



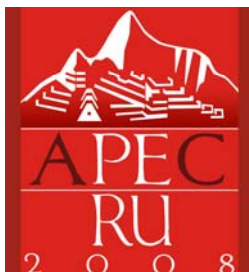
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IAP STUDY REPORT – MEXICO 2008

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EXECUTIVE SUMMARY

Overview

Since the last Mexico APEC IAP Peer Review in 2002, Mexico has made progress towards the Bogor Goals of open and free trade and investment in the Asia-Pacific region. This progress was achieved through a multi-pronged approach towards trade and investment liberalization through multilateral, regional, bilateral and unilateral processes. These processes for liberalization and facilitation have been made in the wake of an economic performance that has been positive overall, and shown progress in the manufacturing and service sectors.

External trade has had an increasingly large impact on Mexico's growth. Between 2002 and 2006, total trade rose from 50.9% to 60.3% of GDP. During this period total exports rose from US\$161 billion to US\$250 billion, suggesting an average growth rate of 11.6%. The deficit in the balance of payments current account has narrowed from US\$7.6 billion to US\$6.1 billion. This deficit represents only 0.7% of GDP. Mexico's balance of payments composition and direction reflect the rapid industrial transformation of the Mexican economy and its steps towards a more open trade and investment regime.

There is a strong and growing surplus with trading partners in NAFTA and other American economies. In contrast, there is a considerable deficit in the balance of trade with Europe (US\$20.6 billion) and Asia (US\$63.5 billion), which has been increasing, especially with China (US\$22.8 billion).

The Mexican economy has continued to attract a flow of Foreign Direct Investment (FDI) that is relatively consistent with its size, and its emphasis on the manufacturing sector. The export sector and FDI continue to be among the main sources of new jobs and made a significant contribution to the growth in formal employment in 2006, as well as allowing payment of substantially more to employees.

Mexico's efforts towards the liberalization of its trade and investment regime are impacted by the competitiveness of different sectors; by its governance and its pursuit of bilateral FTAs.

Mexico is implementing a competitiveness agenda which among other things includes regulatory improvement, trade facilitation and competition policy. Mexico has been undertaking a number of significant reviews of policies and institutions in different sectors with the aim of improving its competitiveness. A number of these changes, proposed or already being undertaken, will also further facilitate trade and investment towards a more non-discriminatory, transparent and open regime. In 2006, the Mexican Congress approved a reform of public finances. In mid-2007 the Mexican Government established the Programa Nacional de Infraestructura – National Infrastructure Programme 2007-2012.

However, the economy faces major challenges to make it more competitive. Much depends on the political consensus in Mexican society, as a number of the reforms proposed will be in sensitive areas.

Mexico has also continued with its open trade and investment policy combining unilateral liberalization, a broadening of benefits under regional and bilateral Free Trade Agreements (FTAs), and the conclusion of further FTAs. Mexico has one of the greatest number of FTAs among APEC member economies. Some 85% of Mexico's trade is now with preferential partners.

While regional and bilateral FTAs can be consistent with the WTO provisions they can increase the complexity of the rules of origin (ROO) and trade distortion, affecting APEC member economies that are not FTA partners with Mexico.

For Mexico, trade with non FTA partners has, however, grown significantly. The challenges raised by a more competitive world environment brought a need to reassess trade policy so as to reduce the costs of inputs required by producers and exporters, particularly where those inputs are from economies with which Mexico does not have an FTA. This reinforces the need for Mexico to proceed with non preferential liberalization in trade and investment as set out in the Bogor goals.

Individual Chapters in Summary

Chapter 1: Tariffs

From 2002 to 2007, Mexico has unilaterally reduced its tariffs to more than half its tariff schedule. By September 2006, Mexico unilaterally reduced its Most Favoured Nation (MFN) tariffs for 6,089 tariff headings, the aim being to reduce the cost of raw materials for the principal industries producing final goods, remove tariff discrepancies and reduce incentives to evade payment of tariffs. The move by Mexico removes tariff discrepancies and reduces incentives to evade payment of tariffs.

On average Mexico can be noted to have quite low tariffs rates and to base its MFN tariffs exclusively on an ad valorem basis, which tends to be more transparent. A truly transparent tariff structure should be uncomplicated and have minimal economic distortions, so that its impact on trade and production patterns is predictable. While the general use of ad valorem duties contributes to Mexico's transparent tariff structure, it is increasingly being reduced by many different regional FTAs which give preferences.

Chapter 2: Non-tariff Measures (NTM)

As tariff rates, both nominal and applied, are declining in APEC economies, it is important that APEC economies give attention and unilaterally reduce non-tariff measures. Compared to its last IAP in 2002, Mexico has made substantial progress Mexico's commitments and rights derived from the WTO or other treaties (SPS, TBT and Article XX, among others) seem to be driving the minimization of NTMs and imposing discipline on those that continue. Most of these improvements have, moreover, normally been extended on an MFN basis, and not only to FTA partners.

Mexico recognizes the need to minimize NTMs as part of its national initiative to cut ‘red tape’ and improve competitiveness. With new rules being made and others abrogated, it would be helpful to have all of these available in English as well as Spanish. Further improvement in maintaining and updating a database in monitoring NTMs and comparing them with other APEC member economies would be helpful.

Chapter 3: Services

Mexico has undertaken progressive liberalization processes in GATS and FTAs. Foreign direct investment (FDI) is welcome in almost all sectors of the economy. Among 754 activities listed in the Catalogue of Economic and Productive Activities, only 17 activities are prohibited from having foreign ownership or control. In services Mexico is still undertaking changes. Improvements implemented since the last IAP have been in telecommunications, broadcasting, tourism and travel-related services, financial services, and natural gas services. Comprehensive reform was undertaken in financial services in order to clarify the banking institutions’ authorization processes and modernize the applicable regime for these institutions. Further improvements planned are limited to telecommunications and natural gas services.

Chapter 4: Investment

Mexico’s investment regime has been characterized by an open economy as described in the “Guide to the Investment Regime of the APEC Member Economies”. In October 2007, Mexico signed an agreement with the Multilateral Investment Guarantee Agency, MIGA. These, in conjunction with the OPIC Agreement signed in 2003, and in force since 2004, are clear messages of the public policy of Mexico which fosters an environment conducive to FDI. However, it is important that Mexico should continue to make progress towards the Bogor goals of free trade and investment, particularly in the area of transparency.

Chapter 5: Standards and Conformance

During the period under review, a number of amendments were made to technical regulations and standards so that national standards should not constitute non tariff measures (NTMs). For technical barriers to trade (TBT) and Sanitary and Phytosanitary Measures (SPS), the economy has aligned standards to relevant WTO disciplines. Mexico has also been active in the APEC SCSC and sub-regional fora, although some members have indicated concerns on agriculture and chemical products. Mexico’s FTAs normally provide chapters on technical standards but are not extended to non-parties. Mutual recognition agreements (MRAs) again are largely limited to FTA partners.

There is a recognized need for future improvements in this area. At present, some 2/3 of Mexican standards comply with international standards. Since 2007, Mexico aims to achieve 90% harmonization with international norms.

Chapter 6: Customs Procedures

Customs procedures set out in the 1997 Customs Law and its Implementing Regulations are based on the principles of the Kyoto Convention, even though Mexico is not a signatory economy. Mexico reports that it will continue to explore the possibility of accession to the Kyoto Convention in the mid-term.

Mexican customs is beginning to construct a single window system. Other measures to enhance trade facilitation are under consideration, such as expediting the clearance of goods at customs, and reducing non-tariff barriers. An automated system for paperless trading is being further developed to allow electronic submission of certain government documents, permits, and certificates.

Judging from the 2007 Individual Action Plan for Mexico, which was submitted to APEC, there was no substantial improvement implemented compared to 2006 IAP. Mexico, however, seems to maintain a sound and very efficient customs regime. Improvement of risk management techniques and enhanced paperless trading, among others, may in fact serve as one of the best practices for other members.

Chapter 7: Intellectual Property Rights (IPR)

Since its last IAP, Mexico has instituted and strengthened laws and administrative procedures on Intellectual Property Rights (IPR). However, in addition to the legal and policy regime for IPR, there is a need to make IPR work at the level of implementation. In this context, customs procedures in Mexico warrant attention. Customs in Mexico can only act against goods that violate IPR where it receives a specific order or complaint against its import.

Chapter 8: Competition Policy

Despite recent reforms, Mexico lags behind in its implementation of competition law. In certain sectors of the economy where there are large capital requirements or because of the existence of large industrial conglomerates, competition is lacking and inefficiency prevails.

The Comision Federal de Competencia (CFC) has been tasked to promote pro-competitive changes to the regulatory framework. The CFC has given attention to key sectors, including: energy, telecoms, transport, air transport, and financial services. But measures available to the CFC remain limited e.g. fines imposed are not large enough to be a deterrent. Measures to increase domestic competition and economic efficiency are necessary before foreign participants can engage fairly in Mexican economic activities.

Chapter 9: Government Procurement

Significant progress has been made over the last few years in developing transparency. The electronic government procurement system COMPRANET, has been improved with a view to making it easier for firms to participate in government tendering processes and to provide a transparent mechanism for informing the public about government procurement processes.

However, there are no plans to change the existing 10% rule in favor of Mexican national goods or to give non-parties access to the benefits given under Mexico's various FTAs.

Chapter 10: Deregulation/ Regulatory Reform

In 2007, there were some notable achievements at specific state level and national level. At the level of specific state reforms, Guanajuato's 2007 Regulatory Reform Law is significant progress. Another achievement is the inclusion of mercantile disputes in an alternative justice system.

However, the willingness of Federal Regulatory Improvement Commission (COFEMER) to exert its optional authority in controversial areas has weakened. In 2003 it waived its right to

issue an opinion on proposals defining the powers of the regulator for the under-performing telecommunications sector. COFEMER also has failed to publicize the fact that no federal department has published its procedures in the federal register. Thus, the powerful new law that automatically repeals any unpublished procedures has not yet been put into effect.

Chapter 11: Implementation of the WTO Obligations and Rules of Origin (ROO)

Mexico applies preferential and non-preferential rules of origin. There have been several amendments and agreements in the existing preferential rules of origin to facilitate flows of merchandise trading among the FTA-participating economies. The amendments and agreements will help to loosen the restrictiveness of Mexico's preferential rules of origin.

Considering the number of FTAs signed by Mexico and preferential rules of origin in each FTA, the variety and complexity of determining the economy of origin have been dramatically increased.

Chapter 12: Dispute Mediation

Mexico has emphasized dispute settlement processes through Bilateral Investment Treaties (BITs), FTAs, and the WTO. No substantive changes or further progress is seen in this area.

Chapter 13: Mobility of Business People

Mexico has worked to start the ABTC program, and although it is not fully implemented it has preauthorized more than 40,000 ABTC cards, has given special training to its airport migration officers and already has special ABTC lines at the most important international airports. In July 2008, President Felipe Calderon formally announced that México will join the ABTC program in late 2008.

Chapter 14: FTAs/RTAs

Mexico's approach to this issue has been consistent to the WTO rules and regulations. However, the main issue is the accelerating pace of Mexico's approach to liberalize and de-regulate its economy through FTA frameworks that would enhance discrimination, non-transparency and distortion to non-FTA economies. The overlapping, duplication and complexity of Mexican FTAs might have negative implications for non-FTA APEC economies as have been indicated in APEC IAP reviews and assessments.

In addition, while FTAs are not contemplated in a number of cases, other APEC economies will be engaged though structured dialogues and joint expert groups. Bilateral FTAs, however, will remain the mainstay of its policy.

Chapter 15: E-Commerce

E-commerce in Mexico has grown significantly over the past four years as Internet penetration has matured in the market. Mexico has made impressive progress toward improving connectivity and the vitality of E-commerce. The Mexican government needs to make further efforts and actions to ensure the transparency of transactions in E-commerce for consumer protection and data privacy.

Conclusion

Among the APEC member economies, Mexico is a relatively open economy. However, much of the impetus for liberalization has come from the WTO and bilateral FTAs. As WTO has

lost momentum, FTAs have led to differentiation between Mexico's FTA partners and non partners.

Steps to speed up productivity growth are necessary. These would include policies to increase competition in the domestic market. Further structural reforms would contribute to reducing bottlenecks in areas such as energy, telecommunications and transport. In addition, it is important to rationalize Mexico's MFN tariffs and those in special fiscal regimes. A number of barriers to more liberal and transparent regimes for trade and investment persist. Further efforts are also needed in competition policy and in opening up key sectors for competition.

It would be more effective for Mexico and its relationships with other APEC economies if it could move forward towards the Bogor Goals through non-discriminatory, transparent and MFN regimes.

1. INTRODUCTION: GENERAL ISSUES

Since the last Mexico APEC IAP Peer Review in 2002, Mexico has made progress towards the Bogor Goals of open and free trade and investment in the Asia-Pacific region. This progress was achieved through multi-pronged approach towards trade and investment liberalization through multilateral, regional, bilateral and unilateral processes. These processes for liberalization and facilitation have been made in the wake of an economic performance that has been positive overall, and shown progress in the manufacturing and service sectors.

Economic Situation

Since 2002, the Mexican economy has returned to sustained growth. Between 2002 and 2005 annual growth in Gross Domestic Product (GDP) increased from 0.8% to 2.8%. In 2006, Mexican GDP grew by 4.8%. Oil and non-oil exports have increased in hand with higher receipts from family remittances from Mexicans working abroad.

During the period under review, prudent fiscal management has resulted in progressive consolidation of the public sector budget. Public debt has shrunk as a percentage of GDP. Measures are also being taken to diversify public sector's revenue increasing reliance of oil revenue through expansion in the industrial and service sectors. Mexico has been successfully implementing an inflation-targeting regime by maintaining inflationary expectation around 3 per cent, while lending to the private sector has increased.

Nevertheless, challenges remain for Mexico's general economic conditions. Not least, per capital income has risen only modestly and alleviating poverty remains a challenge for the government, especially in some areas of the economy.

Trade

External trade has had an increasingly large impact on Mexico's growth. Between 2002 and 2006, total trade rose from 50.9% to 60.3% of GDP. During this period total exports rose from US\$161 billion to US\$250 billion, suggesting an average growth rate of 11.6%.

In addition to oil production, the sectors where exports performed best were (1) the automotive sector (average annual growth of 15.6%); (2) steel and mineral-metallurgy industries (30.5%); and (3) the chemicals and plastics industries (14.7%). By contrast, exports in the textiles industry fell over the period from UA\$11 billion in 2002 to US\$9.3 billion in 2006 (representing some minus 4.2% fall). The proportion of exports from Mexico represented by the maquiladora (in-bond) industry has remained steady at 48% in the period 2002-2006.

The principal exporting sectors in 2006 were electrical and electronic equipment and devices (US\$56.3 billion); the automotive industry (US\$53.1 billion); exports of crude oil (US\$34.7 billion); special equipment and machinery for various industries (US\$27.8 billion); and the textile and footwear industry (US\$8.9 billion).

As for imports, for 2006, they comprised principally electrical and electronic equipment and devices (US\$55.9 billion); special equipment and machinery for various industries (US\$36.2

billion); products for the chemicals and plastics industry (US\$32.4 billion); and products for the automotive industry (US\$31.3 billion). The composition of imports by target that year was 14.4% final consumer goods, 73.6% intermediate goods and 11.9% capital goods.

Looking at Mexico's external account, the deficit in the balance of payments current account has narrowed, despite a growing deficit in the balance of trade in services. Changes in the balance of payments composition and direction reflect rapid industrial transformation of the Mexican economy and its steps towards a more open trade and investment regime. The deficit in Mexico's trade balance experienced a slight reduction during the period 2002-2006 and fell from US\$7.6 billion to US\$6.1 billion. This deficit represents only 0.7% of GDP.

This is due to a strong and growing surplus with trading partners in NAFTA (US\$79.3 billion in 2006) and a near balance in trade with the other economies of the American continent (a deficit of US\$1.2 billion in 2006) whereas there is a considerable deficit in the balance of trade with Europe (US\$20.6 billion) and Asia (US\$63.5 billion). Mexico's trade deficit with Asia, and especially trade with China (US\$22.8 billion), has been increasing. China has for some years been the second-ranking supplier of goods to Mexico and has the largest bilateral trade deficit.

Where trade in services is concerned, receipts obtained from non-factor services grew at an average annual rate of 6.4% between 2002 and 2006, and stood at US\$16.2 billion in 2006. At the same time expenditure under this heading grew at an average annual rate of 7.4 per cent to stand at US\$22.3 billion in 2006. Thus, the deficit in trade in non-factor services fell to US\$6.1 billion.

In investment, the Mexican economy attracted flows of Foreign Direct Investment (FDI) totalling US\$23.048 mmd in 2002, US\$16.59 mmd in 2003, US\$22.88 mmd in 2004, US\$20.94 mmd in 2005 and US\$19.29 mmd in 2006. The composition of FDI by target in 2002 was 38% to the manufacturing sector, 29% to financial services and 15% to the transport and communications sector (the remainder went to other sectors, including trade). The corresponding figures for 2006 were 49% to the manufacturing sector, 24% to financial services and 4% to transport and communications.

The export sector and FDI continue to be among the main sources of new jobs and made a significant contribution to the growth in formal employment in 2006 (the number of members of the *Instituto Mexicano del Seguro Social* (Mexican Social Security Institute) rose by 6.24%). Overall, jobs related to export activities pay 37% more than the rest of the economy and maquiladora (in-bond assembly) plants pay 3.5 times the Mexican minimum wage.

Specific Policies that Impact Liberalization

There are specific policies that impact Mexico's efforts towards the liberalization of its trade and investment regime. Two major policies relate to (1) competitiveness and governance in different sectors; and (2) its pursuit of bilateral FTAs. A number of observations are made below on these two policy areas.

(1) Competitiveness

In the period under review, Mexico has been undertaking a number of significant reviews of policies and institutions in different sectors with the aim of improving its competitiveness. A number of these changes, proposed or already being undertaken, will also further facilitate trade and investment towards a more non discriminatory, transparent and open regime.

In 2006, the Mexican Congress approved a reform of the public finances. The reform is based on four pillars: (1) more effective tax administration; (2) more efficient and transparent public spending; (3) better management through fiscal federalism; and (4) diversifying government revenue beyond oil revenues.

In mid-2007 the Mexican Government established the *Programa Nacional de Infraestructura* – National Infrastructure Programme 2007-2012. This lays down the objectives, targets and measures which the Federal Government will promote to increase coverage, quality and competitiveness in this sector, which is of strategic importance to national development. The programme takes up the challenge of constructing a sound, modern and extensive infrastructure, supporting increased investment and mapping out measures for the long-term. Priority is being given to complete structural reforms in various sectors such as education, energy and telecommunications.

The government in Mexico is planning these measures to offset a less favourable global environment in the coming years, the result of the projected slowdown in the economies of its principal trading partners and greater instability in world financial markets. To that end, Mexico is implementing a competitiveness agenda which among other things includes aspects relating to regulatory improvement, trade facilitation and competition policy.

However, the economy faces major challenges to make it more competitive. Much depends on the political consensus in Mexican society, as a number of the reforms proposed will be in sensitive areas. For instance, reforms to the energy sector in Mexico, which is constitutionally considered a strategic activity reserved for the Nation,¹ have been loudly and visibly resisted by some political opposition.

(2) FTA Strategies

Since its last IAP Review, Mexico has continued with its open trade and investment policy combining unilateral liberalization, a broadening of benefits under regional and bilateral Free Trade Agreements (FTAs), and the conclusion of further FTAs. Mexico, like a number of other APEC economies, has undertaken and concluded a number of regional and bilateral agreements which vary in coverage and rules. The Mexican government takes the view that these regional and bilateral FTAs are consistent with the WTO provisions and complement them to promote greater multilateral liberalization.

¹According to Article 28 of the Mexican Constitution, the activities that the State exercises exclusively in the following strategic areas will not constitute monopolies: post office, telegraphs and radiotelegraphy; petroleum and other hydrocarbons; basic petrochemical; radioactive minerals and nuclear power generation; electricity and the activities specifically indicated in the laws issued by the Congress.

