MEXICO'S ROAD TO INVESTMENT SCREENING

FDI Trends, Regulatory Gaps, and Policy Recommendations



August 2026

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List of Acronyms

CCP	Chinese Communist Party
CFIUS	Committee on Foreign Investment in the United States
CNIE	Comisión Nacional de Inversiones Extranjeras (National Foreign Investment Commission)
CNI	Centro Nacional de Inteligencia (National Intelligence Center)
EU	European Union
EVs	Electric Vehicles
FPI	Fathom's Political Index
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GDP	Gross Domestic Product
ISM	Investment Screening Mechanism
LIE	Ley de Inversión Extranjera (Foreign Investment Law)
M&A	Mergers and acquisitions
RCA	Revealed Comparative Advantage
RNIE	Registro Nacional de Inversiones Extranjeras (National Foreign Investment Registry)
SOEs	State-Owned Enterprises
U.S.	United States
USD	United States Dollars
USMCA	United States-Mexico-Canada Agreement

Executive Summary

Investment screening mechanisms (ISMs) have proliferated globally in response to mounting geopolitical tensions and national security concerns. Mexico faces its own distinct set of challenges that make the establishment of a comprehensive ISM particularly urgent. This report provides Mexican policymakers with an evidence-based framework for designing and implementing an ISM tailored to Mexico's specific context, drawing on proprietary foreign direct investment (FDI) data, a detailed legal analysis of the existing regulatory framework, and a comparative review of established ISMs.

FDI Trends and National Security Risks

While cross-border mergers and acquisition activity (M&A) activity in Mexico represents a relatively small share of global cross-border activity, its share of global greenfield investment has surged dramatically, reaching USD $45 billion in 2024. Crucially, the composition of this investment has shifted: China's share of greenfield investment has risen from less than 1% between 2005-2009 to 9% in 2023, with State-Owned Enterprises (SOEs) playing a prominent role. This investment concentrates heavily in strategically sensitive sectors — particularly electric vehicles (EVs), energy, and mining — raising concerns about backdoor access to the U.S. market, threats to Mexico's domestic auto industry, and surveillance vulnerabilities linked to connected vehicle technology. Meanwhile, foreign control over energy infrastructure risks creating strategic dependencies that could be leveraged for economic coercion.

Gaps in Mexico's Current Regulatory Framework

Mexico's Foreign Investment Law (LIE) of 1993 is ill-equipped to screen investments for national security risks. Its most critical deficiencies include: predominant focus on investment attraction, without provisions and criteria for the screening for national or economic security risks; limited or incomplete sectoral coverage; a high ownership threshold (the current 49% threshold for triggering National Foreign Investment Commission (CNIE) review is substantially higher than the 10-25% norm in most advanced economies); no greenfield investment review (the fastest-growing channel of foreign capital inflow remains unscreened for national security risks); and institutional limitations (the CNIE lacks a clear security mandate and institutional capacity for reviewing and blocking investments on national security grounds).

Policy Recommendations

The report offers eight core recommendations (see Policy Recommendations section): (1) embed the ISM within a broader economic security strategy that defines hybrid threats and identifies the key instruments available to mitigate national security risks, in line with Plan México; (2) promote structured cooperation with United States-Mexico-Canada Agreement (USMCA) partners and Latin American allies, both during the design and implementation of the ISM and in its subsequent operation; (3) develop a new screening law or revise the existing LIE to screen investment for national and/or economic security risks, including risk criteria and mitigation measures; (4) expand sectoral coverage to address gaps in sectoral coverage for telecommunications, defense production, food security, critical minerals, semiconductors, and the EV and battery supply chain; (5) lower the ownership threshold to below 25% and introduce a monetary threshold for high-value transactions (e.g., USD $5 million), regardless of ownership share; (6) establish a specialized ISM reviewing committee building on the existing CNIE, integrating the CNIE, and choosing between a dedicated body modeled on Committee on Foreign Investment in the United States (CFIUS) or a lead ministry model; (7) Include greenfield investments within the ISM scope, focusing review on projects in critical sectors or those involving state-controlled investors; and (8) build domestic awareness and stakeholder support by familiarizing the business community, regional governments, and civil society with the ISM as a tool of economic protection rather than an obstacle to foreign investment.

An effective ISM, transparently implemented and focused on genuine security risks, can enhance rather than diminish Mexico's attractiveness as an investment destination — providing greater predictability and signaling that Mexico has the institutional architecture required to responsibly regulate incoming FDI.

Introduction

Over the past decade, ISMs have proliferated globally and undergone significant tightening in response to evolving geopolitical tensions and national security concerns.[1] Investment screening mechanisms are laws and regulations that allow governments to intervene in cross-border investment, by reviewing the transactions, permitting, blocking, or imposing conditions on the investment for security or reasons in line with the national interest. In the United States, CFIUS has been substantially reformed and empowered. The European Union (EU) has witnessed a parallel trend, with the introduction of the EU FDI Screening Regulation

in 2019 establishing a framework for coordination among EU member states, while individual member states have significantly strengthened their national screening regimes by expanding sectoral coverage, reducing ownership thresholds, and introducing more rigorous review procedures.

This wave of ISM development extends well beyond the areas of North America and the European Union. Countries in the EU's neighborhood have initiated discussions about establishing or enhancing investment screening capabilities as part of their integration into European frameworks.[2] In Asia, the Philippines recently established its own ISM in response to growing concerns about foreign investment in critical infrastructure and strategic sectors.[3] Latin America has also joined this trend: Chile has engaged in serious policy debates about implementing an ISM to address vulnerabilities in its energy sector and critical mineral resources,[4] while Mexico itself has begun contemplating similar measures.

As competition between major powers grows, countries are increasingly viewing foreign investment through both an economic and national security lens.

Against this global backdrop, Mexico faces its own distinct set of challenges that make the establishment of a comprehensive ISM particularly urgent. Recent FDI trends in Mexico reveal patterns that warrant careful policy attention and regulatory response. First, greenfield investment has surged dramatically, with foreign firms investing USD $45 billion in Mexico in 2024. More importantly, the composition of this investment has shifted substantially toward China, with Chinese firms' share of greenfield investment rising from less than 1% between 2005-2009 to 9% in 2023. Unlike M&A activity, where the United States and Canada dominate and pose limited security risks to Mexico, this greenfield investment from China is characterized by the prominent role of State-owned enterprises (SOEs) whose investment decisions often align with Chinese Communist Party (CCP) strategic priorities rather than purely commercial objectives.

