fulfil EMA's requirements. Some NOMs may not be entirely up to date with latest technologies. Certain public entities conduct conformity assessment themselves, allegedly presenting risks of partiality.

To improve the conformity assessment infrastructure, EMA engages in awareness raising efforts with conformity assessment bodies and the DGN, encouraging the development of new conformity assessment bodies throughout Mexico. EMA's objective is to increase the infrastructure of accredited bodies by 10% each year, covering at least 25 new norms. This objective was reached in the last two years.

On the other hand, the very negotiation and operationalising of MRAs remains rare. Indeed, perhaps partly explained also by the insufficient conformity assessment infrastructure, the number of MRAs negotiated remains very limited. The conclusion of only five MRAs between governmental authorities, despite a central authority with a mandate to conclude such agreements (DGN) suggests a difficulty to achieve a negotiated agreement with truly mutual benefits for Mexico and its foreign trading partners. In addition, such agreements only exist with Canada and the United States, the two major

co-operation partners of Mexico. The costs of concluding governmental MRAs may indeed be justified by the important gains in trade flows with Canada and the United States, whereas this is not necessarily the case with other countries.

The 30 MLAs concluded by Mexican conformity assessment bodies with foreign counterparts for the mere sector of electronics/ electrical appliances suggests that agreements at the technical level are easier to achieve, and are perceived as a useful tool by conformity assessment bodies themselves. This being said, the presence of such agreements in one same sector is an indication that the Mexican conformity assessment infrastructure in the area of electronics/ electrical appliances has managed to gain confidence of foreign partners.

Exchange of information and experiences between regulators

Beyond the regulatory co-operation initiatives that pursue objectives of economic integration, notably in the North American region, Mexican regulators also co-operate directly with their foreign peers. They do so mostly at their own initiative with the use of Memoranda of Understanding (MoUs), to exchange information and experiences and extend the evidence-basis for their regulatory activity. These agreements constitute important political statements of co-operation. In practice, the extent to which these agreements lead to greater regulatory coherence across jurisdictions is difficult to assess and depends on sectors and policy areas.

MoUs in the wider spectrum of international agreements

MoUs are voluntary agreements concluded directly between Mexican authorities with foreign peers or international organisations. Most commonly, MoUs have merely broad and best endeavour language, without creating specific legal obligations.

Overall, MoUs serve as a flexible tool that may be concluded by Mexican regulatory authorities directly on issues under their scope of responsibilities, without need of oversight by central government. The conclusion of MoUs with international organisations may function in a similar manner as those with foreign regulators, but may supporting information sharing or capacity building on international rules or standards, as for example for the MoU between Mexico and the IMO on marine transportation.

Although MoUs remain the co-operation tool most made use of by regulators in Mexico, other legal tools exist for regulators to co-operate with their peers, either more formal and with further legal effects, such as interinstitutional agreements, or even more flexible and informal, such as "work plans" (see Box 3.4). For example, SENASICA concluded a work plan with Chile's Ministry of Agriculture,[16] which formally establishes an electronic certification system on which the certificates issued by both authorities are shared to facilitate trade in food products.

The Ministry of Foreign Affairs (SRE) must be consulted prior to the conclusion of binding agreements, treaties or interinstitutional agreements. This is not a requirement for voluntary MoUs. However, although no legal obligation exists, the SRE is frequently consulted prior to the conclusion of non-binding MoUs. In such a case the SRE verifies that the language remains non-binding and under the responsibility of the given authority, and issues an opinion on the viability of entering into the agreement between a governmental entity and its homologous entity in another government.

Box 3.4. Types of international agreements in Mexico

The Ministry of Foreign Affairs distinguishes explicitly two forms of international agreements: international treaties and interinstitutional agreements. The difference between the two is related to the process followed for their conclusion and their scope of application. Practice has also seen emerge a number of additional more flexible tools through which authorities co-operate with their foreign peers, such as Memoranda of Understanding and Work Plans.

International treaties are concluded by the President of the Republic of Mexico, or an authority having received specific powers from the President. They must be approved by Congress and published in the Official Gazette of the Federation. Upon this publication, they take the character of supreme law of the Mexican Republic, as long as they comply with the Constitution.

The category of **interinstitutional agreements** was created by the LCT to reflect common practice in Mexico and other countries. They are concluded directly by a dependency or decentralised agency of the public federal, state or municipal administration, with one or more foreign governmental bodies or intergovernmental organisations. These agreements are legally binding but do not constitute supreme law of the Mexican Republic, and are neither approved by congress nor published in the Official Gazette. These agreements must remain under the exclusive attributions of the authorities concluding them.

Memoranda of Understanding (MoU) are voluntary agreements concluded directly between Mexican authorities with foreign peers or international organisations. The qualification of MoU does not preclude of a specific legal effect. Indeed, MoUs may be voluntary or binding, and their legal effect depends on the language used in the text of the agreement.

Work plan: joint working documents concluded at a technical level together between regulatory authorities in Mexico and their foreign peers.

Source: Author's own development based on interviews and Guide on the conclusion of international treaties and interinstitutional agreements according to the Ley on the Celebration of Treaties by Ministry of Foreign Affair www.economia-snci.gob.mx/sicait/5.0/doctos/guia.pdf.

In addition, the SRE consults COFEMER on the respect of better regulation disciplines in international agreements. In practice, the opinion of COFEMER remains mostly a formality, without an in-depth scrutiny of the process of the international agreements. Indeed, out of the 179 opinions emitted by the COFEMER regarding international agreements, none is a negative opinion. Authorities concluding MoUs are therefore free to include any sort of provisions they consider necessary, as long as they remain under the scope of their competencies and do not create new attributions or obligations for themselves.

Information about MoUs

Information on the existing MoUs remains scattered among all authorities concluding them, and their content is largely focused on exchange of information and experience. As a result, the evidence on their number, level of implementation and impact remains limited.

The SRE is required to "register" agreements in an internal registry. However, this comprehensive registry has not been published to date. The SRE also makes all binding international treaties accessible on its website, in a searchable format.[17] However, it does not include the interinstitutional agreements or the MoUs. There is therefore no central information portal for the interinstitutional agreements or MoUs concluded by individual regulators, and it is difficult to present an exhaustive picture of all such agreements concluded.

Following a recent report by the supreme federal auditor, the SRE has been asked to make all international agreements concluded in the past three years public, including interinstitutional agreements, to comply with Mexico's transparency law. The SRE intends to do so for the interinstitutional agreements to which the SRE is party, which are currently accessible on demand.[18] In parallel, dependencies and decentralised agencies have been asked to make public the interinstitutional agreements concluded directly by them to comply with Mexico's transparency law. However, this only includes agreements that are legally binding. MoUs which are of voluntary nature are not covered by this recommendation.