Mexico is one of the WTO Members with the greatest number of FTAs: it has a network of 12 which afford it preferential access to over a billion consumers in 44 economies, including nearly all its major trading partners and representing about 75% of world GDP. Some 85% of Mexico's trade is now with preferential partners.

In 2002, Mexico had FTAs with the following Members: United States and Canada (1994); Colombia and Venezuela (1995); Bolivia (1995); Costa Rica (1995); Nicaragua (1998); Chile (1999), Israel (2000); the European Union (2000); the "Northern Triangle" with Guatemala, Honduras and El Salvador (2001); the European Free Trade Association (EFTA) with Iceland, Norway, Liechtenstein and Switzerland (2001). Between 2002 and 2006 two new FTAs entered into force: with Uruguay (2004), and Japan (2005). Venezuela gave notice of termination of its FTA with Mexico on 22 May 2006 and that notice took effect 180 days following its communication (on 19 November 2006). Mexico is currently in negotiations to adjust and extend an FTA with Colombia and to develop FTAs with Korea and Peru.

The Mexican government takes the view that the trade agreements which have been negotiated have opened up markets for Mexican exports and have increased Mexico's attractiveness for investment, by affording greater certainty for economic agents, including exporters, investors and consumers.

However, regional and bilateral FTAs have increased the complexity of the rules of origin (ROO) and trade distortion, at least in the short-run. Notwithstanding this, trade in inputs from non preferential economies has increased.

In the period 2002-2006 Mexico continued to open up its trade both unilaterally and under regional agreements. The challenges raised by a more competitive world environment brought a need to reassess trade policy so as to reduce the costs of inputs required by producers and exporters, particularly where those inputs are from economies with which Mexico does not have an FTA. Furthermore, the WTO Member economies with which Mexico does not have an FTA are precisely the ones whose economies have grown the most and will continue to grow. To that end, on 2006 Mexico unilaterally reduced its Most Favoured Nation (MFN) tariffs for 6,089 tariff headings, the aim being to reduce the cost of raw materials for the principal industries producing final goods, remove tariff discrepancies and reduce incentives to evade payment of tariffs. In the vast majority of cases the reduction in the tariff ranged from about 30 to 33 per cent.

It would be more effective for Mexico and its relationships with other APEC economies if it could move forward towards the Bogor Goals through non-discriminatory, transparent and MFN regimes. This is especially since Mexico has actively participated in the WTO process and has a strong interest in moving forward to achieve an increasingly non-discriminatory and liberal multilateral trading system in most of the important topics covered in the APEC IAP Review.

General Comments

Mexico's broad approach to trade and investment liberalization has advanced to meet the Bogor Goals by 2020 through its own economic interests to achieve free and open trade and

investment if its APEC major trading partners are equally committed to achieve the Bogor Goals.

Steps to speed up productivity growth are necessary. These would include policies to increase competition in the domestic market. Further structural reforms would contribute to reducing bottlenecks in areas such as energy, telecommunications and transport. In addition, it is important to rationalize Mexico's MFN tariffs and those in special fiscal regimes. A number of barriers to a more liberal and transparent regime for trade and investment persist. Further efforts are also needed in competition policy and in opening up sectors for competition.

Resolving these long-standing structural and policy issues would go a long way for Mexico to take advantage of the significant progress attained in order to accelerate growth and to reduce poverty and income inequality.

It is difficult to assess at this stage the extent to which regional liberalization in Mexico will contribute in future to the APEC objectives. However, in many areas, such as foreign investment, services, standards and de-regulation, and Intellectual Property Rights (IPRs), evidence suggests that regional initiatives tend to have had a strong liberalizing impact on Mexico's general trade and investment policies. This is especially so when combined with national initiatives to increase Mexico's competitiveness into the future.

The origin of the goods imported by Mexico has diversified considerably, with the leading source, the United States, dropping from 67.7 per cent in 2001 to 51.1 per cent in 2006. Although the share of other economies on the American continent and in the European Communities grew from 2001 to 2006, the share accounted for by Asian economies expanded faster. Imports from China and the Republic of Korea, in particular, grew at an average nominal rate of 43 per cent and 25 per cent, respectively, during that period. Imports from China are mainly concentrated in product groups corresponding to telecommunications and office parts and equipment, and other electrical machinery. The authorities have pointed out that most of these represent intermediate inputs that enhance the competitiveness of the Mexican production sector.

2. ASSESSMENT OF MEXICO'S IAP: SPECIFIC CHAPTERS

Chapter 1: Tariffs

Objectives

APEC economies will achieve free and open trade in the Asia-Pacific region by

- a. progressive reduction of tariffs until the Bogor goals are fully achieved and*
- b. ensuring the transparency of APEC economies' respective tariff regimes*

Achievements since last IAP

Since its last review in 2002, Mexico has continued with the gradual and unilateral liberalization of its trade regime. It has also concluded a considerable number of new free trade agreements, conducting around 85 per cent of its trade with preferential partners. The main feature in Mexico's tariff structure has been the continued reduction in applied tariffs on

a regional basis under Mexico's expanding network of FTAs. Mexico's tariff reductions have increasingly focused on regional initiatives.

However, notable tariff reductions have also been undertaken on a multilateral, non discriminatory basis. Mexico increasingly recognizes that it needs to improve its competitiveness by reducing the costs of inputs that its producers and exporters require from economies with which Mexico does not have an FTA. It has therefore sought to supplement its FTAs with a general policy to support trade openness at the multilateral level.

From 2002 to 2007, Mexico has unilaterally reduced its tariffs to more than half its tariff schedule. By September 2006, Mexico unilaterally reduced its Most Favoured Nation (MFN) tariffs for 6,089 tariff headings, the aim being to reduce the cost of raw materials for the principal industries producing final goods, remove tariff discrepancies and reduce incentives to evade payment of tariffs. In the vast majority of cases the reduction in the tariff ranged from about 30 to 33 per cent. The objective of these tariff reductions is to reduce the costs of raw materials for Mexican producers, especially the principal, maquiladora industries, that produce final goods in the economy. The move by Mexico removes tariff discrepancies and reduces incentives to evade payment of tariffs.

The MFN measures undertaken reduce the costs for inputs required by producers and exporters, where those inputs come from economies with which Mexico does not have an FTA. This is an emerging pattern of trade in a number of Mexican industries; for example, in its trade with China.

While regional liberalization may well facilitate Mexico's progress towards achieving the Bogor Goals, it will do so only when such initiatives are extended to all trading partners multilaterally. For that reason, the challenges raised by a more competitive business environment brought a need for Mexico to undertake these MFN reductions in tariffs alongside those negotiated in its FTAs.

Another significant achievement was the implementation of the Import and Export Tariff Law and a Harmonized System of Tariffs. These measures are consistent with APEC Leaders' Transparency Standards on Market Access. In this sense, Mexico has created the Integral System of Information on External Trade (SIICEX), which gathers and freely offers information related to trade, including transparency; MFN; competitiveness; statistics; tariffs; a virtual library on standards and regulations; and a news bulletin.

Assessment

On average Mexico can be noted to have quite low tariff rates and to base its MFN tariffs exclusively on an ad valorem basis, which tends to be more transparent. A truly transparent tariff structure should be uncomplicated and have minimal economic distortions, so that its impact on trade and production patterns is predictable. While the general use of ad valorem duties contributes to Mexico's transparent tariff structure, it is increasingly being reduced by many different regional tariffs across partners. The FTAs also impact a number of other areas reviewed, such as Rules of Origin.

Mexico is negotiating FTAs with Peru and The Republic of Korea. It is also a notable trend in most bilateral FTAs that they are reviewed over some time with the aim of further improving

their terms. As such, Mexico should continue in tandem to review tariffs on an MFN basis so as to manage the differences in its tariffs (and other terms of trade) between FTA and non-FTA economies. If not, the development of a non discriminatory system for open and free trade may be hindered. Further tariff reductions on an MFN basis could both benefit from and contribute to Mexico's efforts to improve its competitiveness.

We understand however that while this need is recognized by the Mexican authorities, there is a concurrent need to consult with different sectors that stand to be affected by further tariff reductions. There is no fixed procedure or time frame for such consultations. Moreover, Mexico is actively negotiating further tariff reductions in the WTO and the Doha Development round.

Chapter 2: Non-tariff Measures (NTM)

Objectives

APEC economies will achieve free and open trade in the Asia-Pacific region by

- a. progressively reducing NTMs to the maximum extent possible to minimize possible distortion to trade*
- b. in respect to WTO members- elimination of any measures inconsistent to WTO agreements and full compliance with WTO agreements*
- c. ensuring the transparency of APEC economies' respective non-tariff measures*

Achievements since last IAP

Compared to its last IAP in 2002, Mexico has made substantial progress on this chapter. Mexico's commitments and rights derived from the WTO or other treaties (SPS, TBT and Article XX, among others) seem to be driving the minimization of NTMs and imposing discipline on those that continue. Most of these improvements have, moreover, normally been extended on an MFN basis, and not only to FTA partners.

Mexico recognizes the need to minimize NTMs as part of its national initiative to cut 'red tape' and improve competitiveness. One notable initiative is a Presidential Decree to eliminate sureties related with the existing system of "precios estimados".

This system used an estimated price on all imports of certain goods in respect of which under-evaluation has been detected, using a data base on international prices elaborated on the basis of trade data and specialized publications, among other sources. The value declared by the importer is not rejected, but he is allowed to withdraw his goods from the customs upon presentation of a surety. Importers were thus required to provide a deposit, credit line, collateral, pledge, securities or a letter of credit sufficient to cover the payment of the duties to which such goods may finally be subject, while investigations were undertaken (which could take three months). Such a system, while not unknown, could affect importers as a non tariff barrier since estimated prices are not officially established minimum values. We understand that sureties have been eliminated in April 2008 except for used vehicles.

Another initiative by Mexico removes the need for importers to have prior registration. Mexico has streamlined its licensing requirements for importers. This is now required for only some of its tariff lines. Import licensing requirements are moreover published on-line.

Assessment

As tariff rates, both nominal and applied, are declining in APEC economies, it is important that APEC economies give attention to and unilaterally reduce non-tariff measures. Further improvement in maintaining and updating a database in monitoring NTMs and comparing them with other APEC member economies would be helpful. Mexico has maintained and published NTMs on a regular basis and made them available in a website (please refer to www.sicex.gob.mx). With new rules being made and others abrogated, it would be helpful to have all of these available in English as well as Spanish.

It was suggested also that Mexico constantly monitors the different trade regimes and instruments with a view to simplifying their administration which may reduce the distortion effects to non FTA economies.

Chapter 3: Services

Objectives

APEC economies, in accordance with the APEC Policy Framework for Work on Services, will achieve free and open trade and investment in the Asia-Pacific region by:

- (a) *progressively reducing restrictions on market access for trade in services*
- (b) *progressively providing for inter-alia most favored nation (MFN) treatment and national treatment for trade in services*
- (c) *providing, in regulated sectors, for the fair and transparent development, adoption and application of regulations and regulatory procedures for trade in services; and*
- (d) *recognising the role that e-commerce plays in the supply and consumption of services.*

Overview

Mexican policy on services has been characterized by a progressive liberalization process as shown by the Mexican commitments in GATS and free trade agreements (FTAs). Mexico has signed FTAs with the US, Canada, Colombia, Bolivia, Costa Rica, Nicaragua, Guatemala, Honduras, El Salvador, Chile, the European Union, EFTA, Uruguay, and Japan. In each, specific rules for services liberalization have been included.

Foreign direct investment (FDI) was welcomed in almost all sectors of the economy. Among 754 activities listed in the Catalogue of Economic and Productive Activities, only 17 activities are prohibited from having foreign ownership or control. The foreign investment law was amended in 1998, 1999, and 2001 in order to provide the foreign investor with greater certainty and transparency.

Regarding implementation of the APEC Leaders' Transparency Standards on Services, the Mexican government issued the Federal Transparency and Access to Public Government Information Law in June 2002. In this context, ministries have published in their websites the complete laws, regulations, and administrative procedures related to applications for licenses or authorizations, including, inter-alia, licensing procedures and requirements, qualification procedures and requirements, and technical standards in such a manner to enable interested persons and other economies to become acquainted with them.

Mexico's Offers on Trade in Services in the Doha Round

Mexico's Initial Offer in June 2003 and Revised Offer in August 2005 covers comprehensive sectors such as Business Services, Communication Services, Construction Services, Distribution Services, Education Services, Financial Services, Health Services, Tourism and Travel-Related Services, Recreational, Cultural and Sporting Services, Transport Services, etc. They achieved a good level of commitment, representing Mexico's proactive position on progressive service trade liberalization in the WTO's Doha Round.

Improvements Implemented since last IAP

For most of the services listed, there have been no improvements since the last IAP and no further improvements planned in respect to operational requirements, licensing and qualification requirements of service providers, foreign entry, and discriminatory treatment/MFN.

Mexico is still undertaking a regulatory reform and revision in telecommunications and broadcasting sectors aiming to develop an efficient and competitive market.

Particularly, the Federal Telecommunication Commission (COFETEL) has been doing considerable progress in the following key issues.

- Criterion about Resellers
- Number Portability
- Consolidation of Local Service Areas
- Technical Interconnection Plan
- Spectrum Auctions

Criterion about Resellers

In the past, the assignment of permits to resell telecommunication services was subject to the emission of the particular service's regulation.

In due course, reseller permits were only granted to the services that had a regulation in force, such as Public Telephony and long distance services, as well as those relative to satellite land transmitting stations.

COFETEL's Plenary issued a criterion that considers that if the Law submits the reseller's operations to specific regulation that could be eventually enforced, this does not limit or inhibit the issuance of the permit itself.

The Law clearly establishes the requirements to obtain a permit to commercialize telecommunication services. Therefore, if an interested party complies with these requirements, he should be entitled to obtain it.

In practice, for the assignment of reselling permits according to the legal mandate, COFETEL issues an opinion to the Ministry of Communications and Transportations (SCT) which in turn issues the permit to the applicant. Hence, this criterion implies that COFETEL would issue a favorable opinion to those applications which fulfill the requirements established in the Federal Telecommunications Law.

COFETEL considers that this measure is a first step to favour the entry of new players in a convergent environment, which can increase the supply of telecommunication services to the benefit of users.

Number Portability

- The instrumentation of this measure implies the fulfilment of different actions that are necessary to translate telephone number Portability into a reality for the user.
- Therefore, in the Portability Resolution issued by COFETEL in May 2007, a calendar was established for Portability implementation. The schedule considers the installation of a Technical Committee for Portability, the elaboration of Technical Specifications, Business Rules and the hiring of an Administrator of the Portability Administrative Data Base.

The measures have been accomplished in accordance with the calendar. The Technical Committee for Portability meets on a regular basis; the Technical Specifications are near to concluding this process of regulatory improvement.

Therefore, it is expected that Portability will be a reality for users in July 2008, Mexico will become the first economy in Latin-America to implement Portability for fixed and mobile numbers.

Consolidation of Local Service Areas

Before starting the consolidation, Mexico counted 1,464 local service areas (ASL), for which calls between them involved a long distance fee. In a first consolidation, they were reduced to 397 ASL and this trend continues, to the benefit of resident users.

- In 2006 and in accordance with continuing requests for consolidation, the Plenary issued Guidelines that determine the general features that should be complied for the modification of the local service areas and also establishes the procedure for filing requests.
- The Commission is working on a new consolidation that implies the reduction of 70 ASL's and is still analyzing some further requests that will imply a substantive reduction of long distance destinations in Mexico.

The modification of the definition of ASL is a process that initiates with a request from authorities, users, non-governmental organizations, license holders, etc. This process is of public interest since it improves competition between the telecommunication services providers, and generates direct benefits to the users due to the reduction of tariffs that Mexicans used to pay for a long distance service.

Technical Interconnection Plan

- COFETEL submitted a proposal of the Technical Interconnection Plan to a first public consultation. In this first phase, there were contributions from license holders, users, manufacturers and service providers, which helped to improve COFETEL's proposal with the ideas and opinions given with complete freedom by interested parties.
- Therefore, COFETEL started a second phase of the public consultation on the Technical Interconnection and Interoperability Plan that allowed to know and to evaluate the opinions of interested parties on the second version of the document that already included comments and contributions of several interested parties.

COFETEL started the regulatory improvement process with a version of the Technical Plan which had been modified according to the contributions of the first and second phases of the public consultations. Currently, COFEMER issued a Ruling that contains many observations on the mentioned Technical Plan, those observations are being attended by COFETEL.

With an efficient interconnection and interoperability, the value of all the available infrastructure will increase, since the possible universe of net receivers will be substantially increased by adding the subscribers of another, and therefore, for all connected users, there will be an increased communication possibility by multiplying the connection possibilities.

Spectrum Auctions

On June 20th, 2007 COFETEL issued a Resolution by means of which several frequency bands were submitted to approval of the Ministry of Communications and Transportation.

On October 18th, 2007 the Ministry of Communications and Transportations Published the Auction Program in the Official Gazette.

On March 31st, 2008, the allocation of frequency bands of 410-430 MHz was published in the Official Gazette.

Finally, major changes in Mexican regulatory authority's responsibilities are clearly reflected through the progress that COFETEL has shown in nodal issues for the development of this sector. The current legal and institutional framework provides useful tools for the performance of the regulatory entity, particularly through a greater autonomy derived from the fixed and staggered terms of the Commissioners; a better accountability through the presentation of an Annual Report; open consultation procedures with the industry for all the regulatory instruments issued by COFETEL; and last but not least, the inclusion of Broadcasting power to COFETEL.

Other changes were for the following services:

- ***Tourism and travel related services:*** Main improvements :
As of 2006, those tourists that enter into Mexican territory by road would enjoy exemption of the National Document of Identity payment if the period of stay is not

longer than seven days.

- Since 2004 Value Added Tax exemption for International Meetings and Exhibitions.
- October 2006 was published the Third Resolution of Modifications to the Rules of General Character as regards Foreign Trade for 2005, through which are simplified, among others, the transactions for the temporary import of vehicles.
- These Rules provide that foreigners or Mexican residents abroad will be able to temporarily import vehicles for any one of the following procedures:
 - Procedure in specific modules in entrance customs to national territory.
 - Procedure in specific modules in Mexican Consulates in the United States of America.
 - Procedure in specific modules in internet, through the following electronic pages of the Agencia General de Aduanas or BANJERCITO www.aduanas.gob.mx and www.banjercito.com.mx; for Mexican residents abroad, or foreigners with tourist's migratory quality.
- Also, there are 12 Mexican Consulates at the moment, that have specific powers to carry out this procedure of temporary internment of vehicles, they are in Chicago, Illinois; Austin, Dallas and Houston, Texas; San Francisco, Los Angeles, San Bernardino and Sacramento, California; Albuquerque, New Mexico; Denver, Colorado; St. Paul, Minnesota and in Phoenix, Arizona, in the United States of America.

Facilitation of the procedures for the import of tourist craft.

- October 2005 saw publication of the Third Resolution of Modifications to the Rules of General Character as regards Foreign Trade for 2005, through which the steps are simplified for importation of tourist craft
- These Rules provide that foreigners or Mexican residents abroad will be able to carry out the process of temporary import of a single pleasure boat or sport, yacht or sailing ship, of more than four and half length meters, by means the application of the "Permiso de Importación Temporal de Embarcación" for any one of the following procedures:
 - Procedure in specific modules in entrance customs to national territory.
 - Procedure in specific modules in Mexican Consulates in the United States of America.
 - Procedure in specific modules in internet, through the following electronic pages of the Agencia General de Aduanas or BANJERCITO, www.aduanas.gob.mx and www.banjercito.com.mx for Mexican residents abroad or foreigners with tourist's permit..
 - The term of the temporary import of the craft will be 10 years; starting from the date of registration of the "Permiso de Importación Temporal de Embarcación".