This Chinese investment also concentrates heavily in strategically sensitive sectors that pose multiple risks to Mexico's economic security. Strategic sectors most targeted by Chinese firms include EVs, energy, and mining. The case of EVs is particularly relevant in discussions on ISM. Beyond potential backdoor access to the U.S. market, the influx of low-cost Chinese EVs threatens Mexico's domestic automotive industry, while the software embedded in modern electric vehicles creates potential vulnerabilities for surveillance, data collection, and remote vehicle control. Similarly, foreign control over energy infrastructure risks creating dependencies on a foreign power, which could be leveraged for economic coercion. Lastly, in

light of the renegotiation of the USMCA trade agreement, investment security more broadly, and investment screening specifically, is rumored to feature prominently in the negotiations.[5]

Despite these mounting challenges, Mexico's current legal framework for regulating FDI remains significantly underdeveloped compared to international standards and inadequate to address contemporary security threats. The primary legislation governing FDI, the LIE of 1993, establishes CNIE as a governing body and imposes sector-specific restrictions on foreign ownership in certain strategic areas. However, this framework suffers from critical gaps that leave Mexico vulnerable to national security risks. While the LIE limits foreign ownership in several key sectors, other critical sectors, including telecommunications, defense production, or food security are not fully covered. In addition, the threshold requiring CNIE approval—foreign ownership exceeding 49% in specified sectors—is substantially higher than global norms. In sum, Mexico currently lacks a unified, comprehensive ISM capable of systematically identifying, assessing, and mitigating national security risks across different types of foreign investment and sectors.

Given the FDI trends outlined above, combined with the substantial gaps in Mexico's current legislative framework, there is an urgent need to develop a robust, comprehensive investment screening mechanism. Such a mechanism must be capable of addressing the specific challenges Mexico faces: evaluating greenfield investments that could create strategic dependencies; assessing investments from state-controlled entities whose motivations may be geopolitical rather than commercial; protecting critical sectors that are currently unscreened; and implementing lower ownership thresholds that reflect international best practices. An effective ISM would provide Mexico with the tools to identify and mitigate national security risks systematically while maintaining the country's attractiveness as an investment destination. Moreover, establishing such a mechanism would align Mexico with international standards, enhance coordination with USCMA partners, and provide greater transparency and predictability for investors. The current absence of clear investment screening rules may also leave screening decisions on the basis of national security to political discretion, increasing uncertainty for investors overall.[6]

Designing an effective ISM for Mexico involves navigating several critical challenges and making several strategic choices. First, Mexico must determine whether to adopt a comprehensive economic security framework that defines security threats and identifies the main tools to mitigate them, which includes ISM, alongside other tools, such as export controls and supply chain resilience.

Second, policymakers must decide on the appropriate legal provisions for an investment screening mechanism, including the scope of review, choosing between sectoral approaches that screen specific industries, cross-sectoral frameworks that may be able to call-in any investment (similar to the U.S.), asset-based systems focused on particular strategic assets, or mixed approaches combining these elements. In doing so, Mexico must establish appropriate thresholds for triggering mandatory review, with international trends suggesting movement toward a 10% or 25% ownership stakes or lower, depending on the criticality of the industry (in case of a sectoral screening regime), and potentially monetary thresholds for transaction value regardless of ownership percentage. Additionally, and perhaps the most consequential decision concerns whether to include greenfield investments in the ISM's scope – a choice that is particularly important in the case of Mexico, as the data in this report show. Lastly, any law on investment screening must include screening and mitigation criteria, as well as provisions on judicial recourse and transparency for investors.

Third, institutional arrangements for the reviewing committee require careful consideration: whether to leverage and reform the existing CNIE, create an entirely new inter-institutional body similar to CFIUS or Australia's Foreign Investment Review Board, or designate a lead ministry such as the Secretariat of Economy to coordinate the process.

Outline of the Report

The analysis is organized into three sections:

- the first section provides empirical analysis of recent FDI patterns using proprietary data from Fathom Consulting's Capital Flows Tracker. This section documents the magnitude and composition of investment flows, the growing prominence of Chinese investors, sectoral concentration, and the specific national security risks associated with these trends;
- the second section examines Mexico's existing regulatory framework for FDI in detail, focusing on the Foreign Investment Law and the National Foreign Investment Commission's operations. This section identifies specific gaps, limitations, and vulnerabilities that leave Mexico exposed to national security threats;
- the third section considers the current FDI trends and legislative gaps revealed in the first two sections and presents policy recommendations across key ISM design elements, including economic security frameworks, scope of review, thresholds for triggering mandatory notification, institutional arrangements, and treatment of greenfield investments.

This report's methodology combines quantitative analysis of FDI flows with comparative institutional analysis and legal examination of existing regulatory frameworks. The FDI threat assessment section relies on data from Fathom Consulting's proprietary Capital Flows Tracker. This dataset enables detailed analysis of investment trends by investor's country of origin, targeted sector, and investment type. The legal analysis section draws on primary sources including Mexico's Foreign Investment Law, constitutional provisions, international trade agreements, and regulatory documents from the National Foreign Investment Commission. The comparative analysis in the third section relies on comparative academic literature documenting ISM practices in different jurisdictions as well as official documents from given countries with more established ISMs. The recommendations synthesize insights from these multiple sources.

FDI Threat Assessment in Mexico

KEY TAKEAWAYS

- **Greenfield investment dominates over M&A:** Mexico attracts relatively limited cross-border M&A activity, but greenfield investment has surged in recent years. This trend is driven by nearshoring momentum, U.S.-China trade tensions, and Mexico's strategic position for accessing the U.S. market via USMCA.
- **Chinese greenfield investment is increasing significantly:** While U.S. and Canadian firms dominate M&A, China's share of greenfield investment in Mexico has significantly increased in recent years. The prevalence of Chinese SOEs means this investment often aligns with CCP strategic priorities rather than purely commercial objectives, potentially creating geopolitical dependencies.
- **Critical sector concentration amplifies vulnerability:** Chinese investment concentrates heavily in strategically sensitive sectors—particularly automotive, energy, and mining. This poses risks including: backdoor access to the U.S. market circumventing tariffs, threats to Mexico's domestic auto industry, potential intelligence gathering through connected vehicles, and energy dependency that could increase foreign political leverage.

Given its significant comparative advantages, such as low labor costs, a developed manufacturing base, and proximity to the U.S. market, Mexico has over the years become a popular target for foreign investors. While FDI projects can be beneficial to the Mexican

economy, creating jobs and bringing technological spillovers, some investment projects can carry national security risks. The future ISM in Mexico, which is designed to manage those risks, will have to correspond to the principal challenges related to the most recent FDI trends in the country. This includes the growing amount of greenfield investments, the increasing prominence of non-democratic countries in such FDI deals, and considerable concentration of such deals in key sectors, such as electric vehicles, energy, and mining. The following sub-section, contributed by Fathom Consulting and drawing on its proprietary Capital Flows Tracker, identifies the principal challenges mentioned above, which will be key when designing the future ISM in Mexico.

FOREIGN INVESTMENT PATTERNS

Analysis of FDI patterns in Mexico shows that acquisitions of Mexican-based companies represent a relatively small share of global cross-border M&A activity. In 2024, international investors spent USD $5.3 billion acquiring firms in Mexico — the equivalent to just 0.3% of the country's gross domestic product (GDP) that year and only 0.6% of global cross-border M&A activity (by number of deals, see Figure 1).