A number of MoUs are made publically available by the signatory authorities, directly on their websites. This is the case for example of the SCT Department on Maritime Transport, which has a specific webpage on the MoUs it has concluded.[19]

The SRE does not gather information about the implementation, which fall outside its sphere of competence. The regulatory agencies concluding the MoUs are free to monitor the implementation of the MoUs they conclude. In practice, it seems that they rarely do so. As a result, very little information is available about the co-operation that takes place as a result of MoUs.

Trends and scope of Mexico's MoUs

The content of MoUs undertaken by Mexican regulatory authorities may vary, but they generally aim to share information, experience and build capacity of both parties. They usually provide for willingness to co-operate, exchange information and constitute an important pillar to enhance trust between regulators and develop common views on regulatory matters. However, these co-operation tools do not guarantee regulatory coherence, let alone convergence.

Several authorities within central government frequently conclude MoUs on matters under their scope of responsibility. These may be on regulatory improvement or oversight, as is the case of COFEMER, or on the harmonisation of standards, in the case of the DGN.

COFEMER has concluded co-operation agreements to share experience and build capacity more broadly with regards to regulatory improvement, namely with Canada, Costa Rica, the Dominican Republic, El Salvador, Chile, China, Colombia, Indonesia, Panama, and the Province of Buenos Aires, Argentina. These agreements focus mainly on training activities in matter of good regulatory practices. More specifically, they aim to strengthen the practices of administrative simplification, improve the institutional framework of regulatory reform (including the design of oversight bodies), share methodologies on regulatory impact evaluation, advice on the implementation of a public consultation process of regulations, advice on the design of online systems which gather information on regulations and procedures. They are often concluded for a limited number of years with a sunset clause, and include a specific work plan and the possibility

to renew them for a new period of the same length. These work plans consider the following elements: specific objectives and activities, work schedule, responsibilities of each part, and indicators and evaluating mechanisms.

Beyond these general trends, the MoU concluded between COFEMER and the Treasury Board Secretariat of Canada in early 2018 includes a specific provision on IRC, confirming the parties' intention to share information, lessons learnt and best practices on international regulatory co-operation with each other, and to explore opportunities to advance bilateral regulatory co-operation and regulatory alignment. The agreement provides for annual meetings at senior official's level, and the establishment of a work plan.

The DGN from the Ministry of Economy has a number of broad MoUs that enable information exchange and technical co-operation with other countries, and aim to achieve greater harmonisation of standards. Today, DGN has 18 MoUs in force with Germany (DIN, PTB), Bolivia (Ibnorca), Brasil (ABNT), Canada (SCC, UL), China (SIS, SAC), Colombia (Icontec), Costa Rica (Inteco), Ecuador (Inen), United States (ASTM, IEEE, ATM, UL), Peru (Inacal), Dominican Republic (Indocal). In addition, they are in the process of negotiating MoUs with authorities from Chile (INN), Cuba (ONN), Thailand (TISI) and European Union (CEN CENELEC).

Beyond COFEMER and DGN, sectoral regulators also conclude MoUs frequently in their respective areas of expertise (Box 3.5 provides a number of examples). In certain sectors, demand from the industry's side may be a driver for the conclusion of MoUs with substantive provisions and engagement towards regulatory coherence. This is the case for example for a MoU concluded in the Gulf of Mexico in view of having similar environmental protection requirements applicable throughout the Gulf of Mexico (see Box 3.5).

Box 3.5. Examples of MoUs

Mexico's National Agency for Industrial Safety and Environmental protection of the Hydrocarbons Sector (ASEA) and the US Bureau of Safety and Environmental enforcement (BSEE) signed an MoU in October 2016 with the aim of establishing a framework for co-operation related to the elaboration, oversight and enforcement of safety and environmental regulations for development of offshore hydrocarbon resources. It was concluded in response to demand from industry representatives operating in the Gulf of Mexico. The scope of the co-operation covers mutual regulatory approaches and processes, the development of industry standards, quality assurance and certification programmes, among others. To co-operate in these areas, the MoU envisages that the regulators exchange information periodically, conduct joint studies and research, provide staff exchanges and participate as observes in each other's activities, and exchange best practices, lessons learned and sharing of expertise. In addition, ASEA has asked BSEE to review its draft regulation on deep waters. However, this exchange of regulation is not systematic but depends on specific needs and topics. BSEE has not shared draft regulations with ASEA to date.

MoU signed by the North American Electric Reliability Corporation (US), the Energy Regulatory Commission (CRE) and the National Centre for Energy Control of Mexico (CENACE)

The MoU establishes a collaborative mechanism for identification, assessment and prevention of reliability risks to strengthen grid security, resiliency and reliability. The MoU provides for co-operation through meetings, capacity building, internships and joint research. It has resulted in reinforced relationships between the three regulatory agencies and common understanding of similar challenges. In addition, a specific provision encourages CRE and CENACE, to adopt the standard already developed by the US regulator, NERC, and to participate as much as possible in NERC's processes to develop and enforce reliability standards, which it conducts as the Electric Reliability Organization (ERO) in the United States.

Agreement on collaboration, joint publication and licencing concluded between Underwriters Laboratories Inc. ("UL") and the Mexican Bureau of Standards of the Ministry of Economy ("DGN")

This agreement aims to foster regulatory coherence more directly, between Mexico, Canada and/or the United States. It pursues this namely through two avenues: on one hand, through the acceptance, translation or use of UL standards in Mexico when DGN considers it relevant, and on the other hand through joint development of new standards at the North American level for use by Mexico, the United States and Canada. To achieve these objectives, the MoU envisages the creation of technical committees composed of staff from the UL, DGN and other entities of interest and encourage participation of UL and DGN staff in each others' respective standardisation committees. UL and DGN grant each other access to their respective standards database. In addition, it envisages various forms of joint standards, either with a shared label, shared title or shared publication. The parties agree to share the status of activities related to the agreement every six months.

Source: Author's development based on interviews, response to questionnaire and publically available information.

Experience in implementing MoUs

To date, the examples of documented MoUs suggest that they tend to establish a rather unilateral learning process, with one country building capacity of the other country, instead of a mutual undertaking. In this sense, Mexican regulators tend to use MoUs either with developing countries to support them in building capacity (e.g. MoUs of COFEMER on GRPs; DGN MoUs with Costa Rica, Bolivia, Dominican Republic, Peru, Ecuador or Brazil), or with other emerging or developed countries whose experience they benefit from when regulating in Mexico (e.g. MoU of ASEA and BSEE, or between NERC, CRE and CENACE; DGN MoUs with Germany, Spain, United States, Canada and China).

Still, anecdotal evidence suggests that a few MoUs concluded with specific objectives in mind have resulted in concrete examples of regulatory coherence. The most significant outcomes of MoUs seem to be increased capacity, access to information or joint commitment towards harmonised standards.

Improved capacity

The frequent meetings, staff exchanges and capacity building efforts result in some cases in uptake of similar practices in both countries. In particular, other developing countries have learned from Mexico's experience, and thus reproduced similar practices in their domestic framework.