Refund value add tax to foreign tourists

- Article 31 of the Mexican *Law for Value Added Tax(VAT)*, was reformed to allow refunds of VAT for foreign tourists. This was expected to take effect in July 2008.
- On January 17th, 2006 the reform of article 74 of the Federal Labor Law was published, in which “Long Weekends” were established.
- The benefit of 0-percent VAT for the services of western movies contracted by foreign residents was ratified for 2006.
- Now the procedures of requesting permission for sport fishing can be made by Internet and payment can be done directly at the bank or by its web page.
- On July 3th of 2006 were published the operation rules for the return of VAT for shopping of foreign tourists.
- On November 14, 2006, were published in the official site www.sat.gob.mx, the basis of granting VAT refunds to the foreign tourist. According to the General Law of Population, that refund can be claimed only by tourists returning to their home economies by air or sea transportation.
- On December 4, 2006 a decree was published in the Federal Official Gazette (DOF) to amend, add, and repeal various provisions of regulations for Income Tax Law. These reforms have seen an advance in regulatory improvement for the tourist sector, every time that were elevated to level of Regulation the rules established through the Miscellaneous Tax Resolution for 2006, in order to the rate 0% of applicable VAT to the hotel trade services, as well as, those of food and beverages, lent foreign tourists that enter to the economy to participate in congresses, conventions, expositions and fairs.

To reduce the number of procedures for the entrance of tourism vessels to the economy:

- Possibility of carrying out the whole procedure for the temporary importation of the vehicle and its tows on the Internet at:
http://www.banjercito.com/htm/permisos_vehiculos.htm. The first adjustment refers to the permits for temporary importation with multiple entries and departures, valid for one year since the first entry.
- There are also facilities for the temporary importation and substitution of spare parts for the ships.

To reduce the procedures for entrance of private planes

- The Aeronautic Civil Law, in which it is authorized that foreign pilots fly private planes, after having previously validated their license.
- The Ministry of Communications and Transportation publishes all the information on the Internet.
- For Tourism and Travel Related Services all procedures, requirements and regulations are now available at <http://www.sectur.gob.mx>.

In the first half of 2007, the Ministry of Tourism was due to establish a new mechanism whereby businesses will be able to apply for all federal permits to operate at a “Single Window” located at the Ministry’s headquarters. The Rapid Tourism Business Start-up System (Sistema de Apertura Rápida de Empresas Turísticas), is designed in order to reduce administrative procedures, and it should take no longer than 72 hours to issue a federal permit once an application has been received.

- **Energy services natural gas:** In December 2007, CRE issued a new regulation regarding transport, storage, and distribution tariffs. The new regulation is based on an incentive scheme. The average per unit revenue concept, however, is eliminated, and maximum limits for each tariff were substituted.
- **Financial services:** The main improvements were carried out in the following areas:
 - By means of a comprehensive reform to the Credit Institutions Law and other financial provisions enacted on February 1st, 2008, limited licenses for banks and other important changes were introduced in order to provide a legal framework that promotes greater competition and efficiency in the banking system.
 - A Reform to the law that regulates credit information bureaus, also took place on the abovementioned date, and includes three basic principles: 1) the defense of the client’s interest; 2) transparency in the information and operation of these bureaus; and 3) enhanced regulation of the abovementioned bureaus.
 - Credit Institutions Law reform establishing proper sanctions for every kind of infringing conduct, was issued February 6th, 2008.
 - Reform to the law that regulates transparency in financial services was published in the Official Gazette on June 15, 2007. It is intended to promote greater competition and transparency in the information that financial institutions provide to the financial services consumer.
 - The Legislation regarding Popular Savings and Credit Entities was updated (August 2007) in order to mitigate and modernize the applicable regime for these institutions.
 - New regulations entered into force on January 1st, 2008, fully complying with the New Capital Accord “Basel II”, issued by the Basel Committee on Banking Supervision. This reform regarding the minimum standard for capital adequacy of banking institutions included several modifications that have taken place in order to adapt our capital adequacy rule for banking institutions to international standards and best practices, as well as to actual market circumstances.

Further improvements are planned for the following:

- **Communication services, telecommunications:** Number portability will be operational in 2008
- **Energy services natural gas:** It is expected that CRE, in the near future, will issue a new regulation regarding first-hand sales (FHS) prices. The FHS price regulation will consider the following objectives:
 - It terminates the transitional methodology so that all FHS are made based on a similar methodology of the Pricing and Tariffs Directives.
 - It replaces the current reference price (Houston Ship Channel) by the Henry Hub

index, which represents a more competitive market, and serves as a reference to the contracts of gas and liquefied natural gas made on the North of the Continent.

- It is consistent with the new regionalization of the Pemex transport system.

Entry, Operational Requirements and Discriminatory/MFN Treatment in 2006

There are partial restrictions in some sectors other than those sectors reserved for the state. The entry and operational requirements, as well as discriminatory/MFN treatment in major sectors as of 2006, are as follows:

- **Business services: legal:** To offer services as a lawyer, it is necessary to fulfill a social service and to have a bachelor's degree and a professional certificate/license.
 - There are no requirements on nationality and residence to offer professional services. It is not necessary to belong to a board.
 - The foreign participation to establish a law firm is 49 percent, and to get a larger share, a favorable resolution by the National Commission of Foreign Investment is necessary.
 - It is necessary for foreign service providers, however, to renew their professional studies in the Direction General of Accreditation, Incorporation, and Revalidation of the Secretary of Public Education, after which the bachelor's degree has to be presented and registered with the General Directorate of Professions in order to obtain the professional certificate/license.
- **Business services: accounting, architectural, and engineering:** The same requirements apply, except that there are no restrictions on foreign investment.
- **Other business services:** The same requirements apply except that, regarding foreign investment, it is necessary to consult the interested sectors to define the participation.
- **Communication services: postal:** Postal services are reserved to the state. This is a reserved sector, which is operated by a public operator (Mexican Postal Service), which includes the transportation of letters and cards up to 1 kg, with specific dimensions.
- The remaining postal services are fully liberalized.
- **Communication services: express delivery:** There are no specific requirements except that any operator that seeks to transport items by federal roads must comply with the requirements set out in domestic laws.
- **Communication services: telecommunications:**
 - Concessions to use frequency bands of the spectrum for specific use shall be granted through a public bid.
 - Foreign investment in no case shall exceed 49 percent of total capital, except in cases of cellular telephone services, in which case the enterprises will require the favorable ruling of the National Commission of Foreign Investment, in which case the share can reach 100 percent.
- **Communication services: audio-visual (broadcasting):**
 - In general, concessions for radio and TV are granted via public bidding.
 - Concessions shall be granted only to Mexican citizens or enterprises.
- **Education services:** The same regulatory requirements apply as in the case of professional services except the following:

- The foreign participation limit in private education services at pre-school, elementary school, high school, and undergraduate university levels is 49 percent; to get a higher share, a favorable resolution by the National Commission of Foreign Investment is necessary.
- The requirements for national providers to get a license differ from those required of foreign providers, which must prove the authenticity of their studies
- ***Transport services: maritime:***
 - The use of ships in high seas, including transport and the international tow, will be open on the basis of reciprocity.
 - The operation and exploitation of ships in inland and coastal navigation will be reserved for Mexican shipping companies with Mexican ships.
 - The operation and exploitation of ships in inland and coastal navigation, providing tourist, sport, and recreational services, as well as the operation and exploitation of those devoted to construction, dredging works, and port maintenance can be carried out by Mexican shipping companies or foreigners with Mexican or foreign ships, on the basis of reciprocity.
 - For foreign ships navigating in Mexican waters it is required to register the vessel under a Mexican flag for more than two years.
 - Foreign investment may participate up to 49 percent in a) port services of pilotage to ships in order to carry out domestic navigation operations; b) shipping companies engaged in the commercial operation for interior and coastal navigation, with the exception of tourist cruises and the operation of dredges and naval devices for the construction, conservation, and operation of a port; c) integral port administration; d) port services of boats to conduct operations of inner navigation; e) shipping enterprises dedicated to the commercial operation of boats for inner navigation and cabotage, with the exception of tourist cruises and the operation of dredges and naval devices for the construction, conservation, and port operation
- ***Transport services: air:***
 - Pilots must be Mexican by birth and be trained in authorized centers.
 - Foreign investment may participate up to 25 percent in domestic air transport.
- ***Transport services: rail:***
 - In the concession process of railroad services, foreign investment participation up to 49 percent is allowed.
- ***Transport services: road:***
 - Only Mexican nationals and Mexican enterprises with foreigner-exclusion clauses may have an ownership interest in an enterprise established in the territory of Mexico engaged in domestic land transportation for passengers, tourism, and freight.
 - With regards to an enterprise established in the territory of Mexico providing inter-city bus services, tourist transportation services, or truck services for the transportation of international cargo between points in the territory of Mexico, foreign investors may own, directly or indirectly, up to 100 percent of the ownership interest in such an enterprise.
- ***Energy services: electricity:***

- Generation, transmission, distribution, and supply of electricity to be used as a public service are exclusively the federal government's responsibility.
 - Self supply, cogeneration, independent power producers, imports and exports, and small-scale generation are open to private sector participation.
 - In October 1995, the Regulation Energy Commission (CRE) was transformed from an advisory entity on gas and electricity issues into an autonomous agency in charge of regulating the electricity and natural gas industries.
 - There are no limitations on the percentage of foreign capital involved in the business corporations that own a generation permit, in so far as the company is established in Mexico.
- ***Energy services: natural gas:***
- Natural gas exploration and production, processing, and first-hand sales are considered strategic activities reserved for the national state-owned oil company.
 - Natural gas transportation, distribution, storage, and marketing, including foreign trade, are considered non-strategic activities in which the private sector could participate.
 - In October 1995, the CRE was transformed from an advisory entity on gas and electricity issues into an autonomous agency in charge of regulating the electricity and natural gas industries.
 - There are no limitations on the percentage of foreign capital involved in the business corporations that own a generation permit, in so far as the company is established in Mexico, except that the construction of pipelines must be performed by Mexican companies that have no more than 49 percent foreign participation. A higher level of foreign participation in construction companies (pipelines) is feasible, although is subject to approval by the Bureau of Foreign Investment.

Assessment

In services sectors Mexico has continuously been implementing its commitments toward the Bogor goals of free trade and investment. Improvements implemented since last IAP have been in telecommunications, broadcasting, tourism and travel-related services, financial services, and natural gas services, which are very sensitive sectors. Comprehensive reform was undertaken in financial services in order to clarify the banking institutions' authorization processes and modernize the applicable regime for these institutions. For the moment further improvements planned are limited to telecommunications and natural gas services. Mexico has already achieved a good level of liberalization, and is offering new commitments through the Doha Round. There is still political sensitivity in other sectors such as legal services, which may require renewal of professional studies.

Chapter 4: Investment

Objectives

APEC economies will achieve free and open investment in the Asia-Pacific region by:

- (a) *liberalizing their respective investment regimes and the overall APEC investment environment by, inter-alia, progressively providing for MFN treatment and national*

- treatment and ensuring transparency*
- (b) facilitating investment activities through, inter-alia, technical assistance and cooperation, including exchange of information on investment opportunities*
 - (c) implementing and maintaining standards consistent with the APEC Leaders' Transparency Standards*

Overview

Mexico's investment regime has been characterized by an open economy as described in the "Guide to the Investment Regime of the APEC Member Economies". Mexico has signed FTAs with the US, Canada, Colombia, Bolivia, Costa Rica, Nicaragua, Guatemala, Honduras, El Salvador, Chile, the European Union, EFTA, Uruguay and Japan. In each, specific rules for investment have been included. Also, Mexico has 24 International Investments Agreements in force with a variety of economies, including some APEC economies.

Additionally, Mexico is party since 2003 to an agreement for the encouragement of economic activities which can be promoted through investment support provided by the Overseas Private Investment Corporation ("OPIC"), a development institution and an agency of the United States of America, in the form of investment insurance, coinsurance and reinsurance, debt and equity investments and investment guaranties.

In October 2007, Mexico signed an agreement with the *Multilateral Investment Guarantee Agency*, "MIGA." These, in conjunction with the OPIC Agreement signed in 2003, and in force since 2004, are clear messages of the public policy of Mexico which fosters an environment conducive to FDI.

Foreign direct investment (FDI) was welcomed in almost all sectors of the economy. Of the 754 activities listed in the Catalogue of Economic and Productive Activities, only 17 activities are prohibited from having foreign ownership or control. The foreign investment law was amended in 1995, 1996, 1998, 1999, 2001, and 2006 in order to provide the foreign investor with greater certainty and transparency.

Major source economies of FDI into Mexico are the United States, Netherlands, Spain, and Canada, among other economies. Recently, they are more diversified, as FDI from Belgium, Bermuda, France, Luxembourg, and Virgin Islands is increasing rapidly.

Improvements Implemented since last IAP

For most of the sectors listed, there have been no improvements since the last IAP and no further improvements are planned. Changes were only for the following services:

- As of the January 1, 2004, foreign investment may have equity of up to 100% of the capital stock of Mexican corporations engaged in international land transportation (passengers, tourism, and freight) between points within the territory of Mexico and related services.
- In 2006 a limitation on foreign investment participation up to 49% in financial leasing, factoring companies, and limited-scope financial institutions was repealed.

Further improvements are planned for the following:

- **Transparency:** The Federal Regulatory Improvement Commission (COFEMER) is engaged in the implementation of the Internet-based Federal Register of Procedures and Services, which will continue giving certainty regarding rules and regulations that entail the exchange of information between the government and the private sector.

Entry, Operational Requirements, and Discriminatory/MFN Treatment in 2006

The Foreign Investment Law (FIL) states, as a general rule, that all activities not specifically mentioned in the law are completely deregulated, thus allowing up to 100 percent foreign investment in most economic sectors without authorization.

The FIL contemplates, however, some strategic activities reserved for the state (Article 5), Mexican nationals (Article 6), and some activities with specific regulation (Article 7).

The FIL also has limited screening procedures to certain economic activities, listed in Article 8, in the case that the foreign investor seeks participation of more than 49 percent.

Assessment

In terms of number of areas, Mexico's improvements implemented since last IAP have been limited. This is mainly due to the fact that Mexico already achieved a high level of liberalization. In October 2007, Mexico signed an agreement with the Multilateral Investment Guarantee Agency, "MIGA". These, in conjunction with the OPIC Agreement signed in 2003, and in force since 2004, are clear messages of the public policy of Mexico which fosters an environment conducive to FDI.

However, it is important that Mexico should continue to make progress towards the Bogor goals of free trade and investment, particularly in the area of transparency.

Chapter 5: Standards and Conformance

Objectives

APEC economies will, in accordance with the Declaration on APEC Standards and Conformance Framework and with the Agreement on Technical Barriers to Trade (TBT Agreement) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) attached to the WTO Agreement:

- (a) align their domestic standards with international standards;*
- (b) endeavour to actively participate in international standardisation activities;*
- (c) promote good regulatory practice for the preparation, adoption and application of technical regulations in the APEC region;*
- (d) achieve recognition of conformity assessment including mutual recognition arrangements in regulated and voluntary sectors;*
- (e) promote cooperation for technical infrastructure development to facilitate broad participation in mutual recognition arrangements in both regulated and voluntary sectors; and*
- (f) ensure the transparency of the standards and conformity assessment of APEC economies.*

Achievements since last IAP

During the period under review, a number of amendments were made to technical regulations and standards. The Mexican government recognizes that while it is legitimate for national standards to be set, these should not constitute non tariff measures (NTMs).

In July 2006, Mexico reformed its Federal Law on Metrology and Standardization (LFMN) which made the Ministry of the Economy the body responsible for the Law's implementation (Article 1) and laid down the composition of the Governing Board of the National Metrology Centre (Article 32), its assets structure (Article 37), and the structure of the National Standardization Commission (Article 59).

The web-page of the Ministry of the Economy's General Directorate of Standards (DGN), which was established in 1997, sets out information related to activities in the areas of metrology, national and international standardization, conformity assessment (approval and certification), quality and promotion. Additionally, notifications of WTO draft standards and FTAs entered into with Mexico can be accessed, national standardization (catalogue of Standards) can be consulted and the official designations "*calidad suprema*" (supreme quality) and "*hecho en México*" (made in Mexico) studied, as can the requirements for obtaining the *Código de Identificación del Fabricante Internacional* (International Manufacturer Identity Code).

In 2001, with a view to enhancing transparency, the DGN established a legal framework for the creation and operation of National Consultative Committees for Standardization (responsible for developing official Mexican standards or NOMs) and National Technical Committees for Standardization (responsible for developing voluntary Mexican standards or NMXs) and the involvement of Mexican committees in international organizations. There are currently 24 National Consultative Committees for Standardization responsible for developing NOMs, 34 National Technical Committees for Standardization responsible for developing NMXs and two Standardization Committees responsible for developing benchmark standards (NRFs).

There is a significant progress in the area of technical barriers to trade (TBT) and Sanitary and Phytosanitary Measures (SPS) and the economy has sought to align their standards to the relevant WTO disciplines.

Mexico has also been active in the APEC STSC and sub-regional forums. However, some members have indicated their concerns on this chapter, especially on agriculture and chemical products.

Additionally, Mexico has a system of reviewing standing regulations and standards with the view to eliminating the same, and de-regulating the market where possible. Since 2005, the government has announced a moratorium on fresh regulations, unless these are specially allowed. There is in place a standard procedure for publication consultation on standards. Importers are given the opportunity to submit comments on existing or proposed regulations. When comments are given, the relevant authorities are required to give a written answer that is published. Open sessions are also held with those who have sent comments.

Once a regulation is accepted, there is a “sunset” review held every five years to assess its continuing necessity. A specific request for review can also be made by relevant parties after one year of coming into effect.

Assessment

To facilitate international trade and boost consumer confidence, the DGN intends to review some 300 NOMs and 1,000 NMXs to examine how consistent they are with the relevant international standards.

Mexico has a number of FTAs that provide chapters on technical standards. The provisions in these FTAs differ, having evolved from the early NAFTA agreements. These FTAs have processes to inform the differing FTA parties of any subsequent improvements and to start a dialogue towards further improvements. However, these are not extended to non-parties.

Mutual recognition agreements (MRAs) are negotiated between reciprocal institutions and certification bodies. But these again are largely limited to FTA partners.

There is a recognized need for future improvements in this area. However, there are different concerns between importers and Mexican producers. At present it is estimated that some 2/3 of Mexican standards comply with international standards. Since 2007, Mexico has begun a process with the aim of aligning more of its standards with the relevant international standards, with the aim of achieving 90% harmonization with international norms

Chapter 6: Customs Procedures

Objectives

APEC economies will facilitate trade in the Asia-Pacific region by

- a. simplifying and harmonizing customs procedures*
- b. encouraging the use of technologies and e-commerce as productivity tools in keeping with developments of the new economy*
- c. enhancing cross-border co-operation in the movement of goods and services to counter terrorism*

Overview

The General Customs Administration is responsible for import and export procedures in Mexico. Operation of customs procedures is based on the 1997 Customs Law and its Implementing Regulations. The Customs Law is based on the principles of the Kyoto Convention, even though Mexico is not a signatory economy. Mexico reports that it will continue to explore the possibility of accession to the Kyoto Convention in the mid-term.

Operation of customs procedures is built on a computerized customs management system (SAAI). This system allows the electronic exchange of information between the General Customs Administration, the 49 customs ports in Mexico, customs brokers, warehouses, and banking institutions authorized to collect duties related to foreign trade. Mexico has the SAAI M3, which has as its goal an automated, paperless trading environment; with functions for information exchange, such as payment of customs duties, document inspection, and remote systems.

As for the customs valuation, the Customs Law states that the customs value of goods is the transaction value. The transaction value is based on the c.i.f. value, unless preferential treatment is requested under the FTAs to which Mexico is party, in which case the basis is the f.o.b. value.. If the transaction valuation is not available or applicable, other valuation applies in the order of the transaction value of identical goods, the transaction value of similar goods, the unit selling price, or the computed value of the previous method with added flexibility. According to 2008 Trade Policy Review of Mexico, the transaction value determines more than 96 percent of import transactions.