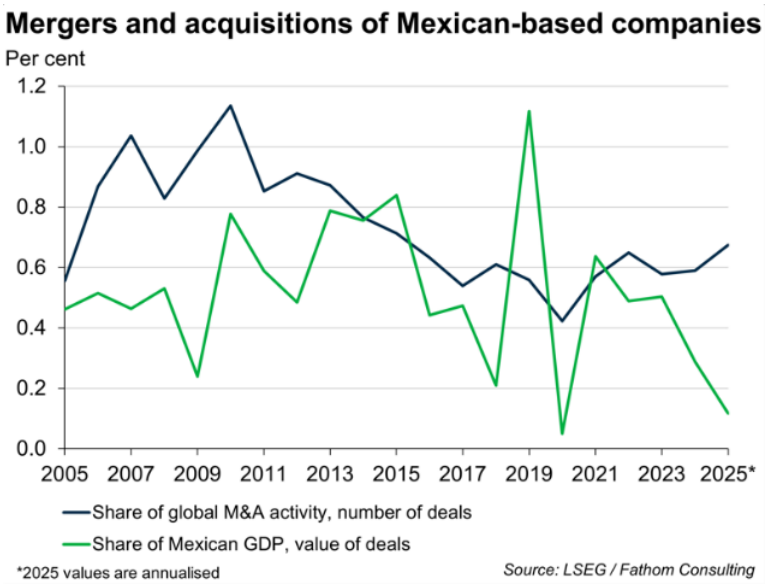

Figure 1. Mergers and acquisitions of Mexican-based companies

Although M&A activity in Mexico is relatively limited, the same cannot be said for greenfield investment — the building of new facilities and operations. Over the past two decades, greenfield investment in Mexico has shown a clear upward trend, both in absolute terms and as a share of global greenfield activity. In 2024, foreign firms invested USD $45 billion in setting up operations in Mexico — the equivalent to 2.4% of the country's GDP that year and

2.7% of global cross-border greenfield deals (by number), over four times its share of global M&A (see Figures 2 & 3).

This pattern is typical of many emerging market economies, where a smaller pool of advanced domestic firms limits the opportunities for M&A, while lower wages and operating costs enhance the appeal of establishing new operations via greenfield investment. The shifting geopolitical landscape also helps explain Mexico's growing appeal as an investment destination. Following the supply chain disruptions caused by the COVID-19 pandemic, Russia's invasion of Ukraine, and growing efforts to de-risk from China, nearshoring has gained significant momentum.[7]

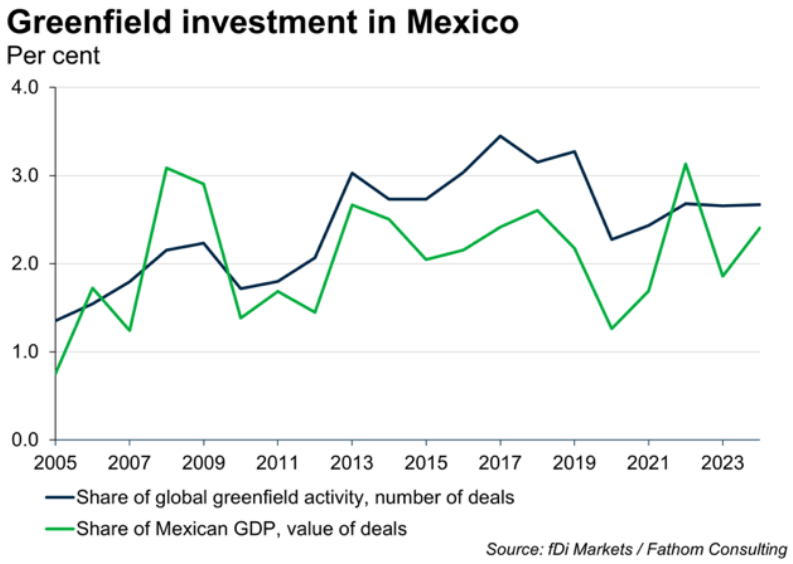

Figure 2. Greenfield investment in Mexico

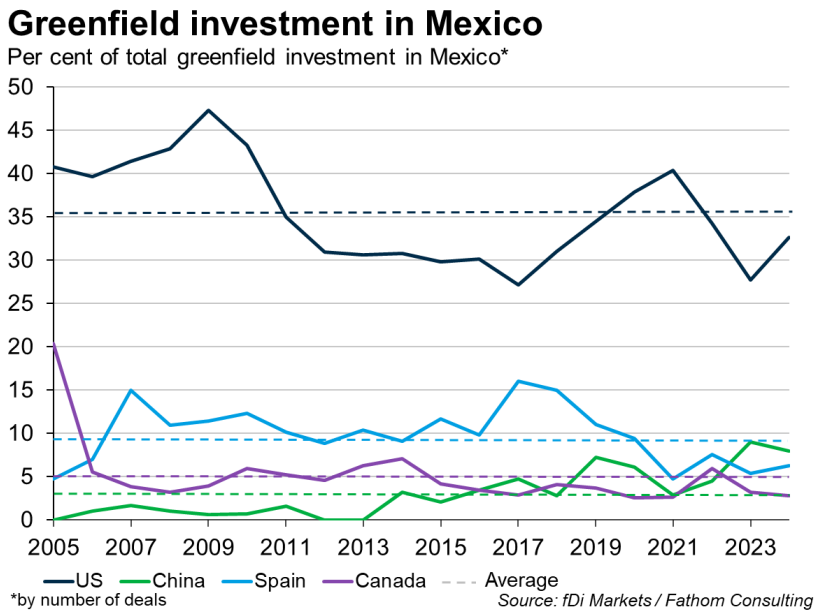

Figure 3. Greenfield investment in Mexico

Trade tensions between the U.S. and China, particularly U.S. tariffs imposed on Chinese goods since 2018, have also motivated the establishment of Chinese operations in Mexico.[8] Indeed, Mexico's strategic location bordering the US, the world's largest consumer market, offers international companies the added advantage of tariff hopping via the USMCA. In particular, Chinese firms investing, incorporating, and manufacturing in Mexico are consequently treated as Mexican (in line with national treatment obligations under the Mexico-China BIT from 2008), allowing these firms to benefit from preferential tariff treatment when exporting to the United States from Mexico.[9]

There are potential benefits for Mexico too. Indeed, greenfield investment typically crowds-in other investment, promoting economic growth in the long run. Other benefits include technology transfer, supply chain integration and job creation. However, this positive impact is dampened when investors import labor or rely heavily on foreign inputs and intermediate products. Additionally, greenfield projects, especially in strategic sectors like energy, infrastructure or technology, can raise concerns around foreign influence, data security and long-term economic dependence. These risks highlight the need for careful screening of all forms of foreign investment, not just M&A.

FDI ORIGIN

Another relevant consideration when assessing the potential security risks linked to FDI is the investor's country of origin, as FDI from certain jurisdictions may pose greater security risks to Mexico than FDI from other countries. In this context, countries with more robust

ISMs have established specific lists to identify investments of concern. These are based on, for example, the perceived security risks from the investor's home government.[10] Investments from countries on such lists are usually screened with greater scrutiny than other FDI. Importantly, these lists often complement formal sanctions. Most states do not make it explicit that they screen one country more than another as that may, among other things, open them up to international arbitration cases and put their investment regimes at odds with international legal commitments.

In the case of Mexico, there is an important difference in terms of potential security risks between M&A and greenfield investments. Between January 2005 and June 2025, companies from non-democratic states accounted for only 1.7% of acquisitions of Mexican-based firms – a relatively small share, and with no clear evidence of an upward trend. The largest acquirer of Mexican-based firms is the U.S., followed closely by Canada, countries which do not represent national security risks to Mexico.