Box 3.6. Exchange of information and experience on regulatory improvement: MoUs concluded by COFEMER

COFEMER has concluded specific agreements with different authorities to share its experience on regulatory improvement. These have helped enhance the disciplines of regulatory improvement notably in the Latin American region.

The MoU concluded between **COFEMER and the Technical and Planning Secretariat of the Presidency of El Salvador** has a concrete work plan for the period 2017-2018, with allocations of responsibilities and monitoring of implementation of the MoU. The substance of the agreement remains focused on capacity building on regulatory improvement. The implementation of the agreement has resulted in El Salvador's learning from Mexican regulatory improvement practices. For example, several technical visits of Mexico to El Salvador contributed to design and create the National Agency of Regulatory Improvement of El Salvador (*Organismo de Mejora Regulatoria*, OMR) which was created on 10 November 2015, as an oversight body that has taken into consideration many institutional characteristics similar to those of COFEMER. In 2017, the work activities focused on promoting the *Simplifica* Program (which aimed to generate strategies for simplified formalities) and generate a Register for Formalities in El Salvador. In 2018, COFEMER has supported El Salvador in its efforts to create a general law on Better Regulation in El Salvador, by participating in the different activities with the President and ministerial authorities.

Regarding the **International Co-operation Fund Mexico-Chile**, currently, the COFEMER is working with the *Servicio Agrícola y Ganadero* (SAG) from Chile with the objective to show all the better regulatory tools implemented in Mexico and try to implement the tools in the SAG. The project has the objective to work together with SAG in 18 months in different activities such as workshops, conferences, and a technical short missions in Australia and New Zealand for understanding the policy, institutions, and the tools that are applied in that countries. In that context, in January 2017 the COFEMER and the SAG developed the first Workshop on Good Regulatory Practices in Santiago de Chile and in February 2018 development the second Workshop in the same matter in Mexico City. The outcome of this project is to create a specific area in SAG in charge of the design and the implementation of the better regulation policy in that agency.

In relation to the **collaboration between the COFEMER and the Planning Department of Colombia** and the **Legal and Technical Secretariat from the Municipality of Buenos Aires**, these institutions had development a strong agenda for the next months with the purpose to share experiences about Regulatory Impact Assessment, methodologies to measurement the cost-benefit analysis to regulations and promote the better regulation strategies with that institutions. Additionally, the COFEMER and Panama work together in the methodology about the simplification of building permits focused on reduced the requirements to obtain permits in that sector.

Source: Information provided by COFEMER.

For example, the MoU signed between the COFEMER and El Salvador triggered many technical visits of officials from El Salvador to the COFEMER's offices and to experts of COFEMER to El Salvador with the aim to advise them in the area of regulatory reform

policy implementation. This contributed to the design and creation of the National Agency of Regulatory Improvement of El Salvador (see Box 3.6).

Access to information

An important factor to encourage regulatory coherence is to obtain information about the standards or regulations in other countries, or the evidence used to establish them.

MoUs with standardising bodies in particular have resulted in access to useful information, whether scientific evidence or access to standards. Indeed, such agreements tend to incorporate concrete provisions to access information about technical specification standards, which are not always otherwise publically available (see MoU between UL and DGN, in Box 3.5). The implementation of such a concrete provision is also easily verifiable: access to the standards database is granted and can therefore be consulted systematically by personnel of respective authorities.

Such access to information may contribute towards coherent and ultimately harmonised standards.

Coherence of regulations or standards

The harmonisation, i.e. the complete alignment of rules across borders, or adoption of identical measures is an ambitious goal requiring close collaboration and aligned objectives. It is therefore rarely an explicit objective of MoUs. However, MoUs may result in coherent or harmonised standards when the exchange of information is truly effective, and when the MoUs contain joint standardisation provisions. This is particularly the case in MoUs by DGN, which aim to foster harmonisation.

The MoU between DGN and UL concluded in October 2017 (Box 3.5) enables access to information on standards of both authorities, as mentioned above. On this basis, DGN has engaged to base its new standards on existing UL standards and in so doing, include specific language referring to the original UL. While it is still early to observe any new standards, this requirement will offer a tool to track the number of standards which have been developed thanks to information gained through the MoU.

More specifically, this MoU between DGN and UL has also resulted in joint standard-setting. Indeed, UL and DGN are currently developing a number of joint standards on fire safety services as well as on tubes, within their respective standardisation processes. These parallel processes aim to achieve harmonised standards in both countries.

These harmonised standards, if adopted, will remain voluntary standards, NMX in the case of Mexico.

Mexico's active strategy to engage at the multilateral level

Mexico is very dynamic in international fora, both at the state and regulator's level. As such, it has the opportunity to hold regular dialogue with a broad range of countries, well beyond its natural partners. With the participation of the Ministry of Foreign Affairs in international bodies, Mexico has the possibility of advancing the government's perspective to the multilateral debate, contributing to shaping multilateral rules and standards. In particular in standard-setting bodies, the Mexican Ministry of Economy (DGN) makes specific efforts to represent the specific needs and priorities of Latin American countries that have been discussed in regional platforms. With the participation of line ministries or regulators in the different organisations and in the development of

international rules and standards, they can gain further ownership about the very rules and standards they are then asked to adopt within domestic regulations.

Given the wealth of international standard setting organisations, the country nevertheless faces resource constraint to support its participation and ensure a government-wide strategy is well represented throughout all organisations. A strategic approach involves identifying the critical areas of priority for Mexico, good internal co-ordination between the Ministry of Foreign Affairs and line ministries and leveraging regional platforms to influence decision making in international *fora*.

Representation of Mexico in international bodies

Mexico in international organisations

International organisations (IOs) play a critical role to support national regulators in their efforts to put scarce resources together, and co-ordinate their regulatory objectives, rules and procedures when useful. They do so by offering platforms for continuous dialogue and the development of common standards, legal instruments, mutual recognition frameworks, best practices and guidance. Beyond standard-setting, they facilitate the comparability of approaches and practices, consistent application and capacity building in countries with a less developed regulatory culture (OECD, 2016[4]).

Mexico is a member of many international organisations that set international norms and standards, such as the OECD, the WTO, the IMO or the ISO (already mentioned previously), but also the Food and Agriculture Organisation (FAO), the World Health Organisation (WHO), the Organisation for Animal Health (OIE), the UN Economic Commission for Latin America and the Caribbean (UNECLAC), and the International Telecommunication Union (ITU), amongst others.

The Ministry of Foreign Affairs (SRE) in principle centralises participation in different international bodies. To do so, it has specific units in charge of monitoring activity in selected IOs, and it accredits each person travelling to participate in IO meetings. It does not, however, have a consolidated list of all international organisations in which Mexico participates.

In defining Mexico's foreign policy, the SRE is responsible for co-ordinating, fostering and ensuring the co-ordination of actions of the Mexican public administration abroad (art. 28 I *LFPA*). As such, its attributions with regards to the conclusion of international treaties grant the SRE oversight over a large range of activities conducted by regulatory agencies, mainly when these are supported by the conclusion of binding treaties or interinstitutional agreements, or formalised by participation in an international organisation. However, its role remains confined to a legal verification process, either about the legality of international agreements or about the accreditation of authorities participation in international organisations.