According to the WTO Trade Policy Review of Mexico in 2008, it was reported that some Members showed concern regarding Mexico's practices in its estimated price mechanism and a posteriori verification. Mexican authorities explained that the decree issued by the President Felipe Calderon decree on March 31, 2008 introduces a number of measures, including elimination of red tape, streamlining of procedures, enhances paperless trade and eliminates sureties associated with the estimated-price mechanism. Regarding the practice of a posteriori verification, the concern was the involvement of a private agency for the investigation, which could cause problems of confidentiality. This issue has been dealt with in the Customs Valuation Committee, which concluded its examination of Mexico's relevant rules and legislation.

Improvements Implemented since the Last IAP

Security at customs receives high priority in Mexico's customs procedure. It is reported that Mexico signed a Bilateral Strategic Plan, for customs cooperation with the United States in August 2007. It is the customs cooperation program to improve national security at the customs. Also, improvement of the risk management technique continues, installing gamma ray equipments, that operate at the Northern border and major ports.

Mexican customs is at the beginning stage of constructing a single window system in which all the ministries involved in international trade are electronically interconnected. According to a new decree entered into force on March 31, 2008, information that companies must submit to the Ministry of Economy to export goods under the Decreto para el Fomento de la Industria Manufacturera, Maquiladora y de Servicios de Exportación, such as the address where the companies carry out operations, can be submitted through the Internet. This Internet-based reporting system will improve trade facilitation at the border. Other measures to enhance trade facilitation are under consideration, such as expediting the clearance of goods at customs, and reducing non-tariff barriers. Currently internet can be used to carry out payments related to international trade.

According to Mexico's Approach to Customs Procedures in 2007, an automated system relating to paperless trading is being further developed to allow electronic submission of certain government documents, permits, and certificates such as health and carriers documents by the end of 2008. Progress in implementation of SAAI M3 phase is ongoing, including electronic transmission of sanitary and phytosanitary permits. .

Assessment

Judging from the 2007 Individual Action Plan for Mexico, which was submitted to APEC, there was no substantial improvement implemented compared to the 2006 IAP. Mexico,

however, seems to maintain sound and very efficient customs procedures with greater public availability of information, enhanced paperless trading, implementation of the 2007 harmonized system, and systemic risk management techniques. Improvement of risk management techniques and enhanced paperless trading, among others, may serve as one of the best practices for other members.

Chapter 7: Intellectual Property Rights (IPR)

Objectives

- a. *APEC economies will conform to the principles of the TRIPS Agreement*
- b. *APEC economies will address the challenges for intellectual property rights arising from the rapid growth and development of the New Economy*

Achievements since last IAP

Mexico has instituted a series of domestic legal frameworks since the Industrial Property Law in 1991 and Industrial Property Law in 1994. Since its last IAP, Mexico has instituted and strengthened laws and administrative procedures on Intellectual Property Rights (IPR).

The *Instituto Mexicano de la Propiedad Industrial* (Mexican Industrial Property Institute – IMPI) has opened regional offices in strategic locations in the Mexican Republic to make its services more localised and able to deal with individuals in person; the offices cover the Centre, Northern, Western, Bajío and South-Eastern regions and serve 29 of the 32 States of the Republic.

At the multilateral level, Mexico is party to 16 agreements administered by the World Intellectual Property Organization (WIPO). In 2004 it published reforms to the Patent Cooperation Treaty (PCT) and in 2004, 2005 and 2008 to its Regulations.

At the bilateral level, Mexico has signed 12 FTAs which include intellectual property chapters or provisions. Most of these chapters or provisions on IPR foster harmonization of IPR systems; in addition, Mexico has concluded several cooperation agreements with authorities and bodies in this field.

Also of note is the deepening of relations with the European Communities (EC) through the European Patent Office since 1994, with which it concluded Memoranda of Understanding on Bilateral Cooperation for the periods 2006-2009.

With a view to strengthening the protection of intellectual property rights and addressing the international commitments established under the Security and Prosperity Partnership of North America (SPP), the Divisional Under directorate of Well-Known Marks (Investigation, Control and Document Processing) was established within IMPI in 2006; its task will be to strengthen measures being drawn up by the Institute to combat piracy and unfair competition.

Mexico has initiated several public awareness activities and campaigns related to enforcement of IPRs. These campaigns are jointly carried out by government, private sector and non-governmental organizations.

Mexico participates in the Intellectual Property Rights Expert Group (IPEG) of APEC, leading a collective action on Geographical Indications. In order to assist in the development or improvement of programs of public education and awareness, Mexico developed several activities with some APEC Economies under the framework of the *IP Public Education and Awareness* projects sponsored mainly by Australia and Singapore.

Assessment

In addition to the legal and policy regime for IPR, there is a need to make IPR work at the level of implementation. In this context, customs procedures in Mexico warrant attention. Customs in Mexico can only act against goods that violate IPR where it receives a specific order or complaint against its import. A specific order must be filed with details such as the container number. The average time for filing is 8 days, and in some cases, 15 days is needed.

The trend in recent years has seen an increase in both complaints and their successful resolution. This suggests that the system in Mexico for IPR protection is being used and being found useful.

Relevant authorities in Mexico, including Customs, are starting a joint database for the registration for trademarks. This idea follows the best practices from APEC and the USA.

Training for Customs officers in IPR is also held with APEC. In addition, a number of model guidelines from APEC have been referred to by Mexico for future improvements.

Chapter 8: Competition Policy

Objectives

APEC economies will facilitate free and open trade and investment in the Asia-Pacific region by

- a. eliminating domestic regulations that may distort or restrict trade, investment or competition*
- b. speeding up reforms which encourage efficient and well functioning product, labor and capital markets and supportive of institutional framework*

Achievements since last IAP

The government increasingly recognizes that insufficient competition lies at the core of economic challenges such as low growth, high input prices and low competitiveness. The Comision Federal de Competencia (CFC) has been tasked to promote pro-competitive changes to the regulatory framework. . The Federal Law on Economic Competition (LFCE) has been passed to provide the enabling legislation.

Some observers suggest there has been partial success. The CFC has given attention to a number of key sectors that have been entirely or relatively closed from competition. These include: energy, telecoms, transport, air transport, and financial services.

In energy, the LP Gas sector has been identified in particular, with pro-competitive reforms to the LPG Regulations. These aim to eliminate exclusive distribution areas; provide transparency in first hand sales; and allow retail sales in commercial establishments. In

telecoms, number portability. Portability and interconnection is in the process of being implemented. In transport, new airlines are capturing an increasing share of the market.

For financial services, the law on credit institutions is being reformed to promote account mobility and allow equitable access to payment systems, while strengthening supervision and regulation by the relevant authorities.

Bilateral cooperation in competition matters is conducted under four cooperation agreements² and eight chapters on competition which are included in the FTAs signed by the Government of Mexico³. These mechanisms enhance cooperation between the Commission and the foreign competition authorities in the exchange of information and technical assistance, the aim being to strengthen the application of competition laws in the jurisdictions concerned. These mechanisms do not extend to non FTA parties.

Assessment

Despite the recent reforms of the law, Mexico still lags behind in the efficiency of its implementation of competition law; this is due in part firstly to the fact that it still faces challenges in promoting a pro-competition legal and regulatory framework but also secondly to the fact that the measures available to the Commission to implement the law remain limited. This is due to the fact that the amounts of fines imposed do not have enough of a deterrent effect on businesses which can earn considerable profits if they break competition law. Widespread change requires a better institutional design for sectoral regulators, ensuring independence, accountability and improved oversight by horizontal regulators.

Problems and loopholes in the Law also persist and prevent its effective implementation. The 2006 reforms of the Competition Law left a few very important matters unresolved. It is essential that discussion on some of those matters is resumed to provide a sound competition policy, namely: (i) the LFCE should incorporate aspects such as the concept of collective dominance, precautionary measures in procedure and an increase in the amount of fines; and (ii) Article 253 of the Criminal Code could be implemented so that absolute monopoly practices can be subject to criminal penalties in line with international best practice on the matter.

In certain sectors of the economy where there are large capital requirements or because of the existence of large industrial conglomerates, competition is lacking and inefficiency prevails. The Mexican economy is expanding rapidly but it needs to increase productivity if its dynamism can be sustained and poverty and unequal income distribution can be reduced. The unanimous approval by the Congress of the Union in 2006 of reforms to the LFCE confirmed the importance of economic competition in Mexico as State Policy. Despite the recent reforms of the law, Mexico still lags in the efficiency of its implementation of competition law. This is due in part to the fact that it does not have a pro-competition legal and regulatory framework and lack of effective implementation. Moving ahead is proving politically difficult, despite the considerable benefits that can be gained.

² Canada, Chile, Korea and USA.

³ Colombia, Chile, EC, EFTA, Israel, Japan, NAFTA and Uruguay

Measures to increase domestic competition and economic efficiency are necessary before foreign participants can engage fairly in the Mexican economic activities.

Chapter 9: Government Procurement

Objectives

- a. *To develop a common understanding of government procurement policies and systems, and on each APEC economy's practices*
- b. *To liberalize government procurement markets in the APEC region in accordance with Bogor principles and objectives*
- c. *To contribute to the government procurement work in multilateral fora*

Achievements since last IAP

In recent years, Mexico has made progress in simplifying and modernizing its government procurement regime. It is necessary to keep up these efforts, particularly in enhancing the transparency of its GP regime. Every regulation related to government procurement can be accessed at the Ministry of Good Governance and Transparency's web page. By Law, national goods have a 10 per cent preference in the economic evaluation set against goods in non-FTA partner economies. Basically, the Mexican regulations related to government procurement do not prohibit the participation of bidders from non-FTA economies, but it is the procuring entity who decides, under clearly set out rules, whether to open the tendering procedure to international competition, including non-partners.

Significant progress has been made over the last few years in developing transparency. The electronic government procurement system COMPRANET, has been improved with a view to making it easier for firms to participate in government tendering processes and to provide a transparent mechanism for informing the public about government procurement processes. This system provides public information concerning federal government demand for goods, services, leasing and public works. A complaints procedure has also been instituted under the Ministry of Public Governance.

There have been some preferences given in Mexico's FTAs. Nine of the FTAs signed by Mexico have chapters on government procurement; these agreements cover 39 economies. Of those economies, 35 are party to the WTO Plurilateral Agreement on Government Procurement and two are observers. Additionally, in March 2007, Mexico and Chile concluded a chapter on public procurement under their FTA and are awaiting approval of the same by their respective legislative bodies. Moreover, Mexico is also in the process of negotiating a chapter on this subject with Uruguay and is close to embarking upon negotiations on the same subject with Korea.

Assessment

There are no plans to change the existing 10% rule in favor Mexican national goods or to give non-parties access to the benefits given under Mexico's various FTAs.

Chapter 10: Deregulation/ Regulatory Reform

Objective

APEC economies will facilitate free and open trade and investment in the Asia-Pacific Region by

- a. Enhancing the transparency of regulatory regimes (including through the use of new technologies)*
- b. Eliminating domestic regulations that may distort or restrict trade, investment or competition and are not necessary to achieve a legitimate objective and*
- c. Speeding up reforms which encourage efficient and well functioning product, labor and capital markets and supportive of institutional framework*

Overview

The first significant action of Mexico in the area of deregulation was the creation of the Economic Deregulation Unit within the Ministry of Commerce in 1989. At this time, Mexico's structural reform program was focused on making the market competitive. But the financial crisis of 1994–1995 gave added impetus for the reform process. The Agreement for the Deregulation of Business Activity (ADAE) was signed in 1995. The ADAE was designed to reduce the costs of opening and operating businesses in Mexico. From 1995, with inauguration of the Zedillo government, Mexico's structural reform program made greater efforts to ease the efficiency and competitiveness of businesses activities.

The basic regulatory reform strategy was focused only on economic regulations: (i) the review of existing regulations (stock); (ii) the review of all new proposed regulations or legislative proposals originated in the Executive branch (flow); (iii) the proposal of legislative reforms to improve Mexico's regulatory framework; and (iv) the support for regulatory programs at the state and local levels. During the latter half of the Zedillo government, however, it was expanded as a comprehensive program of regulatory reform. For a strengthened and consolidated regulatory improvement program, the Federal Administrative Procedures Law, amended in year 2000, created the Federal Regulatory Improvement Commission (COFEMER), with technical and functional independence, and greater review powers. COFEMER diagnosed the quality of existing regulation in specific regulatory areas and proposed reforms to the head executive. COFEMER has provided opinions in several high impact/controversial areas since its creation. Just in the telecommunications sector, for example, between 2003 and 2008, COFEMER has provided opinions in more than 20 relevant regulatory proposals.

Improvements Implemented since last IAP

In 2007, there were some notable achievements at specific state level and national level. At the level of specific state reforms, Guanajuato's 2007 Regulatory Reform Law is a significant progression. It has objectives of institutionalization of the consultative process, validates legality of electronic processes, and has robust oversight for law implementation (with corresponding sanctions). Another achievement is the inclusion of mercantile disputes in an alternative justice system. It helps resolution in one-fourth the time of the traditional justice system. At the level of economy, there has been stakeholder engagement to formulate reform strategies, public commitment by political leadership to reform, and decision-makers' exposure to best practices reforms. Mexico has also made efforts in the competitive

environment and government public policy to improve the regulatory framework and business environment to shift from a defensive to an offensive position.

Federal Regulatory Improvement Commission

COFEMER was created in 2000 through a reform to the Federal Administrative Procedures Law and, since then, has also become a governmental think tank for the generation of regulatory proposals aimed at encouraging the competitiveness of the economy. COFEMER is an autonomous agency of the Ministry of the Economy and is supported by the Federal Regulatory Improvement Council. It replaced the Economic Deregulation unit.

The 2007 Mexico IAP introduced the main elements of the Regulatory Process in Mexico. This includes COFEMER's main tools, namely (i) the Regulatory Impact Assessment; (ii) the Regulatory Quality Presidential Order of February 2, 2007; (iii) Federal Registry of Formalities and Services; (iv) Biennial regulatory reform programs; and (v) Rapid Businesses Start-up System (SARE).

Regulatory Impact Assessment

All federal ministries and agencies are obliged to submit their regulatory proposals and corresponding Regulatory Impact Assessment (RIA) to COFEMER. Military and Navy Ministries are excluded from this obligation. An RIA is an ex-ante analysis for anticipating the effects of an implemented regulation. It helps by making government decisions and regulatory instruments more transparent and rational with analysis of regulatory alternatives to the original project of the regulator. From August 1, 2006 to July 31, 2007, COFEMER received and reviewed 385 regulatory proposals along with its corresponding RIA. In the same period, COFEMER approved 641 requests for RIA exemptions and rejected 94 because they had compliance costs.

The Regulatory Quality Presidential Order

The extension of the Regulatory Moratorium Presidential Order reduced the regulatory increase and regulations with compliance costs. In February 2007, the Regulatory Quality Order was issued with the purpose of reinforcing the filters to guarantee the quality of regulation before submitting the RIA. The Regulatory Quality Order is aimed at guaranteeing that regulations do not affect citizens or productive activities by seeking to inhibit overregulation that hinders investment, employment, and competitiveness. The Regulatory Quality Order has had significant effects on the level of regulation with compliance costs since the last IAP.

Federal Registry of Formalities and Services

The RFTS was created in 2000 through a reform to the Federal Administrative Procedures Law. RFTS has the objective of compiling in a single instrument all formalities and services offered by federal government bodies.

In addition to being responsible for the administration of the registry, COFEMER also carries out regulatory audits aimed at simplifying or eliminating formalities. This is important for individuals and businesses, because any formality that is not included in the registry cannot, in principle, be applied. The registry provides transparency and legal certainty to individuals and businesses. COFEMER also provides consultancy and training to state and local public

officials to build a legal framework that promotes competitiveness in a certain and transparent environment.

According to the IAP derived from consultations with the private sector, COFEMER has managed the simplification of 63 formalities, which had a high impact on economic activities. Likewise, 344 other formalities have been simplified between the formal introduction of the Registry (May 19, 2003) and September 2007.

Biennial Regulatory Reform Programs

Every two years, all federal ministries and agencies have to formulate and submit a Regulatory Reform Program (RRP), which outlines future actions regarding the creation, modification, or elimination of formalities. The 2005–2006 RRPs included 36 actions on competitiveness and regulatory reform (Systemic Vision), and currently, COFEMER is designing a new administrative instrument for the submission of the 2008–2009 RRPs under a similar integral scheme.

Rapid Businesses Start-up System (SARE)

COFEMER launched and integrated the Rapid Businesses Start-up System (SARE) in 2002, allowing firms to comply with federal, state, and municipal regulations, and start a business in 72 hours by completing all procedures in a "one-stop shop" style. The objective of SARE is to reduce the number of procedures and thus encourage the formal establishment of enterprises.

In the context of President Felipe Calderón's "100 days, 100 actions" Program, COFEMER signed 104 new agreements with municipal governments to implement SARE offices. As of October, 2007, SARE had generated 114,823 new enterprises, US \$ 1.7 billion in investment, and 339,213 new jobs. SARE geographical presence covers 38.94% of Mexico's Gross Domestic Product in the commerce, services and industry sectors.

National Development Plan 2007–2012, Trade Deregulation Sector

According to the National Development Plan 2007–2012 of the Mexican government, Mexico seeks to increase the productivity and competitiveness of the economy using a comprehensive strategy in many sectors. To achieve their objective of deregulation, Mexico has a plan for greater reduction of operating costs and streamlining administrative formalities for enterprises in Mexico.

Security and Prosperity Partnership of North America

The Security and Prosperity Partnership of North America (SPPNA) was launched by the leaders of Canada, the United States (US), and Mexico in March 2005. In 2007, COFEMER and its counterparts in Canada and the US negotiated the Regulatory Cooperation Framework (RCF) to improve trilateral regulatory cooperation, and the RCF was released by the leaders of the three economies on August 21, 2007.

The RCF aims to (i) lower costs for North American businesses, producers, governments, and consumers; (ii) maximize trade in goods and services across North American borders; and (iii) protect health, safety, and the environment.

Assessment

Mexico has made progress in the energy, telecommunications, and transport sectors. In the energy sector, the Mexican government adapted the regulatory framework for liquefied petroleum gas (LPG). This LPG regulatory framework provides incentives for firms to invest and operate efficiently and to bear much of the risk associated with new projects. It also protects captive consumers and improves general economic welfare. In the consumer area, Mexico tried to establish a public registry of consumers for the security of private information and enhancing enterprises' telemarketing efficiency. Mexico also implemented regulatory review and reform in transport and telecommunications areas to improve market efficiency and competition. Through these efforts, the Mexican government hopes to eliminate the unnecessary restraints to competition.

Mexico is currently strengthening its regulatory reform process. When the Federal Administrative Procedures Law was amended in 2000, legislators linked the concept of regulatory reform to the establishment of sound economic public policies. That is to say, COFEMER was created to support, mainly, the development of economic policies, and that justifies its insertion in the Ministry of Economy. However, it is worth noting that currently international organizations such as the OECD suggest that oversight bodies (such as COFEMER): (i) be at the centre of government; (ii) have the competency, standing and prestige to interact with ministers and regulation-makers and effectively challenge RIA quality; and (iii) be supported by a network of institutions, including political level bodies and inter-ministerial working groups close to government, or private sector groups and advisory bodies, that can identify priorities and propose reforms.

In order to implement a series of deregulatory activities to make it more pro-competitive, Mexico may need to strengthen a system that increases (i) the effectiveness and efficiency of government, (ii) operates under an authentic culture of regulatory reform, (iii) stimulates and promotes economic activity, (iv) completely reduces institutional incentives for corruption, and (v) continuously reviews and increases the quality of the domestic legal framework.

Chapter 11: Implementation of the WTO Obligations and Rules of Origin (ROO)

Objective

APEC economies will ensure full and effective implementation of the Uruguay Round outcomes within the agreed time frame in a manner fully consistent with the letter and the spirit of the WTO agreement.

On rules of origin, APEC economies will:

- a. ensure full compliance with internationally harmonised rules of origin to be adopted in relevant international fora; and*
- b. ensure that their respective rules of origin are prepared and applied in an impartial, transparent and it will manner.*

Overview

Mexico applies preferential and non-preferential rules of origin. With regard to the application of non-preferential rules of origin, as Mexico is a member of the WTO, it applies the 1994 agreement. Mexico reports that it will continue its participation on the committee in

the ongoing harmonization of non-preferential rules of origin in the WTO/WCO. The position of Mexico in the WTO negotiations is for a change in tariff classification at the heading (HS 4-digit) and subheading (HS 6-digit).