In contrast, the composition of greenfield investment in Mexico has shifted over time with an increasing share originating from less democratic countries. Fathom's Political Index (FPI) indicates a country's level of political freedom, based on measures of voice and accountability, rule of law, corruption, and institution type. Higher FPI scores are broadly associated with better governance and improved economic outcomes. While greenfield investment in Mexico remains dominated by democratic investors from states such as the US, recent years have seen a relative decline in its presence, while China has gained ground. Chinese firms accounted for less than 1% of Mexico's inbound greenfield investment on average between 2005 and 2009, rising to over 6% between 2020 and 2024 and peaking at 9% in 2023.

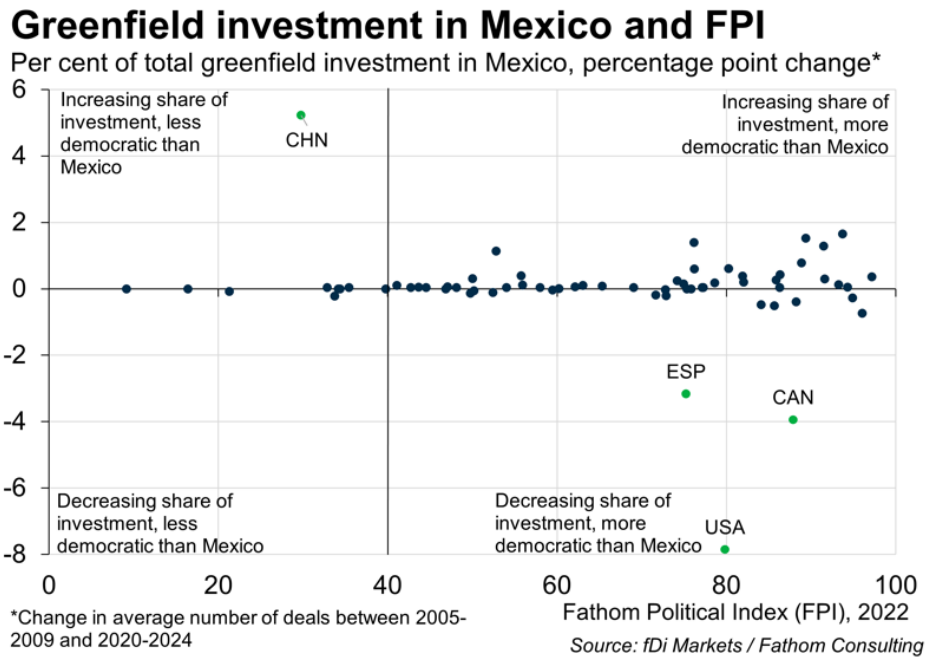

Figure 4. Greenfield Investment in Mexico and FPI

The growing share of greenfield investment from less democratic countries, particularly China, raises important security concerns for Mexico. The significant role of state-owned enterprises within China means that outward FDI can often be shaped by the strategic priorities of the Chinese Communist Party, introducing geopolitical implications.[11] Such involvement has previously prompted other countries to restrict Chinese participation in sensitive domestic sectors such as 5G networks, ports, and energy.[12] In addition, compared to countries where the lion's share of investment is conducted by private actors and is therefore more risk-averse, China's state-backed investment tends to be less discerning. This indifference risks weakening incentives for the private and public sectors to uphold and improve governance standards in their countries – creating and contributing to a less sound investment environment going forward. This, in turn, risks further deterring investment from countries that are more risk-averse, widening the gap for the likes of China to exploit. Notably, Mexico accounts for a growing share of China's total outward investment value, climbing into its top 10 investment destinations for the first time in 2023.

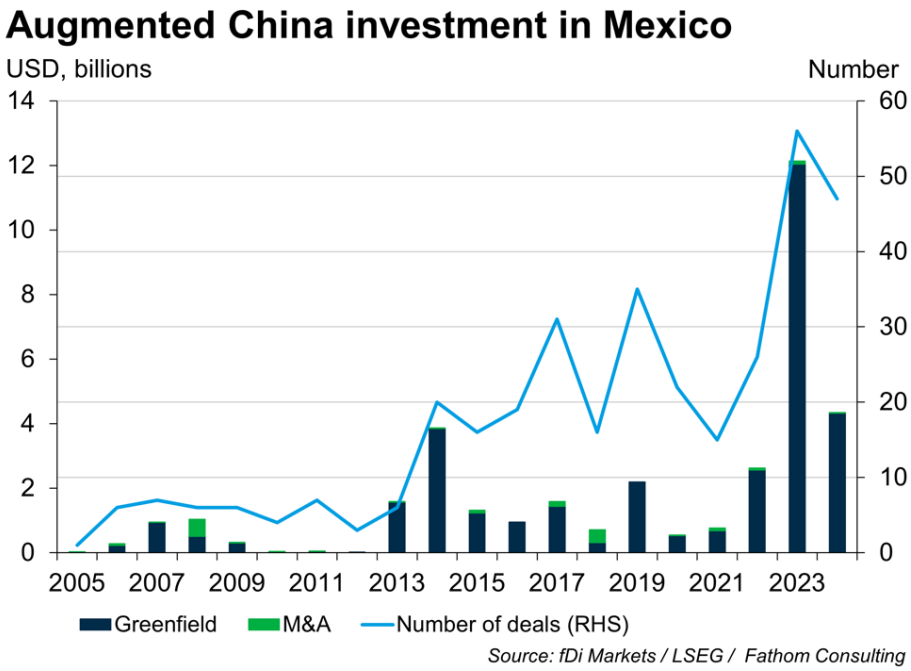

Figure 5. Augmented China investment in Mexico

FDI SECTORAL PATTERNS

The top sector for China and Hong Kong's greenfield investments in Mexico is automobiles, aligning with global investor interest. Mexico is now the second-largest destination worldwide for auto-related greenfield projects (by number), behind only the U.S. Even so, between 2020 and 2024, China allocated relatively more to Mexico's automobile sector than the rest of the world did, allocating a quarter of its total greenfield investment versus the rest of the world's equivalent of 10%.

For heavy, tangible goods, it makes sense to locate production near target markets. While advanced economies are ideal destinations, high labor and land costs often push firms to nearby emerging markets with lower costs. The optimal location combines proximity, affordability, and favorable trade access — Mexico fits this profile and is also highly specialized in the automotive sector. Its revealed comparative advantage, or RCA (a measure of how specialized a country is in a particular product) in transport equipment ranks 8th best globally.

Even so, the rise of Chinese auto factories in Mexico has raised concerns among U.S. policymakers and manufacturers,[13] [14] seen by many as an attempt to use Mexico as a backdoor into the U.S. market, circumventing tariffs imposed on electric vehicles exported directly from China.[15] In 2023, EV exports from China to Mexico and from Mexico to the U.S.

both saw sharp increases, while EV exports from China to the U.S. decreased. The same year, and for the first time in two decades, Mexico overtook China as the top U.S. trade partner.