Beyond the SRE, specific regulatory agencies participate in the IOs in their area of specialty (Table 3.3). They co-ordinate with the SRE to inform them about their upcoming participation and the results thereof, but maintain autonomy to defend their position in the organisations corresponding to their area of specialty.

The DGN participates on behalf of the Ministry of Economy in all IOs related to standardisation and metrology (cf. art. 4 LFMN). In this capacity, DGN plays an active role representing Mexico's position in international standardisation bodies, and through that, also putting forward the position of developed and emerging economies from the Latin

American region. This is for instance the case for the Codex Alimentarius, where the DGN is a regional representative for Latin America, as well as in ISO, where Mexico is part of the Council. In ISO, Mexico also participates in the Spanish Translation Management Group, which plays an important role in terms of dissemination of standards in Spanish-speaking countries. Indeed, the translation management group determines the list of standards to be translated to Spanish, based on market needs in their countries, and region.

Table 3.3. Participation of Mexican regulators in intergovernmental organisations

	International organisation	Regional organisation	Sector
General Bureau of Standards (DGN)	International Organisation of Standardisation		Standardisation, cross-sectoral
	International Electrotechnical Commission (IEC)		Standardisation, Electrical, electronic and related technologies
	International Telecommunications Union (ITU)		Telecommunications
	Codex Alimentarius		Food safety
	World Health Organisation		Health
CONUEE	International Electrotechnical Commission (IEC)		
		The Pan American Standards Commission (COPANT)	Standardisation, conformity assessment
IFT	International Telecommunication Union (ITU)		
	Internet Governance Forum (IGF)		
	World Summit on the Information Society (WSIS)		
		Organization of American States (OAS) (Inter-American Telecommunication Commission, Comisión Técnica de Telecomunicaciones de Centroamérica	
	World Trade Organization (WTO)		
	Asia-Pacific Economic Cooperation (APEC)		
	OECD		
	Inter-american Development Bank (IADB)		
	Corporación Andina de Fomento-Banco de Desarrollo de América Latina (CAF)		
	International Electrotechnical Commission (IEC)		
SENASICA	World Organisation for Animal Health (OIE)		
	Codex Alimentarius		
	Food and Agriculture Organisation (FAO)		
	WTO (SPS Committee)		
		Asia-Pacific Economic Cooperation (APEC)	

Note: This list is not comprehensive and lists examples of IOs in which Mexican regulators participate directly.
Source: Author's development based on feedback from Mexican authorities.

Mexico in trans-governmental networks of regulators

Trans-governmental networks of regulators (also known as transnational networks, TGNs) have developed in a range of sectors and policy areas to complement the traditional treaty-based intergovernmental organisations. They increasingly take the form of peer-to-peer platforms that make decisions independently from IOs, do not include representatives of states, and, as (OECD, 2013[5]) highlights, operate in the framework of informal or legally non-binding agreements. They facilitate stable, direct interactions among regulators with a flexible structure and a technical focus (Kauffmann and Abbott, Forthcoming[6]).

Mexican regulators actively participate in various such regional and international networks, in sectors as broad as telecommunications, financial services, health and safety, as well as water, pharmaceuticals, audiovisual, consumer protection and nuclear energy (Table 3.4). These activities are decentralised and follow different patterns depending on the sector under consideration. There is limited cross-over of experience across sectors.

Table 3.4. Mexican regulators in selected trans-governmental networks (TGNs) of regulators

	Network	Sector
Regional TGNs	Latin American forum of telecommunications regulators (REGULATEL)	Telecommunications
	Association of Regulatory Entities of Drinking Water and Association of Regulators of Water and Sanitation of the Americas (ADERASA)	Drinking water
	Ibero-American Platform for Regulators of the Audiovisual Sector (PRAI)	Audiovisual sector
	Pan American Network for Drug Regulatory Harmonization	Pharmaceuticals
	Iberoamerican Forum of Consumer Protection Agencies	Consumer Protection
	Ibero-American Forum of Radiological and Nuclear Regulatory Agencies	Radiology and Nuclear Energy
	Berec, Body of European Regulators for Electronic Communications	Electronic Communications
	EMERG, European Mediterranean Regulators Group	Electronic Communications
	EaPeReg (EaP - Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine)	Electronic Communications
	EPRA (European Platform of Regulatory Authorities)	Broadcasting regulators
	ERGA (European Regulator Group for Audiovisual Media Services)	Audiovisual sector
International TGNs	International Competition Network (ICN)	Competition
	Strategic Approach to International Chemicals Management (SAICM)	Chemical Safety
	International Organization of Securities Commissions (IOSCO)	Security markets, derivatives markets, financial markets
	International Association of Insurance Supervisors (IAIS)	Insurance market and industry, financial market
	International Regulators' Forum of Global Offshore Safety (IRF)	Offshore petroleum health & safety regulators
	International Offshore Petroleum Environmental Regulators (IOPER)	Offshore petroleum exploration and production
	Internet Engineering Task Force (IETF)	Internet architecture
	International Institute of Communications (IICOM)	Telecommunications, media and technology industries

Note: This list is not comprehensive and lists examples of TGNs Mexican regulators participate in.
Source: Based on OECD 2017 (unpublished); answers to OECD questionnaire.

At the multilateral level, Mexico contributes to TGNs such as the International Organization of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS), the International Competition Network (ICN), the Strategic Approach to International Chemicals Management (SAICM), to name a few.

At the regional level, Mexican regulators are active in sectoral networks of broader international platforms. These *fora* allow the definition of common position that can be conveyed to broader, international organisations. For example, EMA is part of the Inter-American Accreditation Cooperation (IAAC), which provides a regional hub for accreditation bodies, with strong link back with the International Accreditation Forum (IAF). IFT is a Member of REGULATEL, the Latin American forum of telecommunications regulators, through which it exchanges frequently on regulatory proposals with other members of the forum (see Box 3.7).

Box 3.7. REGULATEL: Latin American forum of telecommunications regulators

REGULATEL has an on-going mechanism for peer to peer consultation, allowing any regulator from the region to submit comments or questions for feedback from other countries. This is a bilateral process, centralised by the REGULATEL Secretariat. Disclosure of the consultations to all members is meant to ensure a multilateral learning process.

Countries may submit consultations to the Secretariat, who forwards them to the relevant contact points in the concerned member countries. The consultation format has the information contact of the applicant, the deadline, a brief of the consultation that explains the reasons to consult, the background context of the topic for the applicant, and a list of questions. In principle, after the consultation process is concluded, the applicant is required to summarise the answers and share the compiled document with all the members for broader information. This last step is however seldom implemented.