It is noticeable that there exist different certification requirements according to the products and the source when non-preferential rules of origin are applied. Both the 2008 Trade Policy Review of Mexico by the WTO and the 2007 Mexico IAP indicated that for imported products of textiles, clothing, and footwear from specified sources, including APEC member economies of Hong Kong, China, Indonesia, Korea, Malaysia, the Philippines, Russia, Singapore, and Thailand, the economy of origin certificate must be endorsed by the competent authority of the economy in which the last production process occurred. For other products, only a declaration from the economy of origin is required.

Preferential rules of origin apply to goods imported from Mexico's FTA partner economies. Each FTA specifies its own rules of origin. In determining the economy of origin, each FTA generally adopts multiple criteria; for goods wholly obtained and produced in the exporting economy, the economy of production receives originating status. For goods whose production involves more than one economy, the determination is mostly depending on the following two criteria: change in tariff classification criteria and/or a regional value content criteria.

Supplementary criteria for rules of origin are applied to ease the restrictiveness in determining the economy of origin. A de minimis provision, which allows for a specified maximum percentage of non-originating materials to be used without affecting origin, is widely adopted in Mexico's preferential rules of origin. It alleviates the rigidity inherent in the change in tariff classification criteria. Cumulation provision, which describes the condition under which materials and/or productive processes of the signatory countries could be treated for the purpose of the production that is carried out in the exporting country, could be another effective way to tender restrictive rules of origin. In most of Mexico's FTAs, cumulation provision of materials and/or productive processes is applied, in which originating goods from the other partner economy are counted as originating in the exporting economy.

The 2008 Trade Policy Review of Mexico indicates that the certification procedure under preferential rules of origin differs among FTA agreements. In the case of NAFTA and the agreements with Bolivia, Chile, Costa Rica, Israel, Nicaragua, and the North Triangle, a certificate of origin adopts an auto-certification method. Exporters complete the certificate of origin and there is no involvement of authorities. On the other hand, FTA provisions with the EFTA, the EU, and Japan each stipulate that the certificate of origin should be issued by the competent authority of the exporting economy. In the case of the Colombia and Uruguay FTAs, exporters should bring the certificate of origin, which is completed and signed by exporters, but validated by the competent authority in the exporting economy.

Improvements Implemented since the Last IAP

According to the 2007 Individual Action Plan for Mexico, no substantial changes have been reported in preferential rules of origin compared to the last IAP. However, we can detect some progress in this particular area from other sources. Recently, amendments to NAFTA's rules of origin were made public. An agreement entitled "*Exchange of Letters constituting an Agreement between the Government of Canada, the Government of the United States of*

America, and the Government of the United Mexican States, amending Annex 401 (Track III) of the North American Free Trade Agreement between the Government of Canada, the Government of the United of America, and the Government of the United Mexican States, 17 December, 1992” was prepared. It is estimated that the expected gain from this agreement could be up to \$95 billion in trilateral trade.

According to the Individual Action Plan for Mexico, there were several technical amendments of preferential rules of origin reported in 2006, including amendment of certain rules of origin under the Mexico-Columbia-Venezuela FTA (January 13, 2006), Mexico-Guatemala-Honduras-El Salvador FTA (May 17, 2006), and amendment of certain NAFTA rules of origin (June 26, 2006) in order to reflect changes of the WCO Harmonized System. In addition, Mexico and the United States signed a customs cooperation agreement, which extends the area of cumulation in the textile industry to include the area under the FTA among the United States, the Dominican Republic, and Central America.

Mexico reported that the following changes have been announced to improve procedure related to proving the origin of goods;

- elimination of the requirement to attach the customs declaration document to prove the origin of the goods, when these have a countervailing duty.
- the questionnaire used to demonstrate origin with a life of 1, 3, or 5 years is in force until February 2010, and all new ones will have a period of 3 years.
- Mexico currently is working with Colombia in order to implement the possible emission of electronic certificates of origin, thus reducing transaction costs and supporting trade facilitation.

As for the further implementation plan, Mexico reports that it will continue its participation on the process of harmonization of non-preferential rules of origin under WTO. Also, it is reported that Mexico will fully apply the 2007 version of the HS as of July 2007.

Assessment

It is observed that there have been several amendments and agreements in the existing preferential rules of origin to facilitate flows of merchandise trading among the FTA-participating economies. Preferential rules of origin apply stricter rules to confer originating status than do non-preferential rules of origin in order to limit the benefits from the preferential tariff treatment within parties that are involved in the FTA. Many researchers, however, have warned that such strict rules of origin could act as an impediment that shrinks the positive effect of an FTA. The amendments and agreements will help to loosen the restrictiveness of Mexico’s preferential rules of origin. A careful approach should be taken on balancing between prevention of the free riders problem and increasing the economic effect of an FTA.

The authorities we contacted insist that there be no spaghetti-bowl effect in Mexican preferential rules of origin. Considering the number of FTAs signed by Mexico and preferential rules of origin in each FTA, the variety and complexity of determining the economy of origin have been dramatically increased. Trade Policy Review for Mexico, released January 2008, reports the concern that ‘*The large number of systems for rules of origin in the FTAs signed by Mexico, each with its own criteria, certificates and verification mechanisms, adds to the complexity of Mexico’s import regime.*’ Such complexity and variety

should bring a negative impact to the exporting sector, too. Prudent consideration of current status of preferential rules of origin and proper measures to improve the situation should follow.

Mexico continues to impose different certification requirements on textiles, clothing, and footwear imported from selective economies, including 9 APEC economies. It could work as an extra cost for exporters from these economies and, according to Trade Policy Review of Mexico in 2002, some WTO economies showed concerns of a potentially discriminatory nature, as well as of the WTO. Nevertheless, no noticeable change has been observed

Chapter 12: Dispute Mediation

Objective

- a. *To encourage members to address disputes cooperatively at an early stage with a view to resolving differences in a manner to help avoid confrontation and escalation*
- b. *To facilitate and encourage the use of procedures for timely and effective resolution of disputes between private entities and governments and disputes between private parties in the APEC region*
- c. *To ensure increased transparency of government laws, regulations and administrative procedures aimed at reducing or avoiding trade and investment disputes so as to promote a secure and predictable business environment.*

Achievements since last IAP

Mexico has emphasized dispute settlement processes through Bilateral Investment Treaties (BITs) (Investor - State proceedings), FTAs, and the WTO (State - State proceedings). No substantive changes or further progress is seen in this area.

However, the regime related to State - State proceedings under FTAs concluded by Mexico is not substantively so different from the WTO. Rather, the preferences in these BITs and FTAs relate mainly to clearer and more efficient time lines for the dispute settlement process. In the field of Investor – State proceedings, the ease of applying for damages by the injured party has also increased.

Assessment

Mexico is facing disputes in trade and other associated areas with some non FTA parties e.g. China. In some cases, Mexico has initiated consultations with the parties involved. However, this is within the processes of the WTO. Mexico is not currently thinking of offering to improve its dispute settlement processes for non FTA parties on an MFN basis. It is instead pursuing FTAs and also BITs.

Chapter 13: Mobility of Business People

Objective

- a. *To exchange information on regulatory regimes on mobility of business people*
- b. *To examine the possibility of regional cooperation aimed at streamlining and accelerating processing of short-term business travel, arrangements for temporary*

residency of business people to engage in trade and investment and to establish and maintain a dialogue on mobility issues with the business community

Achievements since last IAP

Mexico has worked hard to start the ABTC program, and although it is not fully implemented it has preauthorized more than 40,000 ABTC cards, has given special training to its airport migration officers and already has special ABTC lines at the most important international airports. Mexico has also implemented technical cooperation and training in Central America to facilitate movement of business people and professionals, fulfilling almost every international parameter in this matter.

During the APEC Leaders Meeting, in Sydney, Australia, 2007, President Felipe Calderon formally announced that México will join the ABTC program.

Moreover, Mexico has taken steps to extend the time limit and flexibility of business visas. Business visas are now granted for up to five years and up to 180 days per year.

In September 2007, Mexico signed a Working Holiday Agreement with New Zealand . Mexico is negotiating the same scheme with a number of APEC member economies.

As an additional effort, Mexico has started evaluations to determine the viability of joining the Regional Movement Alert System (RMAS), which is the world first real-time multilateral environment to register lost and stolen passport data.

Assessment

Although implementation of ABTC has not been approved as yet, in a few months Mexico will be issuing ABTC cards for Mexican business people. Mexico has worked with its counterparts to comply international technology standards and migration authorities already have the software and hardware needed to implement the ABTC card..

In tandem with the movement of business people, Mexico will increase its air and other links with Asia, by direct flights to Tokyo and Shanghai: both flights are already in operation. It is also re-examining its policies towards migration. This last measure is in order to privilege a business environment approach.

Even though mutual recognition of professional degrees and allowing APEC/foreign professional to practice and work in Mexico is still in process, authorities are working hard to make it a reality. This initiative is being strongly encouraged and promoted, as such free movement of qualified professionals would enhance competition and promote efficiency in the APEC region.

Chapter 14: FTAs/RTAs

Objective

- a. *APEC economies will ensure implementation of FTAs and RTAs in a manner fully consistent with the letter and spirit of the WTO Agreements*

- b. On rules of origin, APEC economies will ensure full compliance with internationally harmonized rules of origin to be adopted in relevant international fora, and to ensure that their respective rules of origin are prepared and applied in an impartial transparent manner.*

Achievements since last IAP

Mexico's approach to this issue has been consistent with WTO rules and regulations. However, the main issue is the accelerating pace of Mexico's approach to liberalize and de-regulate its economy through an FTA framework that would enhance discrimination, non-transparency and distortion to non-FTA economies, at least in the short-run. The overlapping, duplication and complexity of Mexican FTAs might provide negative implications to non-FTA APEC economies, as indicated in APEC IAP reviews and assessments. In some areas, the negative effects are compensated and offset through dynamic growth of the Mexican economy and its regional and bilateral partners and through a series of domestic reforms, regulations and laws. However, in some important areas as indicated in the various IAP chapters, the distortions and discriminations remain. The policy challenge for Mexico is particularly daunting, considering the weakening of the WTO and declining productivity in its economy.

Assessment

The Mexican government recognizes the danger and higher cost of a "spaghetti bowl" effect from a proliferation of FTAs with differing rules. It is seeking ways to converge its different FTAs to a more liberalized and open standard. ROOs will receive particular attention in this effort towards convergence.

Its future FTAs will be undertaken as part of a wider strategy. Emphasis will be given to the Latin American economies of the Pacific and selected Asian economies, like The Republic of Korea.

In addition, while FTAs are not contemplated in a number of cases, other APEC economies will be engaged through structured dialogues and joint expert groups.

Mexico believes that APEC remains useful in setting guidelines, showing best practices and setting out the Bogor ideals. Bilateral FTAs however will remain the mainstay of its policy.

Chapter 15: E-Commerce

Overview

E-commerce in Mexico has grown significantly over the past four years. E-commerce has been growing as Internet penetration has matured in the market. Internet service is widely available in Mexico. According to Pyramid Research, E-commerce in Mexico is expected to reach approximately US\$4.7 billion by 2005 and US\$11.3 billion by 2007, up from US\$1.1 billion in 2001. In 2006, 2.2 million people had access to the Internet in Mexico. Computers and electronics are industries that have developed online stores. By far the most popular payment method is the use of credit/debit cards (61%, 2007, buscape.com.mx).

Improvements Implemented

The Telecommunications and Information Working Group's (TEL) priorities are set by both telecommunications and information ministers and Leaders and currently focus on reducing the digital divide, next-generation networks and technologies, E-government, mutual recognition arrangements, regulatory reform, capacity building, protecting information and communications infrastructure and cyber security, and advancing the Asia Pacific Information Society.

In December 2000, the federal government launched an ambitious project entitled E-Mexico. The E-Mexico National system is an integrating project which brings together the interests of several levels of government, various public entities and divisions, telecommunications network operators, chambers and associations linked to information and communications technology (ITC), and other organizations with the purpose of expanding the coverage of basic services in education, health, economy, government, science, technology and industry, as well as other services for the community. In 2003, the position of strengthening electronic commerce was reinforced when adding the Commercial Code and including the guidelines for recognizing electronic signatures and certificates.

For encouraging connectivity, Mexico made efforts to broaden coverage of services and established a network of digital community centers (DCCs) in every one of the municipalities in the economy. In June 2003, the first e-Mexico Satellite Network was launched. It provides connectivity to 3,200 DCCs covering all the municipal heads in Mexico (2,445), and more than 75% of the DCCs are located in schools and academic centers in the economy. The second and third satellite networks followed it. These added 4,800 additional DCCs. Finally a fourth satellite network added 1,200 additional DCCs to reach 9,200 DCCs. In order to obtain a better performance in 2007 the first e-Mexico Satellite Network was decreased by 700 DCCs, to keep 8,500 DCCs in four satellite networks.

Mexico has made significant developments in the E-commerce legal and regulatory frameworks. The Mexican government began this process with the passage of some reforms in the Commercial Code, the Civil Code, the Civil Procedures Federal Code and the Consumer Protection Federal Law which were published in the Official Gazette in 29 May 2000. As a consequence, electronic contracts are recognized legally, information transmitted online is accepted in judicial proceedings, and consumer protection laws apply to the online world.

Furthermore, the Mexican government created a standard known as Norma Oficial Mexicana (NOM-151-SCFI-2002) on conservation of messages of data in 2002. The Federal Law of Transparency and Access to Government Public Information and Law of Digital Signature came into effect in 2002. In 2004 the Official Gazette published the authorization of the electronic invoice effective from 2005.

The Congress of Mexico passed the FEA (advanced electronic signature) in 2003 and the Electronic Invoice in 2004, which facilitated the automation. Nevertheless, in spite of these documents' validity, a high portion of standards within the government still require a printed copy of the transactions. The same is applicable to the electronic documentation managed in each agency. This situation delays the Document Management System initiatives, prevents

the accomplishment of the savings expected from the phasing out of paper, and from time to time, constitutes a barrier in offering full online procedures.

The greatest impact of these changes might be noticed in the collection of taxes. During 2005, 100% of the corporations submitted their tax returns online. Fifty-two percent of individuals submitted them, in hardcopy, and 48% submitted them online. For the year 2006, 77% of individuals submitted their tax returns online.

Additional legislation related to consumer protection and data privacy is pending in the Congress of Mexico.

Changes to the Consumer Protection Law in June 2004 improved the protection of real property transactions, clarified privacy and data confidentiality regulations, and allowed for Mexico's consumer-protection agency, PROFECO, to open offices in commercial centers. In addition, complaints to the agency can now be made via telephone, fax or E-mail, instead of requiring a personal visit to a PROFECO office.

In early 2005, PROFECO signed a bilateral agreement with the United States to promote cooperation in the fight against cross-border problems. This agreement is not legally binding and does not alter either economy's consumer-protection laws. It does, however, establish the goal of improving cross-border coordination of anti-contraband taskforces, improving communication, and making laws consistent regarding counterfeit goods.

APEC's Second Trade Facilitation Action Plan: Mexico's role in Electronic Commerce

Regarding the Trade Facilitation Action Plan II, APEC pursued an objective of eliminating obstacles for constituents (including citizens, business of all sizes, and government agencies) in the global trade flow by identifying, addressing, and alleviating identified barriers and out-of-date practices. The Trade Facilitation Menu of Action and Measures in E-commerce has two objectives: removing barriers to electronic commerce and expediting the use of electronic commerce. To remove barriers to electronic commerce, APEC has four options and Mexico will participate in identifying and mapping out major barriers to E-commerce through the exchange of practices, including but not limited to laws, regulations, and policies on E-commerce across APEC.

In another APEC's objective in E-commerce, expediting the use of electronic commerce, APEC has nine options and Mexico will participate in the following:

- (b) Promote consumer and business education on legal issues
- (e) Assist the private sector with their network security and data privacy efforts and explain the economic reasons behind developing sound network security and data privacy practices
- (g) Increase trust and confidence in electronic transactions and E-commerce to counter problems associated with a lack of effective authentication
- (h) Facilitate E-commerce adoption in industries, particularly SMEs, to address industry-specific obstacles in E-commerce

Assessment

Mexico has made impressive progress toward improving connectivity and the vitality of E-commerce. Many Mexican companies and financial institutions are concerned that the

government's interest in passing laws related to data privacy could hinder the transformation of Mexico into a digital society. According to AMIPCI's research (2007) about online commerce, 51% of Internet users do not trust providing their personal information online and 44% say they are afraid of giving their credit card number online. As Mexico indicated in the Trade Facilitation Menu of Action and Measures in E-commerce, not only for consumer's security during E-commerce transactions, but also as preparation for expanding international business through E-commerce, the Mexican government needs to make further efforts and actions to ensure the transparency of transactions in E-commerce for consumer protection and data privacy.

APPENDIX A

MEMBERS OF THE REVIEW TEAM

Mexican IAP Review Team comprised:

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APPENDIX B

**IN- ECONOMY VISIT LIST OF CONTACTS
21-24 APRIL**

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Services

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APPENDIX C

MEXICO'S RESPONSES TO COMMENTS AND QUESTIONS

Chapter 1 - Tariffs

Australia

1. Currently Mexico's applied tariffs on a range of agricultural products (including meat and livestock, dairy products) and wine range up to 125 per cent. We note a substantial disparity between the tariffs applicable to Australian products, for example, vis à vis Mexico's preferential trade partners (e.g. NAFTA, Chile) at zero tariffs. What is the timeframe envisaged for Mexico to reduce its applied tariffs on beef and veal, dairy products and wine for non-NAFTA APEC economies?

At the moment, there is no timeframe envisaged.

Canada

2. With the reduction of MFN rates for approximately 6000 tariff lines in the steel, chemical and textile sectors, what have been the benefits for Mexican importers and industry?

There are benefits for importers and industry as well. In this regard, increased competitiveness and more coherence to the Mexican tariff structure allow the better integration of the productive chains. Additionally, the reduction of MFN rates is part of our multilateral commitments, including the Bogor Goals.

3. How are consultations proceeding with industry for further unilateral tariff reductions? Have these taken place?

Yes, of course. In Mexico all tariff reductions, among other related issues, are carried out consulting with the industry and all other interested sectors. All these kind of reductions are discussed within the industry or carried out as a request from them.

4. On further Mexico-Japan Tariff Quotas, can you elaborate on sectors being considered for further opening?

The Economic Partnership Agreement (EPA) establishes that the parties shall consider the quotas in the fifth year of the Agreement. The EPA provides for the elimination of autos-quota in the seventh year of the Agreement.

Hong Kong, China

5. We commend Mexico for its efforts in implementing unilateral tariff reductions on most tariff items and note that Mexico will pursue further unilateral tariff liberalization. In this regard, we encourage Mexico to further reduce tariffs in sectors with relatively high

applied rates, such as leather, rubber, footwear and travel goods, and fish and fish products.

Thank you for the comment and certainly, tariff reductions will take place according to internal needs and our multilateral commitments, such as the Doha Round and Bogor Goals.

Experts

6. Bound tariffs for the industrial sector as well as for agricultural sector have been for several years at the level agreed under the Uruguay Round and bounded under WTO. Even though Mexico's applied tariffs are below bound tariff for most tariff lines, there are cases in which applied tariffs are greater than bound tariffs. What are the economic and legal arguments?

Mexico's MFN tariff rates are according to our WTO commitments, particularly those related to the bound tariffs. Hence, we would like to know what are the exactly cases or references mentioned in the above paragraph.

7. Mexico will apply from July 2007 the "Import and Export Tariff Law" and related instruments. What are the contents and implications for APEC member economies?

The only purpose of such law is to implement the 2007 Harmonized System according to our commitments under the World Customs Organization. This update of our legislation will facilitate trade so that it is a positive measure for APEC members.

8. Mexico has implemented the 2007 version of the Harmonized System which requires Congress approval and is expected to become Law by end of 2007. It is a great achievement consistent with APEC Leaders' Transparency Standards on Market Access. How can Mexico use this process and achievement to provide unilateral peer pressure encouragement to other APEC member economies?