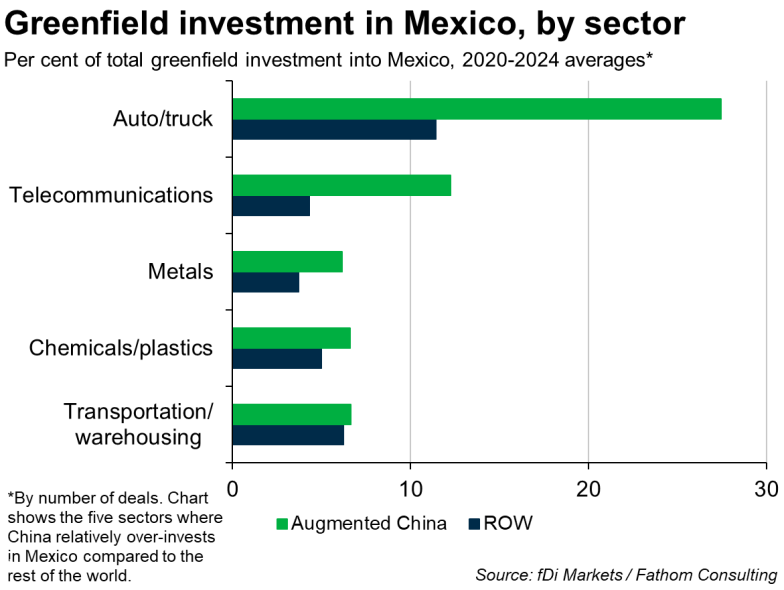

Figure 6. Greenfield investment in Mexico, by sector

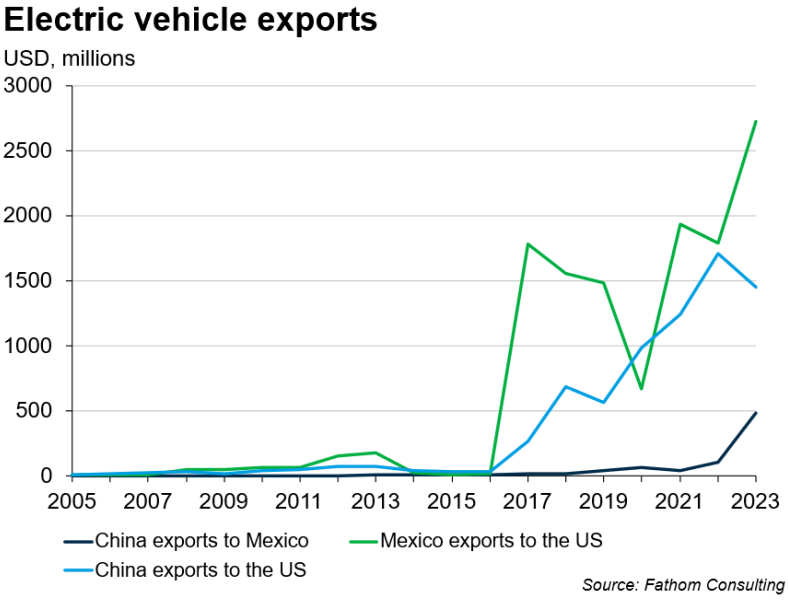

Figure 7. Electric vehicle exports

Mexico, too, should be wary — an influx of low-cost Chinese EVs could threaten its domestic industry, as has already been felt in Europe. In 2024, following an eight-month investigation, the European Commission concluded that Chinese electric vehicle manufacturers benefit from substantial state support, allowing them to undercut competitors on price, rapidly gain

market share, and jeopardize European jobs.[16] With over one million Mexicans employed in the auto sector, Mexico faces similar risks.

It is not just the auto industry at risk – Mexico's broader advanced manufacturing ambitions, including aerospace and semiconductors outlined in President Sheinbaum's "Plan Mexico", are also vulnerable to China's growing manufacturing footprint.[17] A key goal of the plan is to increase national content by 15% in the global supply chains of strategic sectors, but the increase of Chinese production in Mexico's supply chains makes this target harder to achieve. The increased presence of Chinese EVs may also pose national security challenges. The Biden administration, for example, warned about the software embedded in smart cars and trucks today, pointing out that they are no longer "just steel on wheels –they're computers" and could provide intelligence on drivers and their data, or even cause a remote shutdown.[18]

Energy and mining also attract significant foreign investment, representing the two leading sectors for China and Hong Kong's M&A activity in Mexico. While these acquisitions account for a small share of total overseas investment activity, they are still critically important. Mexico has long faced underinvestment in its energy sector and remains heavily dependent on non-renewable sources, creating opportunities for investors.[19][20] Such investments are also an opportunity for China to boost political influence. Indeed, China's investment in Mexico's renewable energy infrastructure may well have a market opportunity, but it is also likely to increase its leverage over what could be considered a basic human need – energy. In countries such as Italy and Chile, Chinese investments in the energy sector have triggered national security concerns due to overdependency for the distribution of a key public service.[21]

In conclusion, Mexico stands at a pivotal moment in its economic trajectory. Its geographic proximity to the U.S., combined with rising geopolitical tensions, nearshoring efforts and an attractive risk-return profile have made it an increasingly popular destination for foreign investment – particularly greenfield projects.[22] While this presents clear opportunities and is in keeping with a developing economy like Mexico that is rich in people and opportunities, it also brings risks. Investment patterns that obscure ultimate ownership (whereby China invests via a foreign subsidiary rather than one located in China), especially in critical sectors like energy, electronics, and autos, may expose Mexico to unintended strategic dependencies.

Growing Chinese investment, including in Mexico's auto industry to gain access to the U.S. market, shows how foreign influence can outpace government oversight and highlights the need for investment screening in critical sectors.

Legal Analysis of Current Investment Controls

KEY TAKEAWAYS

- **Lack of a coherent legal framework for screening national security risks**: existing regulations of investment control in Mexico are primarily focused on FDI attraction rather than security. While not absent, current laws are limited and miss the necessary legal framework to predictably and transparently screen investments in sensitive and strategic sectors for national security.
- **Sectoral coverage is incomplete, and thresholds are high:** the LIE provides only incomplete sectoral coverage, especially in innovative industries, but similarly only covers parts of the defense industry, and excludes sectors related to health and food security. Thresholds for screening are high compared to international norms, and greenfield is not included.
- **Incomplete institutional structures**: Mexico has the institutional capacity to form the basis of an investment review board or agency, but this would require a cognitive shift from a focus on investment attraction to investment security, as well as the inclusion of security-centered agencies and departments.

The recent FDI landscape in Mexico has revealed several important security-related challenges originating from growing FDI in the country. Currently, Mexico's regulatory framework governing FDI is not fit for purpose. While the LIE includes some sector-specific restrictions and operates under a body similar to an ISM reviewing committee, the current regulation still has several gaps, exposing Mexico to potential security threats. The following subsections outline the current legal and regulatory framework governing FDI in Mexico to identify the principal challenges of such framework.

LEGAL FRAMEWORK FOR FDI IN MEXICO

Under the Mexican legal framework, Congress has the authority to enact legislation for the regulation of foreign investment and national security under Article 73, sections XXIX-F and XXIX-M, respectively. In November 1999,[23] the Mexican Supreme Court held that international treaties are hierarchically above federal law but below the Constitution. The Mexican Supreme Court also interpreted that an international treaty can be referred to as an agreement, convention, declaration, protocol, or diplomatic note exchange.[24] At the moment, Mexico is part of 14 Free Trade Agreements (FTA) with 52 countries, 30 Promotion and Reciprocal Investment Protection Agreements with 31 countries or administrative regions, and nine Economic Complementation and Partial Scope Agreements.