Mexico has not used this mechanism yet to consult other the members. However, the IFT has replied to 7 consultation processes in 2017 regarding:

- Users of Telecommunications Services NGOs (by CONATEL, Venezuela)
- Broadband from 2 500 MHz to 2 690 MHz (by SIGET, El Salvador)
- Accessibility Policy and Regulation of OTT Services (by ENACOM Argentina)
- Portability Services (by ATT Bolivia)
- International Relations of Telecom Regulators (by CNMC España)
- Intermodal Number Portability (by CRC Colombia)
- 5th Diagnosis on Users' Protection and Quality of Service (by OSIPTEL, Perú).

Source: Based on information provided by IFT and www.regulatel.org/wordpress/.

Results from IO participation in Mexico

To make the best of Mexico's membership in IOs, the results of discussions within the international fora still need to be shared with regulators at the domestic level. This can be done by the SRE, with its oversight function, by line Ministries or sectoral regulators, or special units based in Mexico who are in charge of monitoring remotely the activities taking place in IOs.

The Ministry of Foreign Affairs obtains information for a certain number of international bodies through the Permanent missions that are based in the cities where the IOs are headquartered. This is the case for instance for the ALADI, the Organisation of American States, the OECD, UNESCO, the United Nations offices in Geneva and New York, or in Vienna, where the mission covers various IOs based in Vienna.

The line ministries or sectoral regulators participating directly in international bodies may use the opportunity of participating in international events to meet with peers from abroad, and establish direct relations in areas of shared interest. In addition, when returning to capital, they are also well placed to inform directly their colleagues with technical expertise and regulatory authority to ensure discussions taking place at the international level are considered when working on domestic regulations.

Finally, the units monitoring IO rules and standards remotely often lack the capacity or resources to conduct a thorough examination of all new developments at the international level. For example, certain authorities have authorities specialised in international relations, without sufficient technical understanding about the issues discussed in the IO they follow.

Overall, there seems to be no systematic relation made by the Ministry of Foreign Affairs to systematically inform the government as a whole of new rules and standards adopted in international bodies, and which regulators are required to consider in their domestic rule-making.

Notes

[1] www.2006-2012.economia.gob.mx/comunidad-negocios/competitividad/cooperacion-regulatoria-mexico-eu; www.economia.gob.mx/files/comunidad_negocios/Convocatoria_Resultados_publicos_20110627.pdf (results of public consultation).

[2] www.gob.mx/se/acciones-y-programas/competitividad-y-normatividad.

[3] www.trade.gov/hlrcc/documents/HLRCC-progress-report-0813.docx.

[4] www.trade.gov/hled/HLEDJointDeclaration-July222016.pdf.

[5] www.gob.mx/sre/prensa/dialogo-economico-de-alto-nivel-entre-mexico-y-estados-unidos?state=published.

[6] www.publicsafety.gc.ca/cnt/rsrcs/pblctns/nml-pndmc-nflnz/index-en.aspx#ab.

[7] NOM-015-ENER-2012 – Energy efficiency in domestic refrigerators and freezers. MEPS and test procedures.

NOM-016-ENER-2016 – Energy efficiency in three-phase motors. MEPS and test procedures.

NOM-021-ENER/SCFI-2017 – Energy efficiency and security in room-type AC. MEPS and test procedures.

NOM-029-ENER-2017 – Energy efficiency in external power supplies. MEPS and test procedures.

[8] After the withdrawal of the United States from the original trade agreement, the text of the TPP will be incorporated in a new agreement between 11 economies, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. The new agreement was signed on 8 March 2018 in Santiago, Chile, after which national ratification procedures should start for each signatory party; http://dfat.gov.au/trade/agreements/tpp/news/Pages/trans-pacific-partnership-ministerial-statement.aspx.

[9] The Additional Protocol to the Framework Agreement of the Pacific Alliance includes for example an Annex on dietary supplements, with provisions on the harmonisation of legal requirements on the processing times and validity of the authorization of dietary supplements. The CPTPP also includes sectoral IRC provisions in Annexes to the Chapter on Technical Barriers to Trade, for example on Wine and Distilled Spirits, Pharmaceuticals, Cosmetics and Medical Devices.

[10] This was done for instance for the US/ Mexico MRA on Telecommunications Equipment.

[11] www.nist.gov/standardsgov/us-mexico-mra.

[12] See list of recognised laboratories www.ift.org.mx/industria/lista-de-laboratorios-de-prueba-de-tercera-parte-extranjeros-reconocidos (accessed 14 May 2018).

[13] www.ic.gc.ca/eic/site/mra-arm.nsf/eng/nj00100.html.

[14] In Mexico, power conditions are not similar to those of other countries. The 127 V +/-10% variation is used.

[15] Note by Turkey:

The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union:

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

[16] www.gob.mx/senasica/prensa/mexico-y-chile-se-colocan-como-punta-de-lanza-en-el-comercio-internacional-de-alimentos-con-el-ecert.

[17] https://aplicaciones.sre.gob.mx/tratados/introduccion.php.

[18] The Mexican portal for requesting information is www.plataformadetransparencia.org.mx/.

[19] www.gob.mx/puertosymarinamercante/acciones-y-programas/memorandas.

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Kauffmann, C. and K. Abbott (Forthcoming), "The contribution of trans-governmental networks of regulators to international", *OECD Regulatory Policy Working Papers*, OECD Publishing, Paris. [6]

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OECD (2013), *International Regulatory Co-operation: Addressing Global Challenges*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264200463-en. [5]

Annex A. Examples of MoUs concluded by Mexico

Signatory authority in Mexico	Title of MoUs	Country of origin of foreign signatory party	Date of conclusion	Sector
Ministry of Communications and transport	Memorándum de Entendimiento sobre Cooperación Técnica en materia de Marina Mercante que Suscriben las Autoridades Marítimas de España y México (No Publicado en el Diario Oficial de la Federación).	Spain	2003	Marine transportation
	Memorándum de Cooperación para intercambiar Información y Experiencias en el Transporte Marítimo de corta distancia, entre las autoridades de Transporte de México, Canadá y los Estados Unidos de America (No Publicado en el Diario Oficial de la Federación).	Canada, United States	2003	Marine transportation
	Memorándum de Entendimiento entre la Secretaria de Comunicaciones y Transportes de los Estados Unidos Mexicanos y el Ministerio de Comunicaciones de la Republica Popular China Sobre la Cooperación en los campos de Transporte Carretero, Marítimo, de Navegación interior y la Construcción de Infraestructura Relacionada (No Publicado en el Diario Oficial de la Federación).	China	2006	Marine transportation
	Memorándum de Entendimiento Sobre Cooperación Técnica entre la Dirección General de Marina Mercante de la Secretaria de Comunicaciones y Transportes de los Estados Unidos Mexicanos y la Organización Marítima Internacional (No Publicado en el Diario Oficial de la Federación).	IMO	2005	Marine transportation
Instituto Federal de Telecomunicaciones (IFT)	Memorandum de Entendimiento en Materia de Cooperación para el Desarrollo de las Telecomunicaciones entre el Organismo Supervisor de Inversión Privada en Telecomunicaciones de la República del Perú y el Instituto Federal de Telecomunicaciones de los Estados Unidos Mexicanos	Peru	2016	Telecommunications