The 2007 Harmonize System entered into force last July 1st. It is just part of Mexico's goal to fulfill its multilateral commitments.

9. Mexico has initiated 12 bilateral FTAs with mostly non-APEC economies. How can Mexico minimize tariff preferences against non-preferential APEC member economies?

Mexico has maintained as one of its axis the unilateral liberalization, which contributes to the growth of import flows, particularly coming from APEC economies. In 2000 the total trade of Mexico with the non-preferential trading APEC partners was around 15.2 billion dollars and for 2006 it was about 58.1 billion dollars, it means an increase of more than 282%.

10. On average, Mexico has quite low tariff rates. However, general tariffs in sensitive sector such as textiles, agriculture and clothing are quite high. What is the dispersion tariff rate?

The dispersion of the Mexican tariff Schedule is around 15%.

Chapter 2 – Non-Tariff Measures

Experts

11. From Mexico's Chapter 2 on NTM, it seems no further improvements are planned. Would Mexico consider extending, on a voluntary and unilateral basis to all APEC economies, the benefits of reductions and eliminations of non-tariff measures derived from sub-regional arrangements?

Normally, Mexico applies NTM in a horizontal approach (MFN basis), except as otherwise provided in an FTA about very specific questions negotiated bilaterally, such as the Right for Customs Procedures.

12. On the issue of subsidies, what are the remaining major industries in Mexico to be subsidized?

Mexico does not apply subsidies for industrial goods

13. Has any dateline been set to eliminate remaining NTMs for Mexico?

The elimination of most of the remaining NTM depends on the Mexico's commitments and rights derived from the WTO or other treaties (SPS, TBT, and Article XX, among others). In this regard, the elimination of the NTMs will depend on the case.

14. It is advisable to maintain and update a database in monitoring NTM and comparing them with other APEC member economies. Is one regularly published and updated on the relevant website?

All regulation in this matter is available in a web site:

www.siicex.gob.mx/portalSiicex/SICETECA/SICETECA.html

15. Are Mexico's MRAs (Mutual Recognition Agreements) mostly agreed on a bilateral and reciprocal basis?

The Federal Law of Metrology and Standardization in articles 87-A and 87-B provides the essential criteria for Mutual Recognition Agreement (MRA). According with the Law, MRA could be celebrated by the Ministry of Economy with any foreign official institution and also, private sector counterparts (such as certification bodies, laboratories, verification bodies). MRA's are celebrated under the principle of reciprocity, in order to facilitate trade and the parties should be similar

Chapter 3 - Services

Canada

(Transparency)

16. It is noted that the Federal Law for Transparency and Access to Governmental Public Information issued in 2002 has led several Ministries to publish relevant information on their websites and include enquiry points to facilitate the flow of information. Is there, or will there be, a “one stop” website that will provide information or contact points for parties interested in services and services-related issues pertaining to Mexico’s domestic measures?

There is no specific “one stop” website for services issues. Each Ministry has a website to consult the regulatory regimes in services and services related issues. Additionally, the Congress (Congreso de la Unión) has its own website where it is possible to consult Mexico’s domestic measures in services and other sectors.

(Business Services: Accounting)

17. The annual sectoral report indicates that foreign providers must “renew their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of the Secretary of Public Education” before registering in the General Directorate of Professions to obtain the Professional Certificate/License. In this context, what actions are signified by the word “renew”?

The word “renew” is close to the meaning of “ratify”. Foreign providers must *ratify* their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of Public Education (Dirección General de Acreditación, Incorporación y Revalidación) in order to keep in force the issued document.

(Business Services: Architectural)

18. The annual sectoral report indicates that foreign providers must “renew their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of the Secretary of Public Education” before registering in the General Directorate of Professions to obtain the Professional Certificate/License. In this context, what actions are signified by the word “renew”?

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19. What opportunities are foreseen now that the NAFTA MRA for Architectural Services has come into force?

By enforcing these agreements Mexico pursues better access for service providers in other markets and in the other hand consumers have more options to choose professionals with high technical level.

(Business Services: Engineering)

20. The annual sectoral report indicates that foreign providers must “renew their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of the Secretary of Public Education” before registering in the General Directorate of

Professions to obtain the Professional Certificate/License. In this context, what actions are signified by the word “renew”?

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(Business Services: Legal)

21. The annual sectoral report indicates that foreign providers must “renew their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of the Secretary of Public Education” before registering in the General Directorate of Professions to obtain the Professional Certificate/License. In this context, what actions are signified by the word “renew”?

The word “renew” is close to the meaning of “ratify”. Foreign providers must ratify their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of Public Education (Dirección General de Acreditación, Incorporación y Revalidación) in order to keep in force the issued document.

22. Mexico has not made any commitments in this sector in the WTO. Is Mexico considering adding commitments for foreign legal consultancy services (advisory services on foreign and public international law) to its GATS schedule?

Mexico is following the level of ambition of the different revised offers of the negotiations within the framework of the WTO.

23. It is noted that no further improvements are planned in this sector. To what extent does Mexico consider that it has met the Bogor objective for this sector?

Considering that before taking any action towards further liberalization in specific sectors Mexico carries out a careful evaluation, the sector of legal services is also subject to internal consultations in order to determine the future level of ambition in this sector in line with the Bogor objectives.

(Business Services: Other)

24. The annual sectoral report indicates that foreign providers must “renew their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of the Secretary of Public Education” before registering in the General Directorate of Professions to obtain the Professional Certificate/License. In this context, what actions are signified by the word “renew”?

The word “renew” is close to the meaning of “ratify”. Foreign providers must *ratify* their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of Public Education (Dirección General de Acreditación, Incorporación y Revalidación) in order to keep in force the issued document.

25. For foreign investment, entry requirements include “consultations among the interested sectors to define the participation.” Please clarify how these consultations are conducted and how they impact foreign investment.

According to the Foreign Investment Law there are no entry requirements to allow foreign investment participation. Instead, Article 8 of the Law provides the need of a favorable resolution from the Foreign Investment National Commission (CNIE).

(Business Services: Other Professional Services)

26. The annual sectoral report indicates that foreign providers must “renew their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of the Secretary of Public Education” before registering in the General Directorate of Professions to obtain the Professional Certificate/License. In this context, what actions are signified by the word “renew”?

The word “renew” is close to the meaning of “ratify”. Foreign providers must *ratify* their professional studies in the Direction General of Accreditation, Incorporation and Revalidation of Public Education (Dirección General de Acreditación, Incorporación y Revalidación) in order to keep in force the issued document.

27. For foreign investment, entry requirements include “consultations among the interested sectors to define the participation.” Please clarify how these consultations are conducted and how they impact foreign investment.

According to the Foreign Investment Law there are no entry requirements to allow foreign investment participation. Instead, Article 8 of the Law provides the need of a favorable resolution from the Foreign Investment National Commission (CNIE).

(Energy Services)

28. With respect to the development of new Liquefied Natural Gas projects, will these be open to international public bidding?

Yes, in compliance with the Ley de obras Públicas y Servicios Relacionados con las mismas (“Public infrastructure and Related Services Law”).

29. It is noted that Mexico’s Congress is discussing the Energy Regulatory Act. What policy changes to Mexico’s regulatory regime are envisioned in this Act and what is the expected timeframe for passage and implementation?

The content of the discussion is taking place in the Mexican Congress and can be publicly viewed on-line at the following internet address:

- a) <http://www.camaradediputados.gob.mx/>
- b) <http://www.senado.gob.mx/>.

30. The Energy Regulatory Commission is expected to issue new regulations regarding services with the Natural Gas sector.

- a) If the announcement has not yet been made, please inform us of the current timetable for the announcement and the expected timeframe for implementation of policy changes.
- b) If the announcement has been made already, please advise us of any policy changes that are to be introduced and the expected timeframe for implementation of policy changes.

No public announcement has been made, neither has the timetable or timeframe for the implementation of the policy changes. The aforementioned regulations are currently being subject to a public consultation process, the details can be consulted at www.cofemer.gob.mx. We expect to finalize the discussions and formalities associated to this project in the first half of 2008. The implementation of the new regulations will be determined shortly thereafter.

(Tourism and Travel-Related Services)

31. We welcome the improvements outlined in Mexico's annex to Chapter 3 (i) on Tourism and Travel-Related Services. May we know of plans by Mexico to further liberalize its tourism services? We note that, in the context of the services negotiations in the WTO, Mexico has not taken specific commitments in all of the categories covered by hotels and restaurant services, including catering services (or CPC 641-643).

Before any possible further liberalization the sector is subject to a careful evaluation. On the other hand Mexico is following the level of ambition of the negotiations within the framework of the WTO Services Negotiations. Also Mexico will consider an overall balance in its evaluation.

32. Does Mexico's IAP cover liberalization for all modes of supply? If yes, does Mexico intend to bind its existing regime within the context of GATS negotiations?

Tourism does not cover all categories. The subsectors include hotels and restaurant services and reflect provisions in regard to Mexican legislation.

(Transport Services: Air)

33. Mexico is currently negotiating several air transport agreements. With which partners?

Mexico has 8 Air Service Agreements initialized, finalized and ready to be signed with the following economies: Belize, Uruguay, Paraguay, Australia, South Africa, United Arab Emirates, Jamaica and Mayan World (Guatemala, El Salvador, Honduras and Belize). Moreover, there will be a negotiation of current Agreements with Canada, Costa Rica and Argentina with the purpose of its amendment; on the other hand, new Agreements with India, Trinidad and Tobago, European Union, Egypt, Macao, Iceland and Qatar will be negotiated next year.

34. What changes are being contemplated in air transport policy, in relation to both passengers and cargo?

Mexico will be handling case by case negotiations on Route Schedule and Code Sharing.

35. Does the Government of Mexico foresee selling all of its shares in AeroMexico, or maintaining some interest in the company?

All Aeromexico's stocks have been sold to the private sector; therefore, the Mexican Government will not maintain shares participation in the company.

36. What has been the impact on air services in Mexico with the recent entry into the market of some discount carriers?

Competitiveness has increased among different air carriers, actually in some markets the air tariffs are lower. Likewise, the low cost airlines have connected new cities, benefiting more passengers who never have had the possibility of traveling.

China

37. What measures has Mexico taken to facilitate the international mobility of foreign students, particularly of graduate and professional students, including mutual recognition of academic diplomas and degrees?

In Mexico, the strategic measures to facilitate the mobility of students between educational institutions, mutual recognition of graduates and professionals, and the recognition of academic diplomas and degrees, have been mainly the following:

- a) The subscription of bilateral and multilateral agreements for the mutual recognition of certificates of study, degrees and academic diplomas,
- b) The creation of cooperative and student academic exchanges programs between educational institutions,
- c) The subscription of international programs for scientific and technological cooperation, and
- d) The involvement of educational institutions with students networks and teachers mobility.

Additionally, Article 42, of the General Population Law (Ley General de Población) provides a migratory characteristic of "non immigrant" that applies to foreigners during its temporary stay in the economy whose purpose is to start, finish or to attend specialized studies in official institutions with or without official recognition validity. This category also provides them with annual extensions including an authorization to remain in the economy only during the required period of time to finish their studies or to obtain the final scholar certification and they are able to leave the economy every year for a maximum period of 120 days in order to keep qualifying for this category.

Mexican consulates are authorized to issue student visas to foreigners with scholarship obtained from the Mexican government.

38. What are the legal regulations and requirements for foreign entities to set up foreign language teaching institutions or examination centers in Mexico? What facilitation measures can be provided by Mexico?

According to the Mexican Legal Framework on Foreign Investment, there are no equity participation restrictions to set up foreign language teaching institutions or examination centers.

39. What are the restrictions and requirements on education services conducted by foreign providers (e.g. legal entities and foreign language teachers) in Mexico?

According to the Mexican Legal Framework on Foreign Investment, a favorable resolution by the National Commission of Foreign Investment is required for foreign investment to participate in a percentage higher than 49% in private education services of pre-school, elementary, middle school, high school, college or any combination.

On the other hand, Article 42 of the General Population Law (Ley General de Población) as well as Article 162 of its Regulations provide a migratory category for Technical non immigrant visitors defined as the male or female foreigner who comes into the economy in order to start or carry out a specific investment project, to provide consulting services to public or private institutions, to carry out, prepare or manage scientific research, to give conferences, courses or communicate knowledge; to carry out technical activities regarding the elaboration of an investment project; to design or start up an operation or construction of a plant, to train other technicians under services contracts previously agreed or to provide services under a contract of technology transfer, patents or trademarks.

On the other hand, in accordance with Articles 15 and 17 of the Regulations on Article 5th of the Constitutional Law to Practice Professions in Mexico City, foreigners are allowed to practice a profession provided in such Law and subject to the provisions established in the international agreements signed by Mexico.

The licenses issued abroad must be registered in the Ministry of Public Education as long as the studies are similar or equivalent to the studies provided by the national education system. If this is not the case then a system of equivalences of studies will be established to examine the applicants and verify their knowledge.

Hong Kong, China

40. We note with appreciation that Mexico has undertaken improvements in certain services sectors since the last IAP review. The presence of discriminatory treatment in various services sectors would however continue to constitute much uncertainty for foreign services suppliers. To further contribute to the Bogor goals and add impetus to the ongoing WTO services negotiations, we would like to urge Mexico to consider further liberalization plans in a more active manner.

(Business Services: Engineering)

41. We would like to clarify whether the term “architect” in the sentence “In Mexico, to offer

services as an *architect* it is necessary to fulfill a social service and to get the Bachelor Degree and a Professional Certificate / License” should be amended to read as for “engineer” under current entry requirements of “Operational Requirements”.

The answer is positive. Instead of “architect” the sentence should read as for “engineer”.

(Tourism and Travel Related Services)

42. We note that Mexico considers tightening security measures so as to guarantee the safety of tourists. We wish that Mexico will continue facilitating seamless travel for visitors and taking a non-discriminatory approach to the provision of visitor facilities while enhancing safety and security measures

As indicated in the IAP Mexico foresees the following security improvements:

- Inspection of vessels to verify compliance with equipment for maritime safety.
- Security and surveillance operations to preserve the integrity of cruise ships and recreational vessels and their tourists.
- Land and sea patrolling in conflictive areas with high crime rates in order to increase the security of local and tourist people.
- To increase the number of lifeguards in national ports and beaches in order to guarantee the physical safety of tourists.

Regarding the improvement measures for seamless travel in 2007 Mexico became a Member of the APEC Business Travel Card scheme.

(Business Services: Other Professional Services, Other)

43. On current entry requirements for ‘foreign entry’ of other professional services, and other business services, we note that Mexico is considering the need to consult the interested sectors to define foreign participation. We would appreciate an update on the consideration made so far and would urge Mexico to drop any discriminatory measures which limit foreign market access to provide other professional services.

There is no “consultation” entry requirement for foreign investment participation. In the case of the National Commission of Foreign Investment , a favorable resolution is provided according to law, (Article 8 of the Mexican Legal Framework on Foreign Investment.)

(Communication Services: Telecommunications and Audio-visual services)

44. In respect of Mexico’s regime on telecommunications services, we would appreciate an update from Mexico on any improvements made since the last review. We are also interested to know whether Mexico has any plans to make further improvements in the future.

Mexico has been implementing several measures since the last IAP review in order to ensure competition in the telecommunications and broadcasting sector.

In this sense, the Federal Telecommunication Commission (COFETEL) has been doing considerable progress in the following key issues.

- *Criterion about Resellers*
- *Number Portability*
- *Consolidation of Local Service Areas*
- *Technical Interconnection Plan*
- *Spectrum Auctions*

Criterion about Resellers

In the past, the assignment of permits to resell telecommunication services was subject to the emission of the particular services Regulation.

In due course, reseller permits were granted only to those services that had a Regulation in force, such as public telephony and long distance services, as well as to those regarding satellite land transmitting stations.

COFETEL's Plenary issued a criterion in which if the Law submits the resellers operations to specific regulation that could be eventually enforced, does not limit or inhibit the issuance of the permits itself.

The Law clearly establishes the requirements to obtain a permit to commercialize telecommunication services. Therefore, if an interested party complies with these requirements, it should be entitled to obtain it.

In practice, for the assignment of reselling permits according to the legal mandate COFETEL issues an opinion to the Ministry of Communications and Transportations (SCT) which in turn issues the permit to the applicant. Hence, this criterion implies that COFETEL would issue a favorable opinion to those applications which fulfill the requirements established in the Federal Telecommunications Law.

COFETEL considers that this measure is a first step to favor the entry of new players in a convergent environment, which can increase the supply of telecommunication services in benefit of the users.

Number Portability

The instrumentation of this measure implies the fulfillment of different actions that are necessary to translate Portability in a reality for the user.

Therefore, in the Portability Resolution issued by COFETEL in May 2007, a calendar was established for the Portability implementation. The schedule considers the installation of a Technical Committee for the Portability, the elaboration of Technical Specifications and Business Rules and the hiring of an Administrator for the Portability Administrative Data Base.

The measures have been accomplished in accordance with the calendar. The Technical Committee for Portability holds meetings on a regular basis. The Technical Specifications are near to conclude the process of regulatory improvement while the Business Rules already

started the process in the Federal Bureau of Regulatory Improvement (COFEMER). The Technical Committee is now working in the elaboration of an RFP to hire the Administrator of the Portability Administrative Data Base.

Therefore, it is expected that Portability will be a reality for users during the second quarter of 2008. Thus, Mexico will become the first economy in Latin-America to implement Portability for fix and mobile numbers.

Consolidation of Local Service Areas

Before starting the consolidation, Mexico had 1,464 local service areas (ASL) involving a long distance fee between them. In the first consolidation, ASL were reduced to 397 ASL so the tendency continues in benefit of resident users.

In 2006 and in accordance with the continuous requests for consolidation, the Plenary issued Guidelines determining general features to be complied with, for the modification of the ASLs. Also they establish the procedure to fill up requests.

The modification of the definition of ASL is a process that starts with a request from the authorities, users, non-governmental organizations, license holders, among others. Such process is of public interest since it improves competition between the telecommunication services providers, and generates direct benefits to the users due to the reduction of tariffs that Mexicans used to pay for a long distance service.

Technical Interconnection Plan

COFETEL submitted a proposal of Technical Interconnection Plan for a first public consultation. During the first phase, there were contributions from license holders, users, manufacturers and service providers that helped to improve COFETEL's proposal with the ideas and opinions given with complete freedom by interested parties.

Therefore, COFETEL started the second phase of the public consultation on the Technical Interconnection and Interoperability Plan that allowed to get and to evaluate the opinions of interested parties on the second version of the document that already included comments and contributions of several interested parties.

Shortly COFETEL will start the regulatory improvement process with a version of the Technical Interconnection Plan which has been modified according to the contributions of the first and second phases of the public consultations.

With an efficient interconnection and interoperability, the value of all the available infrastructure will increase, since the possible universe of net receivers will be substantially increased by adding other subscribers. Therefore, there will be an increased communication possibility for all connected users by multiplying the connection possibilities.

Spectrum Auctions

COFETEL will be in charge of carrying out the auction process for the granting of licenses of the frequency bands included in the spectrum auction program.

On June 20th, 2007 COFETEL issued a Resolution in which the following frequency bands, were submitted to approval of the Ministry of Communications and Transports (SCT):

Frequency Bands	Modality of Use	Coverage
1710 – 1770/2110 –2170 MHz	Wireless access fixed and mobile	Regional
990 MHz	Wireless access fixed and mobile	Regional
3400 – 3700 MHz	Wireless access fixed and mobile – broadband	Regional
71 – 76/81 – 86 GHz	Wireless local and fixed access	Regional

Additionally, for the purpose of completing the Programs proposal, on September 19th 2007, COFETEL's Plenary also submitted to the approval of the SCT the following frequency bands, in response of the interest shown by several Trunking license holders :

Frequency Bands	Modality of Use	Coverage
806 - 821/851 – 866 MHz	Trunking	Basic Service Areas

On October 18th, 2007 the SCT published the Auction Program in the Official Gazette for 2008. This program includes four frequency bands: 1850-1910/1930_1990 MHz, known as PCS; 3400-3700 MHz, identified to provide services with Wi Max technology; 1710-1770/2110_2170 MHz, a new band for mobile broadband services; and 71-76/81-86 GHz, useful for high volume data transport services and known as wireless fiber or Wifiber.