Among those agreements, USMCA is the most recent FTA signed by Mexico. There is no explicit reference to a foreign ISM, but Article 32.2 gives each party the opportunity to apply measures that it considers necessary for the fulfillment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests. In 2023, Mexico also signed a memorandum of intention with the U.S. to develop and cooperate on the adoption of a Mexican ISM.[25]

Mexico's constitution strictly holds that all private property within the state is a privilege provided by the Nation, whose domain is "inalienable and imprescriptibly, and exploitation, use or development of its resources either by individual or companies incorporated according to the Mexican laws, will be possible only with permission granted by the Federal Executive, according to the rules and conditions set by law."[26] The most relevant law regulating these conditions on ownership and foreign investment in Mexico is the LIE, which was published in the Official Gazette of the Federation on December 27, 1993. The law sets out rules for FDI attraction with the goal of contributing to the country's development, and in essence demarcates those areas within the economy that are open to foreign investments.

The LIE could be seen as a solid foundational reference point for a future investment screening law, as it defines several key concepts relevant to an ISM. The law defines a foreign investor as an individual or entity of any nationality other than Mexican, and foreign entities with no legal personality in Mexico. According to LIE, foreign investment is defined as follows: (1) participation by foreign investors, in any percentage, in the capital stock of Mexican companies; (2) investment by Mexican companies in which foreign capital has majority interests; and (3) participation by foreign investors in activities and acts contemplated herein. The following subsection further analyzes other key aspects of LIE relevant to the regulation of FDI for national security reasons.

Bodies implementing LIE

There is one principal body responsible for implementing the LIE, namely the National Foreign Investment Commission ('CNIE', or 'the Commission'). The Commission plays a central role in the Mexican regulatory framework for FDI since it has the authority to: a) issue guidelines on FDI matters and design mechanisms to promote FDI in the country; b) resolve on the terms and conditions for the participation of foreign investments in activities or acquisitions with specific regulations (below); c) serve as the mandatory consulting entity on foreign investment matters for governmental agencies and entities of the Federal Public Administration; and d) establish the criteria for the application of legal and regulatory provisions on foreign investment, through the issuance of general resolutions.

The Commission is currently composed in a way which resembles a broad ISM reviewing authority/committee,[27] as it should always be composed of the Secretaries of the following sectors: Interior, Foreign Affairs, Finance and Public Credit, Social Development, Environment and Natural Resources, Energy, Economy, Commerce, Infrastructure, Communications and Transportation, Labor and Social Welfare, and Tourism. The Commission should meet at least twice a year and decide on cases by a majority vote. In the event of a draw, the chairman of such Commission will have a deciding vote. The Commission is chaired by the secretary of the economy and is required to take a decision on requests within a maximum period of 45 business days beginning from the request's filing date. If the Commission fails to respond within this time frame, the request will be considered approved by default.

To evaluate the requests, the Commission considers the following criteria: a) impact upon employment and training of workers; b) technological contribution; c) compliance with environmental provisions included in the ecological regulations governing the matter; and d) in general, its contribution to increase the competitiveness of the country's productive system. As established in Article 30 of LIE, the Commission has the authority to block acquisitions by foreign investors on national security grounds. However, the law currently does not establish concrete criteria related to national security that can be taken into consideration, as opposed to the criteria enumerated above to determine the contribution of the investment to Mexico's domestic economy.

Furthermore, another relevant state body involved in the regulation of FDI is the National Foreign Investment Registry (RNIE). Foreign individuals or companies intending to invest in Mexico must register with the RNIE within 40 business days from the date of formation of the company or the date foreign investment begins, and must include detailed economic information, the companies contact person, amount of foreign investment, etc. However,

since January 2025, all filings — including applications, notices, reports, queries, and requests — must be submitted exclusively through the digital platform for managing RNIE procedures ("the RNIE System"). The platform currently faces technical challenges, including server overloads that delay processing times.[28] While these are important implementation challenges, the RNIE is important when it concerns the monitoring of compliance with the LIE and would similarly be useful for any expansion of Mexico's FDI screening laws and monitoring of compliance, especially if it were to expand notification requirements to include information relevant for investment screening reviews, such as Ultimate Beneficial Owner.

Lastly, especially as it concerns real estate and concession acquisitions, which are relevant in light of ownership restrictions in strategic industries such as mining, foreigners are required to present and obtain the approval from the Ministry of Foreign Affairs and obtain the corresponding permit from the agency. The permit will be deemed granted if the refusal of the Ministry of Foreign Affairs is not published in the Official Gazette of the Federation within five working days following the date of the filing of the application.[29] For broadcasting and telecommunications it is the Federal Telecommunications Institute that functions as the controlling entity.[30]

Sectoral restrictions on FDI

While the current regulation on FDI screening in Mexico is relatively limited in scope and width compared to other jurisdictions, LIE establishes several conditions to screen, prohibit, or limit the participation of foreign firms in the Mexican market. As the LIE is essentially an investment promotion law, in accordance with its articles, foreign investors may in principle participate in any proportion in the capital of Mexican companies, acquire fixed assets, enter new fields of economic activity or manufacture new product lines, open and operate establishments, and expand or relocate existing establishments, except as otherwise established in the law.

This right to invest is not unconditional. LIE's Section 1, Article 5 reserves certain activities in strategic areas exclusively for the State, in line with its political constitution.[31] Other economic activities and companies are reserved exclusively to Mexicans or to Mexican companies with a foreigners exclusion clause.[32] Lastly, Section 1, Chapter III of the LIE also establishes specific regulations for activities and acquisitions based on particular ownership thresholds and specific activities/sectors. Foreign investors may participate under the following conditions:

- Up to 10% in production cooperative societies.[33]

- Up to 49% in a) manufacture and commercialization of explosives, firearms, cartridges, ammunitions and fireworks, not including acquisition and use of explosives for industrial and extraction activities nor the preparation of explosive compounds for use in said activities; b) printing and publication of newspapers for circulation solely throughout Mexico; c) series "T" shares in companies owning agricultural, ranching, and forestry lands; d) fresh water, coastal, and exclusive economic zone fishing not including aquaculture; e) integral port administration; f) port pilot services for inland navigation under the terms of the law governing the matter; g) shipping companies engaged in commercial exploitation of ships for inland and coastal navigation, excluding tourism cruises and exploitation of marine dredges and devices for port construction, conservation and operation; h) supply of fuel and lubricants for ships, airplanes, and railway equipment; i) broadcasting. This maximum foreign investment will be subject to the reciprocity that exists in the country of constitution of the investor or economic agent who exercise control, in the last instance, directly or indirectly; and j) scheduled and non-scheduled domestic air transport service; non-scheduled international air transport service in the form of air taxi and specialized air transport service.