Signatory authority in Mexico	Title of MoUs	Country of origin of foreign signatory party	Date of conclusion	Sector
	Memorandum de Entendimiento entre el Consejo de Audiovisual de Cataluña y el Instituto Federal de Telecomunicaciones de los Estados Unidos Mexicanos sobre temas referentes a comunicación, medios y contenidos audiovisuales	Spain	2016	Telecommunications
	Memorandum de Entendimiento entre el Instituto Federal de Telecomunicaciones de los Estados Unidos Mexicanos y el Ente Nacional de Comunicaciones (ENACOM) de la República Argentina	Argentina	2017	Telecommunications
	Memorandum de Entendimiento entre el Instituto Dominicano de las Telecomunicaciones de la República Dominicana y el Instituto Federal de Telecomunicaciones de los Estados Unidos Mexicanos	Dominican Republic	2017	Telecommunications
Agencia de Seguridad, Energía y Ambiente (ASEA)	Memorandum of Understanding between the Bureau of Safety and Environmental Enforcement of the Department of Interior of the United States of America and the National Agency for Industrial Safety and Environmental Protection of the Hydrocarbons Sector of the Secretariat of the Environment and Natural Resources of the United Mexican States on Co-operation regarding oversight and enforcement of safety and environmental regulations for development of offshore hydrocarbon resources	United States	2016	Energy
COFEMER	Acuerdo de Cooperación para el Fortalecimiento de las Capacidades Institucionales en Materia de Mejora Regulatoria entre la Secretaría de Economía de los Estados Unidos Mexicanos y el Ministerio de Economía, Industria y Comercio de la República de Costa Rica.	Costa Rica		Regulatory improvement
	Acuerdo de Cooperación Técnica para el Fortalecimiento de las Capacidades Institucionales en Materia de Mejora Regulatoria y Simplificación de Trámites entre la Secretaría de Economía de los Estados Unidos mexicanos y la Secretaría Técnica y de Planificación de la Presidencia de la República de El Salvador.	El Salvador		Regulatory improvement
	Memorando de Entendimiento para Fortalecer el Intercambio y Cooperación en Materia de Mejora Regulatoria entre la Secretaría de Economía de los Estados Unidos Mexicanos y la Oficina de Asuntos Legislativos del Consejo de Estados de la República Popular China.	China		Regulatory improvement
	Memorando de Entendimiento entre la Secretaría de Economía de los Estados Unidos Mexicanos y el Ministerio de Leyes y Derechos Humanos de la República de Indonesia sobre Cooperación Técnica para la Creación de Capacidades Institucionales en Reforma Regulatoria.	Indonesia		Regulatory improvement

Signatory authority in Mexico	Title of MoUs	Country of origin of foreign signatory party	Date of conclusion	Sector
	Memorando de Entendimiento para el Fortalecimiento de la Política de Mejora Regulatoria entre la Secretaría de Economía de los Estados Unidos Mexicanos y el Departamento Nacional de Planeación de la República de Colombia.	Colombia		Regulatory improvement
	Memorando de Entendimiento para el Fortalecimiento de la Política de Mejora Regulatoria entre la Secretaría de Economía de los Estados Unidos Mexicanos y la Secretaría Legal y Técnica de la Provincia de Buenos Aires de la República Argentina.	Argentina		Regulatory improvement
Dirección General de Normas		Germany		
		Germany		
		Bolivia		
		Brasil		
		Canada		
	Agreement on Collaboration, joint publication and licencing concluded between Underwriters Laboratories Inc. (“UL”) and the Mexican Bureau of Standards of the Ministry of Economy (“DGN”)	Canada, United States	2017	Standardisation
	Memorándum de Entendimiento entre la Secretaría de Economía de los Estados Unidos Mexicanos y el Instituto de Shangai de Calidad y Normalización de la República Popular China	China	2017	Standardisation
	Memorando de Entendimiento entre la Secretaría de Economía de los Estados Unidos Mexicanos y la Comisión Nacional de Desarrollo y Reforma de la República Popular China sobre Promoción de la Inversión y la Cooperación Industrial	China	2014	Investment and industrial co-operation
		Colombia		
		Costa Rica		
		Ecuador		
		United States		
		United States		
	Memorándum de Entendimiento para la Cooperación Técnica entre la Secretaría de Economía de los Estados Unidos Mexicanos y el Instituto Nacional de Calidad de la República del Perú	Peru	2017	
		Dominican Republic		

Signatory authority in Mexico	Title of MoUs	Country of origin of foreign signatory party	Date of conclusion	Sector
		Singapore		
	Memorando de Entendimiento entre la Secretaría de Economía de los Estados Unidos Mexicanos y el Ministerio de Economía y Competitividad del Reino de España	Spain		

Notes: This table does not reflect a comprehensive view of all MoUs in Mexico. It is aimed at mapping a range of existing MoUs among authorities interviewed for the purpose of this study.
Source: Developed by author based on publically available information gathered through interviews and websites referred to in table.

Annex B. Co-operative non-governmental arrangements between conformity assessment bodies

Agreement	Countries of origin of MRA parties (indicative)	Sectors covered
Terms of reference for the Operational relationship in the trade of meat, poultry and egg products.	United States, Canada	Meat, poultry and egg products
Mutual Recognition Agreement between the National Association for Standardization and Certification of the Electrical Sector AC and the Colombian Institute for Technical Standards and Certification for mutual recognition of the activities of each party for the evaluation and certification of products.	Colombia	Electrics
Mutual Recognition Agreement of Laboratory test results of Electronic Products; Parties: Intertek Testing Services (ITS) of Mexico and Intertek Testing Services NA Inc. USA, Intertek Testing Services NA Ltd. Canada	United States, Canada	Electronics
Mutual Recognition Agreement for acceptance of test results concluded between the National Association of Standardization and Certification, CA (ANCE) and the Canadian Standards Association (CSA).	Canada	N/A
Mutual Recognition Agreement between the National Chamber of the Electronics, Telecommunications and Informatics (CANIETI) and Tuv Rheinland of North America (TUV).	N/A	Electronics, Telecommunications and Informatics
Mutual Recognition Agreement for the acceptance of results regarding conformity assessment in electrical and electronic products entered into by UL de Mexico, SA de CV, and UL International Demko A / S and Underwriters Laboratories Inc.	Denmark, United States	Electrical and electronic products
Mutual Recognition Agreement between the National Association for Standardization and Certification, CA (ANCE) and the Norwegian Institute for Testing and Certification of Electrical Equipment (NEMKO).	Norway	Electrical Equipment
Mutual Recognition Agreement between the National Association for Standardization and Certification, CA (ANCE) and members of the International Certification Network, called IQNet.	N/A	N/A
Mutual Recognition Agreement between Intertek Testing Services (ITS) of Mexico and Intertek Testing Services NA Inc. USA, Intertek Testing Services NA Ltd. Canada, Intertek Testing Services AB Sweden SEMKO, Intertek Testing and Certification Ltd. UK and Intertek Testing Services Hong Kong LTD.	Canada, Hong Kong	N/A
Mutual Recognition Agreement for the acceptance of results regarding conformity assessment concluded between the Testing Laboratory Services Technical Analysis, SA de C.V. and Testing Laboratories of TÜV SÜD PSB Pte Ltd.	Singapore	N/A