The aims of this program are to increase the economy's transmission capacity to provide more and better services to end-users, mainly mobile telephony service, Internet and broadband access, as well as to raise the coverage of communications services in underserved areas.

Backbone services

In 2006, the Federal Electricity Commission (CFE) which is the mayor electric public-owned company, was granted a license to provide wholesale telecommunications services through its fiber optic network that represents the second more important network for backbone services. Currently, CFE is already supplying this service.

Radio and Television Law

In order to promote triple play services, the SCT granted authorizations for the supply of telephone services to 26 pay television service providers between December 2006 and September 2007.

On April of 2006, Mexican Congress reformed the Federal Radio and Television Law and the Federal Telecommunications Law. Such reforms were reviewed by the National Supreme Court of Justice. As result, some of these reforms were declared unconstitutional on August

of 2007. Currently, Congress has started a process to reassess the legal framework, attending the observations made by the National Supreme Court of Justice, as well as to those issues that will stimulate the development of the telecommunications sector in Mexico.

Further improvements planned

COFETEL is working on a new consolidation of LSA that foresees the reduction of 70 ASL's and is still analyzing some further requests that will provide a substantial reduction of long distance destinations in Mexico.

On the other hand, besides operating as carriers' carrier, the Federal Electricity Commission (CFE) is reviewing, jointly with the SCT, the feasibility of leasing dark fiber to other telecommunications service providers, in terms of not jeopardizing the security of the national electric grid.

The Federal Telecommunications Law and Federal Radio and Television Law are being reviewed by the Mexican Congress where further improvements are envisaged.

The Mexican Congress is reviewing the current Foreign Investment Law regarding the convenience of allowing foreign ownership to be more than 49 percent in fix telephony services.

45. We note with appreciation that Mexico has ratified the measure of extending the benefit of 0% of Value Added Tax for services of shooting movies contracted by foreign residents in 2006. We would appreciate Mexico's further efforts to encourage foreign provision of audio-visual services by further liberalizing this sector.

**Chinese Taipei
(Energy Services)**

46. As indicated in the Annual Sectoral Report, Mexico's natural gas sector is currently under reform, so that natural gas transportation, distribution, storage, and marketing, including foreign trade, would be opened to the participation of the private sector. Can you give us more information on how privately-owned businesses could participate from a foreign investors' perspective? Are there criteria to follow? Would the Mexican government provide incentives to attract foreign investment?

Natural gas transportation, distribution and storage in Mexico are regulated activities already with a strong and active private component. The Energy Regulatory Commission, who is an independent entity of the Federal Government, authorizes the projects on these activities and publishes the prices of natural gas in the economy. Marketing and foreign trading of aboriginal sources of natural gas is done exclusively by the state through Petróleos Mexicanos (Pemex). Pemex or private investors can do the marketing of imported natural gas.

On transportation, private investment has been developed through service contracts with federal entities, via public tenders, and through independent developers, open-access and self-supply pipelines.

On distribution, the Energy Regulatory Commission issues a public tender for a defined area

in the economy that will include both industrial and residential users and an exclusivity period.

On storage, projects are been developed independently and even though the projects are associated with LNG contracts with federal entities all LNG terminals have to be of open-access.

However, it is important to note the framework provided by the Foreign Investment Law on pipeline construction.

The Mexican government provides no incentives to foreign investment other than a transparent regulatory framework and a strong regulatory commission that guarantees equal opportunities to investors.

Experts

47. Despite Mexico's continued effort to upgrade general service regime to become more open and transparent, it is noted that improvements and further improvement plans are not clearly identified in most sectors in its 2007 IAP. Please list and brief major achievements Mexico has made in the general services regime since the last IAP review in 2002 and further improvement plans in individual sectors.

The main improvements made in the general services regime are as follows:

Telecommunications

In recent years the regulating commission of this sector has undertaken actions to improve the competitive atmosphere in order to improve the prices, the quality and the diversity of services.

The regulation for the resale of long distance and international long distance services was published in the Official Gazette on August 12, 2005. The resellers of these telecommunications services can only sell from authorized concessionaries of a public telecommunications network. On December 1st, 2005, an Agreement by which the condition to guarantee these services established on concession titles, was modified with the purpose of simplifying the fulfillment of the obligations derived from such concession titles.

Financial services

In recent years there have been several reforms in the Mexican financial system improving its regulation and supervision.

The capital requirements regulation was amended on December 28, 2005, to further clarifying different issues of the existing regulatory framework in order to align regulatory capital requirements more closely to the underlying risks that banks face.

In December 30, 2005, amendments to the Banking Law were made in order to improve the transparency of the information protected by the bank and trust secrecy.

In December 2005, a new Securities Market Law was enacted. It establishes a modern

institutional framework that will improve competitiveness, to attract national and international investment to finance Mexican companies, since it incorporates principles that are fundamental for the investment decision making process.

In October 24, 2005, in order to regulate the operation of auxiliary companies specified in article 88 of the Banking Law, as well as investments made by commercial banks in that kind of entities, general provisions were issued.

In November 24, 2005, general provisions were issued with the objective of establishing measures for commercial banks to invest in companies envisaged in article 75, section III of the Banking Law.

In July 2006, the Mexican Congress approved reforms to different financial sector laws in order to modernize the institutional framework of the financial leasing companies, financial factoring companies and limited scope financial institutions (Sofoles). These reforms allow companies to conduct any kind of credit transactions, financial leasing and financial factoring. Encourage the entrance of new participants to the credit market, in order to promote competition by increasing credit supply and reduce management regulation costs.

Tourism

On July 3rd 2006, the operation rules to refund the Tax Value Added for shopping to foreign tourists were published. The benefit of 0% of Tax Value Added for the services of shooting movies contracted by foreign residents was ratified in 2006.

48. What are the sectors and activities licensing and qualification requirements that are imposed specifically on foreign service providers? Please provide any changes that have been made from 1996.

The sectors and activities with licensing and qualification requirements applied on foreign service providers are the following:

Legal services, accounting, recreational cultural and sporting services, telecommunications, electricity, natural gas, rail transport, audio visual, architectural, road transport, air transport, tourism and travel related services, maritime transport, engineering, education, other professional services.

Some improvements have been done in the telecommunications sector. The Federal Telecommunications Law establishes requirements to obtain a permit to commercialize telecommunication services. Therefore, if an interested party complies with these requirements, it should be entitled to obtain it. This measure is a first step to favor the entry of new players in a convergent environment, which can increase the supply of telecommunication services in benefit of users.

Foreign Investment or Right of Establishment

The foreign investment has increased its participation in the Mexican economy. Lots of foreign enterprises have settled in the Mexican territory, helping to create new jobs and to

open additional opportunities for Mexican enterprises to invest and trade.

Mobility of Business People

Since 1993, the National Migration Agency (INM) started its modernization and pilot a Comprehensive Migratory System (SIOM) as the tool for monitoring and managing process in Mexico.

In 2007 Mexico became a Member of the APEC Business Travel Card scheme.

Foreign Exchange Control/ Movement of Capital

Mexican legislation allows more foreign investment in commercial banks, securities firms, and financial holding companies, in order to strengthen in particular the banking system's capital base and thus reduce its vulnerability.

Banking and credit activity is expected to have greater dynamism through products that will foster savings and projects to develop financial resources.

Chapter 4 – Investment

Australia

49. We note that Mexico's Constitution currently restricts foreign investment in the energy sector. Does Mexico intend to introduce energy sector reforms that would permit foreign participation and investment in Mexico's oil and hydrocarbons industry?

According to the Mexican Political Constitution, the exploration and exploitation of hydrocarbons (crude oil and natural gas) are reserved to the Mexican State, as well as the generation, transformation, distribution and marketing of electricity for public utility purposes. However, please note that certain areas related to the energy sector are open to FDI. For instance, natural gas transportation, distribution, storage and marketing, certain power generation projects not considered as "utility services" (such as independent power generation and self-consumption) and the construction of pipelines or drilling of wells (the latter subject to prior approval of the National Commission on Foreign Investment). Currently, there is not a specific bill aimed at changing the legal regime applicable to the FDI in energy; although as a matter of public policy there are some attempts to strengthen the energy sector.

Canada

50. It is noted that there is an ongoing review process of investment policies to maintain and open Mexico's investment regime. Please provide more information about the review, indicating how the process works. For example, we would appreciate information such as the parties consulted and the timeframe for announcing and implementing results.

The foreign investment policy is mainly set forth in the Foreign Investment Law (FIL). As a

matter of public policy, there is an ongoing exercise (at the Federal Government level) aimed at reviewing the impact and possible opening of certain restricted sectors. There are not however specific or formal rules related to timeframe or procedure.

Hong Kong, China

51. Appreciate Mexico's efforts in deregulating most economic activities as reflected in its Foreign Investment Law. However according to Mexico's IAP report under the Section of "Non-discrimination", the own nature of its foreign investment policy on pre-establishment investment discriminates in a number of activities between foreign investors and domestic investors, thereby restricting the provision of national treatment. We should be grateful to know more details about the coverage of discrimination being applied; and whether Mexico has any plans for progressively liberalizing its investment regime in this respect.

Pursuant to the FIL, there are some activities reserved to Mexican nationals or to Mexican enterprises wholly owned thereby, economic sectors in which FDI may not exceed percentage limits that go from 10 % to 49%, and activities where majority of FDI is allowed prior authorization from the National Commission on Foreign Investment. However, these activities are limited to those expressly listed in Articles 6, 7 and 8 of the FIL, and they represent a small percentage with respect to all the spectrum of economic activities. Major mergers or acquisitions that surpass a specific threshold also shall apply an authorization from said Commission

For the liberalization issue refer to answer 2.

Experts

52. Mexico states that it operates a very liberal screening regime for pre-establishment investment and effectively provides national treatment on post-establishment investment. Please advise what proportion of investment proposals in this category examined over the past five years have been denied and/or restricted.

With respect to the National Commission on Foreign Investment, during 2001-2006, 128 projects were approved, and 4 denied.

53. In its IAP Mexico does not report on the performance requirements section. To what extent does Mexico allow for any use performance requirements to non-FTA and BIT partners?

The FIL, of general application, does not set forth any performance requirement.

54. Has Mexico considered granting foreign investors the same treatment as investors from NAFTA partners and BIT members?

As a matter of international law, an international treaty only gives benefits to the parties to it. They contain a number of rules that are suitable only for treaties. However, domestic law also affords investors a high degree of protection in different areas.

55. We note that certain national treatment exceptions are still in place in certain industries. Does Mexico have any specific plan to phase out these restrictions?

Refer to answer 2.

56. Please provide the flows and stocks of FDI and ODI for the past decade. Please also provide changes in the share of FDI to Mexico's GDP for the same period?

Pursuant to Article 27 of the Foreign Investment Law, every trimester the National Register for Foreign Investment issues the Statistic Report on the Behavior of Direct Foreign Investment in Mexico, which is public and available at the internet. Such report contains a description of the behavior of FDI during the period concerned, emphasizing aggregate amounts, origin, destination (economic sector) and type of FDI. It also explains the methodology used.

Visit:

<http://www.economia.gob.mx/?P=1164>

<http://www.economia.gob.mx/?P=1175&NLanguage=en>

See annex.

Chapter 5 – Standards and Conformance

Experts

57. In addition to tariff and non-tariff barriers, subscribing and implementing agreed standards and conformance are important instrument to facilitate trade and investment in APEC member economies. What are the major issues for Mexico on this chapter?

Mexico considers that prior to subscribing a standards and conformance agreements, it is important to understand how the standardization system and accreditation system works in APEC members, in order to identify those areas that are of common interest to the Economies. In this context, it would be possible to develop workshops or seminars to share information about standardization, focusing in accreditation system.

58. How much can Mexico demonstrate progress and achievements in the area of TBT (technical barriers to trade) and SPS (Sanitary and Phytosanitary Measures)? Some members have indicated their concerns on this chapter, especially on agricultural and chemical products.

Since April 2007, the Ministry of Economy implemented a specific process to review that all drafts content an international standard to work towards harmonization. In 2007, 187 standards were published and complied with that process. This mechanism also tends to avoid any technical barrier to trade.

Mexico's progress and achievements in the area of sanitary and phytosanitary measures could be addressed by active participation in the implementation of the Sanitary and Phytosanitary Measures Agreement of the WTO and the accomplishment and work on the international standard guidelines established by the international organizations of reference as the World Organization of Animal Health (OIE), International Plant Protection Convention (IPPC) and

the Codex Alimentarius.

In addition, Mexico modified in July of 2007 its Animal and Plant Health legislation in order to update procedures and try to harmonized regulations with the guidelines of the international standard-setting bodies.

59. How can measure the extent and application of TBT and SPS to APEC member economies be measured?

Mexico is able to inform the quantity of technical regulations and standards that are reviewed in harmonization areas. This practice could be implemented in APEC member economies in order to know how these economies comply with this harmonization scheme.

Chapter 6 – Customs Procedures

Canada

60. Could Mexico please explain specifically, how the Advanced Classification Ruling System works in practice? Is there a web-site with the information?

Types of Rulings: Advance Rulings on Classification.

Initial Ruling Request: Administration General of Legal Issues –Administration General of Great Taxpayers-.

Response Time: 4 Months According to Article 48 of Mexican Customs Law

Applicable Statute: Article 47 and 48 of Mexican Customs Law (Rulings), Article 18a of the Federal Fiscal Code, Article 34 of the Federal Fiscal Code (Rulings), Article 36 of the Federal Fiscal Code (Appeal)

Review/Appeal Process: Basically, there are two different instances for review and appeal. The first one is at the administrative level within the Tax Service Administration, specifically at the Administration General of Legal Issues, and it is an independent procedure from the office responsible for the determination under review. The other instance is a quasi-judicial review under the Central Administration of legal Issues of the Administration General of Legal Issues and with the participation of the Fiscal Attorney of the Federation authority and it is applicable for any decision made by customs authorities

Ruling Request Filing Tips: For Advance Rulings on Classification a party may wish to file the request to the Administration General of Legal Issues or at the Administration General of Great Taxpayers within the Tax Service Administration. Their turn around time for rulings is generally 2 months. The ruling request should contain all the required information that are stipulated in article 47 of the Mexican Customs Law and in article 18a of the Federal Fiscal Code. In case that exist a difference in the identification of the goods, the authority will send

to the laboratory a sample of the goods to be sure about the classification of the products and this will have a cost of \$2,776 pesos for each sample.

Hong Kong, China

61. Under “Implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement)”, why is the request for inspecting and confiscating goods for infringement of intellectual property rights legislation from a judicial or administrative body? We would also like to know more about the “administrative body” such as its function and authority. Besides, can the rights holders approach Mexican Customs direct for assistance relating to infringing goods?

The Mexican Institute of Industrial Property (IMPI) was created in 1993 as a specialized governmental agency for the purpose of giving technical and professional support to the authority and providing individuals with guidance and assistance services in the interest of a more profitable use of the industrial property system.

The main objectives of the Mexican Institute of Industrial Property are:

- Encourage and protect industrial property rights;
- Prevent acts that threaten industrial property rights or constitute unfair competition as well as establishing the corresponding sanctions; and
- Promote and foster creative activity of industrial application, technical improvements and the dissemination of technological knowledge within the productive sectors.

To that end, the Mexican Institute of Industrial Property’s most important functions are:

- File and issue patents of invention and register utility models, industrial designs, trademarks and commercial advertisement, issue declarations to protect appellations of origin, authorize the use thereof, publication of commercial names as well as giving notice of their renewal, assignments or licensing agreements;
- Conduct investigations of possible administrative infringements; order and take the provisional measures to prevent or stop violation of industrial property rights, hear the alleged infringers defenses and impose the corresponding administrative sanctions in intellectual property;
- Promote international cooperation through the exchange of administrative and legal experiences with institutions in charge of the registry and legal protection of the industrial property in other economies;
- Prepare studies regarding the development of industrial property rights on the international level and participate in conventions or international forums related to this matter;
- Effectuate the legal publication, through the Gazette, as well as disseminate the information derived from patents, registries, authorizations and publications issued;
- Sanction infringements related to commerce.

IMPI left behind its duties of being an institution only in charge of protection procedures and/or inventions and marks registrations. Since 1997 IMPI is empowered to punish copyright infringements on trade related commerce foreseen in Article 232 of the Federal Copyright Law. This faculty was given to IMPI as a result of the acquired experience by officers in charge of sanctions to infringements on industrial property matters.

With regard to requests for the administrative declaration of invalidity, lapse, cancellation and administrative contravention under the Industrial Property Law, article 187 establishes that it shall be examined and ruled upon according to the procedure specified in this Chapter and the formalities laid down in said Law, and the Federal Code of Civil Procedure shall be subsidiary applicable insofar as it does not contravene this Law.

Likewise, article 188 stipulates that IMPI (administrative authority) may initiate the administrative declaration procedure ex officio or at the request of any person who has a legal interest therein and provides grounds for his claim.

With regard to judicial authority article 227 mentions that the Federal courts shall have jurisdiction over the offenses referred to Chapter III of LPI, and also over commercial and civil disputes and the precautionary measures arising out of the implementation of said Law.

When such disputes affect only private interests, they may be heard by the ordinary courts if the plaintiff so chooses, without prejudice to the right of the parties to submit the proceeding to arbitration.

Article 228 stipulates that in the judicial proceedings referred to in the foregoing Article, the judicial authority may adopt the measures provided for in such Law and in international treaties to which Mexico is party.

Furthermore, concerning provisional measures on Article 199 bis of the Industrial Property Law (LPI) IMPI is empowered:

- * To order the withdrawal from the circulation or ban the distribution of merchandise that infringes industrial property rights.
- * To prohibit, with immediate effect, the marketing or use of the goods by means of which one of the industrial property rights is violated.
- * To order the seizure of goods.
- * To order the alleged infringer or third parties to suspend or discontinue acts constituting a violation of the industrial property provisions.
- * To order the suspension of the rendering of the service or the closing of the establishment were the aforementioned measures are not sufficient to prevent or avoid the violations of the rights

Currently, right holders can not assist directly to Customs for assistance regarding infringing goods because of the articles mentioned above.

However, it is important to mention that IMPI and Customs are linking trademarks databases with the tariff system in order to be able to detect possible infringing goods. Likewise, officers of both, IMPI and Customs, are being trained on importation and trademarks issues for developing this cooperation action.

Chapter 7 – Intellectual Property Rights

Australia

62. Could Mexico please provide further information on its regime for IPR border enforcement. In particular, could Mexico elaborate on:

- a) what powers the Customs authorities have to seize infringing goods at the border
- b) what provision is made for authorities to cooperate with private industry
- c) to what extent domestic and foreign customs authorities cooperate on IPR border enforcement matters particularly with respect to information sharing?

Chapter 14 what powers the Customs authorities have to seize infringing goods at the border

Customs has no authority to act ex officio on seizing infringing goods at the border; therefore with regard to article 148 of the Customs Law, the Secretariat of Finance through Customs has the authority established as follows:

To suspend the free movement of goods of a foreign origin inside the fiscal place, once activated the random selection mechanism, previous resolution issued by the administrative authority in intellectual property and give it the place that the authority signals.

The customs authorities shall proceed to retain the goods and give it to the qualified authority, once the qualified administrative or judicial authority orders the suspension of the goods release of foreign origin.

It is important to mention that IMPI and Customs are developing a system for the linkage between IMPI's classification of goods and services for the purposes of the registration of marks and custom's harmonized commodity description and coding system in order to facilitate the detection of infringing goods as well as for a better control of right holders regarding licenses.