According to LIE, a foreign company is required to obtain a favorable resolution by the Commission to participate in a percentage higher than 49% in the following economic activities and companies: a) port services in order to allow ships to conduct inland navigation operation, such as towing, mooring and barging; b) shipping companies engaged in the exploitation of ships solely for deep-sea traffic; c) companies holding concessions or permits for public service aerodrome; d) private education services of pre-school, elementary, middle school, high school, college or any combination; e) legal services; f) construction, operation and exploitation of general railways, and public services of railway transportation. In addition, a favorable resolution from the Commission is also required in a percentage higher than 49% of the capital stock of Mexican companies when the aggregate value of the assets of such companies at the date of acquisition exceeds the amount determined annually by the Commission.[34]

Foreigners who intend to acquire real estate outside the restricted zone or obtain concessions for the exploration and exploitation of mines and waters in the national territory, must present before the Ministry of Foreign Affairs, and obtain the corresponding permit from the agency. Lastly, the Federal Law on Telecommunications and Broadcasting came into force in August 2025, regulating FDI among others into this sector.

This section has introduced the principal pillars of the current legal framework for regulating FDI in Mexico. Compared to other jurisdictions, the current Mexican framework is primarily focused on investment attraction, rather than security, and screening is limited in those critical economic areas that can simply not be invested in. Most importantly, the current Mexican regulation does not treat the defense sector as a coherent sensitive sector which is screening, as many items are not covered in the legislation. Moreover, while other strategic sectors such as mining are addressed, critical raw materials are for example not explicitly covered in the legislation. Lastly, the LIE does not outline specific risk criteria to take into account pertaining to national security, nor does it formulate mitigating measures the state may impose or outline possible pathways for judicial review for cases related to investment screening for security considerations, increasing legal uncertainty for investors.

The LIE establishes certain key elements which could be leveraged to develop a broader FDI screening mechanism. This includes the role of CNIE, which could be transformed into a reviewing authority focused more on security rather than investment attraction. Despite these strengths, several key factors related to threats from FDI remain unaddressed. The following section analyses each of those factors and proposes possible solutions.

Building Mexico's ISM

KEY TAKEAWAYS

- **Mexico needs an overarching economic security framework** to guide investment screening adoption, coordinate with its USMCA trade partners, and create complementarities with other regulatory tools like export controls, strategic industrial policies and supply chain resilience regulation.
- **The LIE lacks the necessary legal provisions for the screening of investment for security risks:** a revision of current legislation or a new law specifically for investment screening is needed to address the inability of the LIE to assess FDI on the basis of national security. Provisions on risk assessments and mitigating measures should be developed to create the necessary predictability, legal certainty, and transparency in the framework for foreign investors.
- **Mexico faces key decisions in the design of its ISM:** It will need to determine which investors and sectors to screen, how to define them, which thresholds to implement

(including how to treat greenfield investment), and how to design its investment screening body.

As explained earlier, rising FDI in Mexico increases the country's need to update its current legal framework for regulating FDI, including a pivot to screening on the basis of national security grounds. To achieve this, Mexican policymakers must address existing gaps in the national framework and make strategic decisions on key elements of ISM design, including scope, triggers, review procedures, and institutional arrangements. The following section examines these elements and draws on examples from other jurisdictions with more robust ISMs to offer a set of tailored recommendations for a Mexican FDI screening framework that balances national security concerns, economic openness, and administrative feasibility.

ECONOMIC SECURITY FRAMEWORK AND NATIONALITY-BASED SCREENING RULES

First, the Mexican ISM should be embedded within a more comprehensive economic security strategy. This would entail identifying which factors constitute national and economic security threats.[35] Both concepts could be incorporated into official documents issued by Mexican state bodies. While the most recent *National Strategy of Public Security 2024-2030* addresses relevant challenges linked to citizen security, Mexico would also benefit from a specific economic security strategy.[36] Such a strategic document should delineate the principal measures Mexico could adopt to protect the national economy from national security threats. This would of course include investment screening, alongside other relevant tools, such as supply-chain resilience, strengthening of the export control regime, in combination with innovation policies in key sectors.

A more precise characterization of national security threats and risk assessment criteria would allow for a transparent, investor-friendly screening environment, and potentially include nationality-based provisions, such as the provision of fast-track procedures for like-minded or otherwise close countries to streamline the FDI review process for investments from those investors. From a Mexican standpoint, within the context of USMCA, it would make sense to include Canada and the United States on the list for streamlined FDI screening processes.

The use of nationality-based rules in ISMs presents benefits and challenges. First, such rules send investors clear signals as to whether they face streamlined procedures, which could also increase administrative efficiency in host countries. By developing clear risk criteria, such as ties to foreign governments (through state ownership), host countries could also reduce

exposure to hostile state-linked capital. Importantly, blacklisting all investments from a single country is likely to be an over-generalization, as not all firms from a given "blacklisted" country necessarily pose a risk. In addition, the use of such lists — even a watchlist — can lead to diplomatic tensions and reduced capital inflow, as discriminatory measures can deter needed and risk-free investment. Finally, any lists of this kind may conflict with World Trade Organization rules and existing obligations under bilateral and international investment treaties due to their discriminatory nature.

For now, Mexico may consider establishing some kind of list to streamline the FDI review process for selected close countries, such as Canada, the United States, or selected Latin American countries. This would correspond to how the U.S. CFIUS applies an "excepted foreign states" category to simplify reviews for selected like-minded countries, although their list currently only contains close security partners from its five-eyes coalition, and also does not mean investors from these countries are fully exempt from screening.[37] The U.S.'s new known-investor program is also interesting for Mexico to monitor and derive best practices from.

Watchlists and blacklists, on the other hand, are relatively rare, most likely due to the challenges with their use outlined above. While some view rising Chinese FDI in Mexico as a potential threat,[38] following the U.S. example and including China on a list of entities of concern would be costly for Mexico. Such a move could trigger diplomatic tensions between the two countries or deter future FDI from China. China may also adopt countermeasures against Mexico for its political stance and screening policies, especially when they determine that they constitute trade and investment barriers.[39] This could negatively impact the competitiveness of the Mexican economy.

Lastly, some states such as Sweden, the Netherlands, Romania, or the United Kingdom, screen domestic investors. Capacity restraints may make this unfeasible in the Mexican case but may be considered for specific sectors. After all, Mexico already differentiates in the LIE between sectors only available to the state, Mexican investors, and foreign investments. Accordingly, there is an acknowledgement embedded within the existing system that sometimes domestic investors may also pose a risk to security and should be excluded from certain sectors.

LEGAL FRAMEWORK FOR INVESTMENT SCREENING

Any law on investment screening must include on what basis this screening is to take place, and what risk and mitigation criteria it can take into account. As discussed in the previous

chapter, the LIE focuses on an investment's contribution to the economy but provides no criteria for assessing or mitigating national security risks.

Any revisions of the existing laws or new legislation on the screening of FDI must include on which basis this assessment is to take place. Risk assessments often focus on risks related to the investor, risks to the target, and the impact to national security should these risks materialize. In the EU, states consider an investment's effect on, among others, security of supply, the physical security, resilience and functioning of a critical entity or critical infrastructure, freedom and pluralism of the media, protection of sensitive data, the electoral process, food security and public health. Most also take into account whether an investor could be acting on behalf of a foreign state through state ownership links or comes from a foreign country with significant deficiencies in its national anti-money laundering regime.[40] Most states enumerate the risks that their screening authorities are to consider in their respective laws. While these are not exhaustive, they are indicative and provide a basis against which investors can assess their own deals for security risks. Accordingly, any ISM in Mexico must take into consideration which risk criteria it seeks to include in its legislation, which can be aligned with economic security or national strategies and priorities (as proposed above).