Agreement	Countries of origin of MRA parties (indicative)	Sectors covered
Mutual Recognition Agreement between the Association of Standardization and Certification, CA (ANCE), and KEMA Quality, B.V. Holland. The Association for Standardization and Certification, CA Quality and KEMA, BV, entered into this Agreement in order to recognise the results of testing performed by each, in accordance with the terms and conditions set forth in that Agreement.	Holland	Electronics
Mutual Recognition Agreement between the National Chamber of Electronics and Telecommunications Information Technology (CANIETI) located in Mexico and Centre Testing International Corporation (CTi) located in China, in terms of test results Product Safety Branch electrical-electronics.	China	Electronics
Mutual Recognition Agreement between Mexico Labotec, SC (LABOTEC) and TUV Rheinland of North America (TUV), on laboratory product safety test results in the electrical and electronics branches.	N/A	Electronics
Mutual Recognition Agreement between the National Chamber of Electronics and Telecommunications Information Technology (CANIETI) and Nemko Usa, Inc. (Nemko), on laboratory test results of product safety in the electrical and electronics branches	United States	Electronics
Mutual Recognition Agreement between Intertek Testing Services Mexico, SA de C.V. (Intertek ETL Semko Mexico) located in Mexico and Intertek Testing Services NA Inc. (Intertek), located in United States on results of conformity assessment in the electric-electronics industry	United States	Electronics
Renewal of Mutual Recognition Agreement held between the agency Technical Analysis Services SA de C.V. (SEATSA) located in Mexico, and Test Laboratories group of TUV SUD PSB Pte Ltd located in Singapore and the People's Republic of China, for the acceptance of results of conformity assessment in the electric-electronics industry.	Singapore	Electronics
Mutual Recognition Agreement between Intertek Testing Services Mexico, SA de C.V. (Intertek ETL Semko Mexico) located in Mexico, Thailand and Intertek Testing Services Limited. (Intertek) located in Thailand, for the acceptance of results regarding conformity assessment in electrical and electronic products.	Thailand	Electronics
Extension to Mutual Recognition Agreement held between the Association of Standardization and Certification, CA (ANCE) and different certification bodies and their respective laboratories, members of the IECEE CB-Scheme association in the inspection and / or monitoring in the factory and / or warehouse, only for participants in the IECEE CB-FCS members (Full Certification Scheme).	N/A	Electro technical equipment and components
Extension to Mutual Recognition Agreement held between the Colombian Institute for Technical Standards and Certification (ICONTEC) and the Association of Standardization and Certification, CA (ANCE), on test results for electrical products and gas.	Colombia	Electrical products and gas
Extension to Mutual Recognition Agreement held between the Association of Standardization and Certification, CA (ANCE) and DEKRA Certification B.V. Holland, for the acceptance of laboratory test result for electrical appliances and products.	Holland	Electrical appliances and products
Mutual Recognition Agreement between the National Chamber of Electronics and Telecommunications Information Technology (Canieti) and SGS-CSTC Standards Technical Services Co., Ltd., Guangzhou Branch (SGS-CSTC GZ) on test results lab safety.	China	Electronics
Mutual Recognition Agreement between Factual Services, SC (FACTUAL) located in Mexico, and TUV Rheinland of North America Inc. (TUV) located in the United States of America, for the acceptance of results regarding conformity assessment in electrical and electronic products.	United States	Electrical and electronic products
Mutual Recognition Agreement between Standard Technology Union Co., Ltd. (STU) and the Association of Standardization and Certification, CA (ANCE), to conduct safety assessments of products in accordance with national and international standards.	China	N/A
Mutual Recognition Agreement between SGS-CSTC Standards Technical Services Co., Ltd. Guangzhou Branch Testing Center (SGS-GZ) and the Association of Standardization and Certification, CA (ANCE), to conduct safety assessments of products in accordance with national and international standards.	China	N/A

Agreement	Countries of origin of MRA parties (indicative)	Sectors covered
Mutual Recognition Agreement between Vkan Certification & Testing Co., Ltd. (CVC) and the Association of Standardization and Certification, CA (ANCE), to conduct safety assessments of products in accordance with national and international standards.	China	N/A
Mutual Recognition Agreement between Electrosuisse and the Association of Standardization and Certification, CA (ANCE), to conduct safety assessments of products in accordance with national and international standards.	Switzerland	N/A
Mutual Recognition Agreement between TÜV Rheinland de Mexico, SA de C.V. and TÜV Rheinland of North America, Inc., to perform safety assessments of products in accordance with national and international standards.	United States	
Mutual Recognition Agreement held between the Agency Services Technical Analysis, SA de C.V. (SEATSA) and testing laboratories Group TÜV SÜD PSB Pte Ltd., for the acceptance of results regarding conformity assessment in the Electrical-Electronics branch and to add testing laboratories TÜV SÜD Asia Ltd. Taiwan Branch of TÜV SÜD PSB Pte Ltd.	Taiwan	Electrical-Electronics
ANCE with the North Carolina Advanced Energy Corporation Industrial Energy Laboratory	North Carolina, United States	Energy efficiency
ANCE with the Korean Testing Certification (KTC)	Korea	Energy efficiency
Laboratory of the National Chamber of the Electronics Industry of Telecommunications and Information Technologies of Mexico (CANIETI), with the UL. LLC. Lab, from the United States	United States	Energy efficiency