Chapter 15 what provision is made for authorities to cooperate with private industry

The Industrial Property Law includes explicit provisions regarding cooperation between authorities and private sector as follows:

Article. 6. the Mexican Institute of Industrial Property, the administrative authority in industrial property matters, is a decentralized body with legal personality and its own assets which shall have the following powers:

Chapter 16 to liaise with the administrative organs of the Secretariat of Economy, and with the various public and private institutions, national, foreign and international, the aims of which are the promotion and protection of industrial property rights, technology transfer, the study and promotion of technological development, innovation, the differentiation of goods and also to provide such information and technical cooperation as is required of it by the competent authorities in accordance with provisions and policies established for the purpose;

Chapter 17 to encourage the participation of the industrial sector in the development and

implementation of technology that will increase the quality, competitiveness and productivity thereof, and also to conduct research on the progress and implementation of national and international industrial technology and its likely effect on the achievement of the said aims, and propose policies to stimulate its development;

- c) to what extent do domestic and foreign customs authorities cooperate on IPR border enforcement matters particularly with respect to information sharing?

Currently, Mexico is developing a data base for a contact point list in order to facilitate communication and information sharing, as well as protection techniques and best practices with regard to suspicious shipments. This data base access would be reliable and accurate for facilitating the detection of counterfeit and pirated goods.

Furthermore, besides training its human resources in different training courses, Mexico actively participates in diverse events with third economies as well as in international and multilateral for a such as: OECD, APEC, WIPO, WTO, among others.

Experts

63. On TRIPS implementation, Mexico has instituted a series of domestic legal framework since the Industrial Property Law in 1991 and Intellectual Property Law in 1996. What is the current situation regarding Laws and Administrative Procedure on IPR in Mexico?

First of all Mexico would like to clarify that the correct name is Industrial Property Law of 1994 instead of Intellectual Property Law in 1996

Mexico's current domestic IP Legal framework is:

Chapter 14 Industrial Property Law of 1994

- On December 1997, provisions of layout designs of integrated circuits were integrated (Title Fifth BIS, Art. 178bis to 178bis 9)
- On May 1999, amendments on criminal provisions aimed to increase the actions against infringements and offences to IPR (Art.223, subparagraph II and III; Art. 223bis and Article 224). Amendments to articles 194 and 424 subparagraphs III and IV and the addition of articles 424bis and 424ter of the Criminal Code for the Federal District in local matters and for the entire Republic in Federal matters, implicating that infringements to copyrights are now considered as a serious crime by increasing imprisonment and pecuniary sanctions
- On June 2005, Provisions to regulate Well-Known and Famous Trademarks were included
- On January 2006, Provisions to regulate Franchises were included (Art.2 Par. VII, 142, 142bis to 142bis 3) (Art. 190, 191, 193 and 213 Par. XXV and XXVI)

2. Regulations under the Industrial Property Law of 1994; amended on September 2002 and on September 2003.

3. Federal Copyright Law 1996, amended May 1997 and July 2003. Regulations to the Federal Copyright Law amended on May 1998 and September 2005.

4. Federal Law on Plant Varieties, October 25, 1996. Regulations under the Plant Varieties Law, September 24 1998.

5. Federal Law on Administrative Procedure 1994; amended December 1996; April 2000; May 2000.

6. Criminal Procedure Code August 30, 1934.
(It establishes provisions regarding criminal offenses (sanctions) related to intellectual property)

7. Civil Procedure Code February 24, 1943.
(This Code shall apply when there is a lack of legal provisions in the IP law, regarding: legal procedures, terms, evidence, etc.)

8. Customs Law, April 1, 1996 and its Regulations.
(It comprises enforcement border measures related to IP)

With regard to the IPR Administrative Procedure, requests for the administrative declaration of invalidity, lapse, cancellation and administrative contravention under the Industrial Property Law are according to article 187 that establishes that it shall be examined and ruled upon according to the procedure specified in this Chapter and the formalities laid down in said Law, and the Federal Code of Civil Procedure shall be subsidiary applicable insofar as it does not contravene this Law.

Likewise, article 188 stipulates that IMPI (administrative authority) may initiate the administrative declaration procedure ex officio or at the request of any person who has a legal interest therein and provides grounds for his claim.

Regarding to judicial authority article 227 mentions that the Federal courts shall have jurisdiction over the offenses referred to Chapter III of LPI, and also over commercial and civil disputes and the precautionary measures arising out of the implementation of said Law.

When such disputes affect only private interests, they may be heard by the ordinary courts if the plaintiff so chooses, without prejudice to the right of the parties to submit the proceeding to arbitration.

Article. 228.stipulates that in the judicial proceedings referred to in the foregoing Article, the judicial authority may adopt the measures provided for in such Law and in international treaties to which Mexico is party.

Furthermore, concerning provisional measures on Article 199 bis of the Industrial Property Law (LPI) IMPI is empowered:

- * To order the withdrawal from the circulation or ban the distribution of merchandise that infringes industrial property rights.
- * To prohibit, with immediate effect, the marketing or use of the goods by means of which

one of the industrial property rights is violated.

* To order the seizure of goods.

* To order the alleged infringer or third parties to suspend or discontinue acts constituting a violation of the industrial property provisions.

* To order the suspension of the rendering of the service or the closing of the establishment were the aforementioned measures are not sufficient to prevent or avoid the violations of the rights.

64. Mexico's bilateral FTAs contain IPR agreements. How can these apparently complex and overlapping agreements on IPR affect the process of fostering harmonization of IPR systems in APEC region and promotion of transparency in public awareness activities in Mexico?

Mexico's bilateral FTA's contain chapters or provisions on IPR. Most of these chapters or provisions on IPR foster harmonization of IPR systems. Mexico and its partners share common minimum standards of protection with TRIPS having a solid base for IP matters.

Promotion of transparency in public awareness activities in Mexico is not affected by such agreements. The Law of Federal Transparency and Access to Governmental Public Information (LFTAPG) entered into force on June 12, 2002 and its Regulations on June 12, 2003. This Law was amended on June 6, 2006. Such legal framework provides basics to guarantee access to all the Federal government information however confidential information is restricted.

In accordance with the LFTAPG the Federal Institute of Access to Government Public Information (IFAI) was created in December, 2002 to:

- 1) To guarantee the access to government public information
- 2) To protect federal government personal data
- 3) To solve denials of access to information that federal governmental entities had formulated

Since the creation of the IFAI, any Mexican citizen interested in requesting federal government information can do so by visiting the IFAI Service Center; going directly to the Government Office where one wishes to obtain information from. The individual must operate one of these offices to provide guidance for requesting information; or accessing <http://informacionpublica.gob.mx> through Internet.

Nowadays FTA's negotiations on IP have addressed a series of changes regarding its protection where IP regimes differ and many issues in the context of biotechnology, domain names, copyright and related rights in digital networks, access to genetic resources, traditional knowledge, etc. are areas omitted from TRIPS that find a place in FTAs current negotiations. This suggests the possibility of identifying certain provisions where clarification could be sought and elements that could be further developed in a case-by-case basis, depending on each IP system.

65. Chapter 7 on IPR details cumulative improvements implemented to date by Mexico. Can you identify some landmark Rules and Laws which are of relevance and significance

to APEC member economies, especially in the area of ICT (information, communication and technology) sector and e-APEC process?

The legal framework related to ICT sector and electronic administrative procedures in Mexico's Federal Government is the following:

- A. Agreement to create permanently an Intersecretarial Commission for the Development of e-government, Published in the Official Journal on December 9, 2005
- B. Agreement to make known proceedings and services registered in the Federal Registry Office of Proceedings and Services and the formats applied by the Mexican Institute of Industrial Property. Published in the Official Journal on June 20, 2003.
- C. Agreement regarding the provisions that entities and decentralized institutions of the Federal Government shall observe to receive promotions of administrative procedures as well as notifications, citations, summons, requirements, information queries or documents, and definitive administrative resolutions by electronic means. Published in the Official Journal on January 17, 2002.
- D. Agreement to make known general rules to conduct proceedings by electronic means file before the Ministry of Economy and its decentralized institutions and bodies. Published on the Official Journal on April 19, 2005 and modified on November 17-18, 2005.
- E. Inter institutional Agreement establishing guidelines to standardize implement and use the advanced electronic signature in the Federal Government. Published on the Official Journal on August 24, 2006.

66. Would it be possible on a unilateral basis to extend IPR benefits to other APEC member economies which may promote more public awareness of the benefits and importance of IPR to the APEC region?

Extending IPR benefits to other APEC member economies could benefit IPR in the region. Exchanging information on domestic practices would be useful as well as capacity building programs on this matter. The development of effective programmes to educate the public about the need to protect intellectual property requires APEC member economies support.

Some actions in the region have taken place like the "APEC IPR Public Education and Awareness Market Research Best Practices Project" which assists on the development or improvement of a program of public education and awareness, implemented in 8 economies and led by Singapore. Another example is the "IPEG Public Education and Awareness Program" led by Australia where Mexico has benefited in the following areas: Translation of some sections of IMPI Website; Creation of a Guide to IP in Mexico for SMEs; Creation of Fact Sheets; IP Public Education & Awareness Skills Transfer Workshop for IMPI Staff. More economies could benefit of these activities and more activities within the Intellectual Property Rights Experts Group (IPEG) of APEC will be developed.

As an example, Mexico (IMPI) carries out public awareness activities to promote IPR protection: several collaboration agreements signed between IMPI and academic and industrial sector have been signed to foster IPR; IMPI's Promotion and Technological Information Services Division develops promotion and dissemination activities on Industrial

Property matters, including courses, workshops, conferences, tradeshows and seminars; information material like brochures, User's Guides and Annual Reports are elaborated and published; approximately 20 Patenting Centers have been established in collaboration with IMPI and Universities.

Likewise, Advertising Campaigns are carried out:

- Contest: Children against Piracy
- Contest: Digital Animation
- Cleaning the House (Limpiando la Casa)
- Think it Well (Piénsalo Bien)

The Copyright Office (INDAUTOR) established the award "Great National Honor Order to the Author Merit", which is a public distinction that the National Copyright Institute gives yearly to Mexican authors who have accomplished important cultural works.

There is a constant need to develop and publish informative material on the diverse fields of IP due to the increasing demand on IP information.

Chapter 8 – Competition Policy

Experts

67. Since the last Mexico APEC IAP Peer Review in 2002, what major changes have been taken by Mexico to promote competition policy?
68. Considering Mexico has signed so many bilateral agreements with different economies which are different in scope, rules and implications, what measures have been taken by Mexico to harmonize competition policy with her trading partners?
69. Mexico has not submitted the chapter on competition policy in her IAP Review 2007. Does it imply that there are no major challenges facing Mexico with respect to the Bogor Goals?
70. Rules of Origin (RoO) are an important element in bilateral FTA agreements which Mexico has signed with its trading partners. How does it affect Mexico's competition policy?
71. Are competition laws in Mexico primarily directed toward reducing unfair competition in the domestic market?

Chapter 9 – Government Procurement

Hong Kong, China

72. We commend Mexico's efforts in simplifying and modernizing its GP regime in recent years. We encourage Mexico to keep up the efforts in enhancing the transparency of its GP regime.

Experts

73. The Chapter on Government is also not listed in Mexico's IAP Review 2007. What is the reason behind this decision

It was uploaded in due time.

74. Since Mexico has initiated so many bilateral trade agreements, particularly with non-APEC member economies, are non-APEC economies receive much more preferential treatment with respect to Government procurement?

By Law, national goods have a 10% preference in the economic evaluation set against goods originating in non FTA partner economies.

In construction services, when local content requirements (offsets) are established in a tender, this requirement applies for all the participants, including nationals, FTA partners and foreigners from non FTA partner economies.

The Mexican regulations related to government procurement do not prohibit the participation of bidders from non FTA partner economies, but it is the procuring entity who decides, under clearly set out rules, whether to open the tendering procedure to international competition, including non partners.

75. Are there major issues in relation to Government procurement in Mexico that World be of interest to APEC member economies? Do these concern mainly national or state/provincial governments?

There are no major issues.

76. Are there any plans for major new rules or laws pending in relation to Government procurement?

Mexico is currently not considering major developments in its government procurement regulatory framework, and the latest have already been reported to APEC.

Every regulation related to government procurement can be consulted at the Ministry of Good Governance and Transparency's web page:

<http://www.funcionpublica.gob.mx/unaopspf/unaop1.htm>

Chapter 11 – Implementation of WTO Obligations (including Rules of Origin)

China

77. When a product that is produced by more than one economy is imported into Mexico with the certificate of origin provided by the export economy indicating that the product has not undergone substantial transformation in that export economy and the origin of the product is a third economy, how does the Customs Administrations determine the origin of the product? Is the third economy origin certificate provided by the export economy acceptable? If not, what kind of supporting documentation is required to verify and determine the origin of the product?

a) In the case of trade under FTAs/RTAs, the corresponding signatory members establish a uniform template for the certificate of origin that is the one to be used in preferential trade. Each FTA/RTA establishes verification procedures which entitles the competent authority of the importing Party to verify the origin of a good.

b) As previously mentioned, the corresponding FTA/RTA certificate of origin is the only document that can be used for purposed of preferential trade.

Chapter 14 In relation to non-preferential trade, the exporting economy must comply with the rules for determining the economy of origin of imported goods and provisions for certification, in terms of duties to which they are subjected by the Ministry of the Economy.

78. Please explain what kind of rules of origin (change in tariff classification or value added or other criterion) apply to trade remedy in Mexico? Do the same rules of origin apply to trade remedy and general trade?

The kind of rules of origin for trade remedy refers to change in tariff classification and in a few cases specific process.

The rules of origin for trade remedy and general trade are the same.

79. In implementation of the preferential rules of origin under an FTA, please clarify the customs operation procedures regarding the following cases:

- a) In case an FTA originating product is transported directly between FTA parties but invoiced by non-party trader, will Mexico Customs grant preferential tariff to the said product?
- b) If an FTA originating product has been transported from a non-party, what kind of supporting documentation is required by the Mexico Customs and what authority should provide the supporting documentation?

a) Importers can apply preferential tariff, regarding cases where an invoiced is issued by a non-party trader (third party) under a preferential importation (FTA⁴).

⁴ Except in the Free Trade Agreement between Mexico and Bolivia.

Chapter 14 Importers may apply for preferential treatment for originating goods that have been in transit through the territory of one or more economies that are non Parties, provided that they present to the customs authorities the following documentation: Transport documents such as: air waybill, bill of landing or road consignment note, or the combined transport document and copy of the customs control documentation, where the goods were subject to transshipment and temporary storage.

Experts

80. What measures has Mexico taken to ensure the impartial, transparent and predictable application of rules of origin?

Rules of origin apply in the same way to all importers and are published in an official gazette, so the business community or interested parties can consult them.

Chapter 12 – Dispute Mediation

Hong Kong, China

81. The information relating to government-to-government disputes is considered factual, clear and in order. Mexico has been mainly utilizing the WTO dispute settlement procedures to resolve trade disputes between governments. As Mexico has entered into various FTAs, the settlement of disputes between governments would also be referred to the dispute mediation procedures set out in their respective FTAs. The future improvements planned in the 2007 IAP are also found in order.

Chapter 13 – Mobility of Business People

Experts

82. Mexico has implemented technical cooperation and training to facilitate movement of business people and professionals in the APEC region. Is there any statistical information or data to indicate how many APEC member economies have taken advantage of these training schemes?

Mexico has not given any training program in the Asia-Pacific region. Only in Central America.

Mexico received training from Australia to operate the ABTC IT System in October 2007.

83. In addition to a question on facilitation of students and mutual recognition of degrees, is there any important plans which Mexico is envisaging in the near future?

In September 2007, Mexico signed a Working Holiday Agreement with New Zealand . Mexico is negotiating the same scheme with Australia.

Chapter 14 – FTAs/RTAs

Experts

84. Mexico's approach to bilateral and regional trade agreements has been consistent to the WTO rules and regulations. Nonetheless, such agreements are second-best to the multilateral trade regime. What are the main distortions and negative implications from rules of Origin (ROO), subsidies, investment and competition policy to non-preferential APEC member economies?

Regarding rules of origin, it is considered that negative implications are difficult to determine due to multiple factors and taking into account that trade agreements allows its parties to employ materials of third economies.

85. In what sectors and industries are non-preferential APEC member economies likely to be negatively affected through trade and investment diversion?

Trade with APEC Members has had a very important increase over the last six years by around 282%.

86. What approach and measures has Mexico adopted to minimize divergent Rules of Origin (RoO)

Mexico actively participates in the meetings held by the Committee of Non Preferential Rules of Origin within the World Trade Organization, in order to finalize the technical work towards to the harmonization of rules of origin.

In general, rules of origin negotiated under FTAs/RTAs keep a similar structure. On the other hand, Mexico is analyzing the possibility of convergence of FTAs/RTAs which would require harmonization of rules of origin.

87. Does Mexico plan to initiate further FTAs with other major East Asian economies in the near future?

The predominant role that emerging economies are playing in shaping the global agenda is directly impacting international trade dynamics and policy-making.

Mexico is studying this phenomenon, particularly in the Asia-Pacific region, and its trade policy formulation is being shaped accordingly. In that sense, Mexico recognizes the importance of APEC Economies and the need to strengthen its trade relations.

A relevant step forward has already taken place with The Republic of Korea and Peru; negotiations for a bilateral Free Trade Agreement have been launched.

88. What concrete positive benefits have Mexican exporters and importers derived from the Mexico-Japan *Strengthening of the Economic Partnership Agreement*?

The EPA comprises the elements of a free trade agreement, as well as, provisions related to bilateral cooperation and improvement of the business environment.

The EPA is granting important benefits to the Japanese and Mexican companies, when counting with better market access conditions, and greater certainty and legal security of long term, that are central elements for the best performance of their activities and for their respective strategies at international level.

As a result, Japan is now the fourth Mexico's trade partner. Since the EPA was implemented, bilateral trade has increased significantly, and investment flows are following suit.

Regarding trade flows, at the end of the second year of the entry into force of the EPA (April 2006-March 2007), bilateral trade increased 39.2% with respect to the period April 2004-March 2005. According to data of the Ministry of Finance of Japan, Mexican exports registered a growth of 27.3%.

In accordance with Banco de Mexico, imports from Japan increased 41.6% in the same period. It is important to highlight that around of 90% of the imports from Japan are intermediate and capital goods. Indeed, Japanese industry is contributing to Mexico's economic development. Mexican imports from Japan are incorporated into final exportable goods, and Japanese investment brings technology that helps to further develop the chains of production, helping the Mexican economy climbs the "value ladder".

In terms of investment flows, in the period January 2006 – November 2007, Japanese firms announced investment plans for almost 1,290.5 million dollars in Mexico mainly in the auto and electronic sectors. It is fair to say the EPA has been key for this investment decisions.

Regarding bilateral cooperation, both Mexico and Japan, are carrying out a working agenda mainly in the fields of small and medium enterprises and supporting industries, in order to promote the integration of productive chains and the effective participation of the small and medium enterprises in trade and investment opportunities provided by the EPA.

Finally, it's important to highlight that through the EPA, and within the scope of each government's responsibilities, the Committee for the Improvement of the Business Environment gives the opportunity to address behind the borders issues and learn more about the interests and concerns of their respective private sectors, with the objective to increase bilateral trade and investment.

89. On SPS, TBT, Mutual Recognition, Customs procedures, Competition and Intellectual Property Rights, Mexico has extended more benefits to those economies which Mexico has established bilateral FTAs. How can Mexico extend benefits unilaterally to APEC member economies to improve her progress towards the Bogor Goals?

Regarding IPR, Mexico's bilateral FTA's contain chapters or provisions on IPR. Most of these chapters or provisions on IPR foster harmonization of IPR systems. Mexico and its partners share common minimum standards of protection with TRIPS having a solid base for IP matters.

APEC member economies have to comply with TRIPS obligations. Their domestic legal framework shall be in accordance to this agreement. APEC members of the WTO work together in strengthening the multilateral trading system; enhancing trade and investment liberalization in the Asia-Pacific; and intensifying Asia-Pacific development cooperation in order to progress towards the Bogor Goals.

In this sense, Mexico promotes free trade addressing to integration and development through major commercial exchanges, reception of productive investment and technical and scientific cooperation. These factors provide an alternative to harmonizing and strengthening intellectual property standards.

Mexico looks forward to favor institutional strengthening and the establishment of policies to modernize in a productive way the intellectual property system and promote it to impulse products and services competitiveness.