Annex C. Bilateral mutual recognition agreements of professional qualifications

MRA Title	Countries parties to the MRA	Scope of the MRA	Date of entry into force	Weblink
Agreement on Mutual Recognition of Certificate Study Titles And Academic Degrees	China-Mexico	Education	June 2013	www.dof.gob.mx/nota_detalle.php?codigo=5297684&fecha='02'/05/2013
Agreement on Mutual Recognition of Certificate Study Titles And Academic Degrees	Argentina-Government of Mexico	Education	February 2013	www.dof.gob.mx/nota_detalle.php?codigo=5288399&fecha='20'/02/2013
Agreement on Mutual Recognition of Certificate Study Titles And Academic Degrees	Colombia-Mexico	Education	December 1998	www.sincree.sep.gob.mx/work/models/sincree/resource/archivo_pdf/20convmexcolombia3.pdf
Agreement on Mutual Recognition and Revalidation Study of High Education	Cuba-Mexico	Education	December 2013	http://sil.gobernacion.gob.mx/archivos/documentos/2014/04/asun_3106635_20140425_1398462551.pdf
Agreement concerning to the recognition of the Training and Certification of Seafarers for Service on Mexican Vessels between the General Direction of Merchant Marine of the United Mexican States and the Maritime and Port Authority of Singapore. Agreement concerning to the recognition of the Training and Certification of Seafarers for Service in Singapore Vessels between the Maritime and Port Authority of Singapore and the General Direction of Merchant Marine of the United Mexican States	Mexico-Singapore	The present Agreements are for guarantee the mutual recognition of the national certificates under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention, 1978) of the International Maritime Organization (IMO).	16 April 2007	www.sct.gob.mx/fileadmin/cgpmm/u_dgmm/biblioteca/04_convenios/bv0406/bv040601c.pdf www.sct.gob.mx/fileadmin/cgpmm/u_dgmm/biblioteca/04_convenios/bv0406/bv040615c.pdf
Agreement concerning to the Recognition of the Training and Certification of Seafarers for Service on Mexican Vessels between the Panama Maritime Authority and the General Direction of Merchant Marine of the United Mexican States. Agreement concerning to the recognition of the Training and Certification of Seafarers for Service on Mexican Vessels	Mexico-Panama	Training, Certification and Watchkeeping for Seafarers	31 July 2002	www.sct.gob.mx/fileadmin/cgpmm/u_dgmm/biblioteca/04_convenios/bv0406/bv040613c.pdf www.sct.gob.mx/fileadmin/cgpmm/u_dgmm/biblioteca/04_convenios/bv0406/bv040614c.pdf

MRA Title	Countries parties to the MRA	Scope of the MRA	Date of entry into force	Weblink
between the General Direction of Merchant Marine of the United Mexican States and the Panama Maritime Authority				
Agreement concerning to the Recognition of the Training and Certification of Seafarers for Service on Mexican Vessels between the General Direction of Merchant Marine of Spain and the General Direction of Merchant Marine of the United Mexican States. Agreement concerning to the recognition of the Training and Certification of Seafarers for Service on Mexican Vessels between the General Direction of Merchant Marine of the United Mexican States and the General Direction of Merchant Marine of Spain.	Mexico-Spain	Training, Certification and Watchkeeping for Seafarers	30 July 2002	www.sct.gob.mx/fileadmin/cgpmm/u_dgmm/biblioteca/04_convenios/bv0406/bv040612c.pdf www.sct.gob.mx/fileadmin/cgpmm/u_dgmm/biblioteca/04_convenios/bv0406/bv040608c.pdf
Memorandum of Understanding between the Secretariat of Communications and Transportation of the United States of Mexico and the Ministry of Tourism and International Transport of Barbados Concerning the Recognition of the Training and Qualification for Seafarers from Mexico	Mexico-Barbados	Training, Certification and Watchkeeping for Seafarers		https://www.gob.mx/cms/uploads/attachment/file/165843/bv040606c.pdf
Memorandum of Understanding concerning the Recognition of the Training and Certification of Seafarers originating from Mexico between the General Direction of Merchant Marine of the United Mexican States and the Merchant Marine Department of the Ministry of Communications and Labour of the Republic of Cyprus[1]	Cyprus[2]	Training, Certification and Watchkeeping for Seafarers	2004	https://www.gob.mx/cms/uploads/attachment/file/165845/bv040607c.pdf
Memorandum of Understanding concerning the Recognition of the Training and Certification of Seafarers originating from Mexico between the General Direction of Merchant Marine of the United Mexican States and the General Direction of Maritime communications of Indonesia	Indonesia	Training, Certification and Watchkeeping for Seafarers	2003	https://www.gob.mx/cms/uploads/attachment/file/165849/bv040609c.pdf
Memorandum of Understanding concerning the Recognition of the Training and Certification of Seafarers originating from Mexico between the General Direction of Merchant Marine of the United Mexican States and the Maritime Direction, from the Ministry of Trade and Industry of Isle of Man	Isle of Man	Training, Certification and Watchkeeping for Seafarers	2002	https://www.gob.mx/cms/uploads/attachment/file/165851/bv040610c.pdf

MRA Title	Countries parties to the MRA	Scope of the MRA	Date of entry into force	Weblink
Memorandum of Understanding concerning the Recognition of the Training and Certification of Seafarers regarding service on board of ships registered in Marshall Islands between the Bureau of the Maritime Administration in name of the Republic of the Marshall Islands and the General Direction of Merchant Marine of the United Mexican States in name of the Government of Mexico	Marshall Islands	Training, Certification and Watchkeeping for Seafarers	2001	https://www.gob.mx/cms/uploads/attachment/file/165853/bv040611c.pdf
Memorandum of Understanding concerning the Recognition of the Training and Certification of Seafarers regarding service on board of ships registered in Vanuatu between the office of the Maritime Administration in name of the Government of the Republic of Vanuatu and the General Direction of Merchant Marine of the United Mexican States in name of the Government of Mexico	Vanuatu	Training, Certification and Watchkeeping for Seafarers	2001	https://www.gob.mx/cms/uploads/attachment/file/165866/bv040616c.pdf
Memorandum of understanding between the Ministry of Communications and Transport of the United States of Mexico and the Maritime Administration of the General Direction of Maritime Transport of Belgium regarding the recognition of Recognition of the Training and Certification of Seafarers originating from Mexico for service on board of ships registered in Belgium	Belgium	Training, Certification and Watchkeeping for Seafarers	2010	https://www.gob.mx/cms/uploads/attachment/file/165869/bv040617c.pdf
Memorandum of understanding between the Ministry of Communications and Transport of the United States of Mexico and the Commissioner for Maritime Affairs of the Grand Duchy of Luxembourg, regarding the recognition of Training and Certification of Seafarers originating from Mexico for service on board of ships registered in Luxembourg	Luxembourg	Training, Certification and Watchkeeping for Seafarers	2010	https://www.gob.mx/cms/uploads/attachment/file/165871/bv040618c.pdf

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2. See Note 1.

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Review of International Regulatory Co-operation of Mexico

International regulatory co-operation (IRC) represents an important opportunity for countries, and in particular domestic regulators, to consider the impacts of their regulations beyond their borders, expand the evidence for decision-making, learn from the experience of their peers, and develop concerted approaches to challenges that transcend borders. This report provides the first OECD assessment of a country's IRC framework and practices. Mexico's active efforts to embrace globalisation are reflected in many aspects of its domestic policies, practices and institutions. On one hand, it has undertaken unilateral efforts to embed international considerations in its domestic rule-making through regulatory improvement disciplines and with the consideration of international standards in the drafting of technical regulations. On the other hand, the Mexican government and individual regulators also engage extensively in co-operative efforts on regulatory matters, at the bilateral, regional and multilateral level. Based on the overview of Mexico's practices and comparison with other OECD countries, the review recommends three areas for improvement: designing a horizontal government-wide strategy for IRC, enhancing information about the tools and benefits of IRC, and offering the necessary tools to support systematic implementation of IRC.

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