Mitigation measures are conditions that government can attach to a screening approval. They are often taken up in screening laws to delineate what type of conditions the state may or may not require to counter identified security risks. They are characterized by low levels of legal detail that provide governments with the necessary flexibility to respond to new emerging threats.[41] Generally speaking, there are two types of conditions: pre-approval and post-approval conditions. In the case of the former the transaction itself is changed: the investor is required to divest certain assets or restructure operations, among others. These changes aim to eliminate the identified threat but can also alter the deal to such an extent that the investor chooses to abandon the deal or it may be rejected by the authority with an invitation to submit a revised version. Post-approval measures are aimed at managing the security risk through assurances or ongoing obligations imposed on the investor after the transaction is completed. These may include governance requirements, security protocols subject to audits, meeting localization rules, etc. These obligations can be long-term or indefinite and require continued monitoring or reporting mechanisms to ensure compliance.[42]

Mitigation measures are highly relevant for Mexico: they effectively allow for a practical balancing between allowing much needed investment to flow into the country while at the

same time mitigating security risks to the investment. Ensuring transparency by including in any future legislation which measures the government may or may not take increases the legal certainty for foreign investors, while maintaining a commitment to national security. Additionally, mitigation measures are not a substitute for strong national legislation and regulators for cybersecurity, data security, and overarching economic security strategies.

DESIGN OF THE LEGAL FRAMEWORK

Policymakers must decide on the appropriate legal provisions for an investment screening mechanism, including the scope of review, choosing between sectoral approaches that screen specific industries, cross-sectoral frameworks that may be able to call in any investment (similar to the U.S.), asset-based systems focused on particular strategic assets, or mixed approaches combining these elements. In doing so, Mexico must establish appropriate thresholds for triggering mandatory review, with international trends suggesting a movement toward a 10% or 25% ownership stakes or lower, depending on the criticality of the industry (in case of a sectoral screening regime),[43] and potentially monetary thresholds for transaction value regardless of ownership percentage. Additionally, and perhaps the most consequential decision concerns whether to include greenfield investments in the ISM's scope, a choice that is particularly important in the case of Mexico, as the data in this report show.

Legal Scope

A key aspect of ISM design concerns the scope of review, which defines the parts of the economy that will be covered by the ISM. As the analysis of Mexico's current legal framework for FDI shows, the country's existing regulations restrict the access and activities of foreign companies in some select sectors. However, the sectors covered by these restrictions are narrower than those covered by many investment screening systems worldwide. In Mexico, for example, many defense-related activities are not subject to screening.

Defining and delineating the scope of Mexico's ISM will be one of the key challenges in negotiations leading to the establishment of a new FDI screening mechanism in the country.

The academic literature identifies four main approaches to scope within the context of ISMs.[44] First, sectoral reviews include a specifically defined list of sectors that are covered by the ISM. A cross-sectoral approach means that the reviewing authority may review FDI across all sectors. Asset-based reviews grant the reviewing authority the right to review acquisitions of particular assets, such as designated companies, infrastructure assets, or patents. Lastly, in

the case of mixed-based reviews, the reviewing authority may review FDI in all sectors, but specific requirements apply to a designated list of particular sectors.

The analysis of the LIE reveals that Mexico currently reserves 11 sectors exclusively for the State, three for Mexicans or Mexican companies with a foreigners-exclusion clause, and a limitation to foreign investment to a specific share (10% and 49%) in 11 sectors. In five sectors, a favorable resolution by the Commission is needed for foreign investment exceeding a 49% share, including in sectors considered strategic in many other countries such as telecommunications, defense production, or food security.

To determine which sectors will be covered in the Mexican ISM, the Mexican regulatory framework may draw on the sectors outlined in the LIE but should also rely on a more comprehensive assessment and definition of national and economic security, as suggested above. This, in turn, will facilitate the identification of sectors deemed critical to national security. Such a definition could also address one of the key challenges related to recent trends in Chinese FDI in Mexico, namely the EV sector. As discussed above, the influx of Chinese FDI in the Mexican automotive sector represents both economic gains and potential security threats. A precise definition of national security threats may therefore facilitate the decision to include or omit this and other key sectors from the future ISM in Mexico.

Minimal threshold for review of FDI and greenfield investments

One of the central elements in ISM design is the so-called trigger, which establishes the minimal threshold in a given investment that triggers a notification obligation or would allow the government to intervene in an investment. As discussed, the current Mexican framework establishes that foreign companies need to receive a favorable resolution from CNIE to participate in more than 49% of a list of activities and companies. Looking at FDI review practices worldwide, the threshold should be lowered in the future Mexican ISM. One of the most common trends in ISM review practices in recent years has been governments' tendency to decrease the threshold leading to review, both in terms of absolute valuation and as a percentage of deal size.[45]

Another related consideration with respect to the thresholds involves the inclusion or omission of greenfield investment from the review. The current legal framework for FDI in Mexico does not address this consideration. Yet in the Mexican context, this factor is particularly central given the rise of greenfield investments in the recent years, coupled with the fact that a large part of those deals originated from China.

Greenfield investments are often perceived as beneficial to local economies, as they can create new jobs, bring technological progress and do not overtake domestic champions. In the case of Chinese FDI, M&A have been seen as particularly concerning due to China's access to key knowledge of companies operating in sensitive sectors.[46] However, greenfield investments can also pose national security risks through several specific mechanisms. For instance, greenfield investments in telecommunications infrastructure could provide opportunities for surveillance or data collection, while new manufacturing facilities in strategic sectors might create supply chain vulnerabilities or serve as platforms for technology espionage.

Some jurisdictions already include greenfield investments in their ISM, and many are exploring how to include greenfield investment into their scope.[47] Including greenfield investments in ISM frameworks offers several advantages: it provides comprehensive coverage of potential national security threats, prevents circumvention of screening through new entity creation rather than acquisitions, and enables early intervention before critical dependencies are established. However, this approach also has significant drawbacks. Screening greenfield investments can discourage much-needed foreign investment, particularly in developing economies seeking capital for infrastructure and job creation. The review process may slow down time-sensitive projects, impose additional bureaucratic burdens on investors, and create uncertainty that deters investment altogether. Furthermore, assessing future national security risks from proposed new facilities is inherently more speculative than evaluating existing assets in M&A transactions, and may undermine legal certainty.

For Mexico, which actively seeks to attract foreign investment to boost economic growth, including greenfield investments in its ISM, would require carefully balancing security concerns against the potential economic costs of reduced investment flows. For this reason, Mexico may consider screening greenfield in select sectors where these are most likely to pose a risk to Mexico's economic and national security.

ISM Reviewing Committee

The future Mexican ISM will also have to establish a reviewing committee, or identify a competent authority tasked with reviewing and deciding on foreign investments with repercussions for national security. Under the current legal framework in Mexico, CNIE plays a similar role. CNIE is chaired by the secretary of the economy and is composed of ministries from eleven other sectors.[48] Academic literature on ISM calls such reviewing committees "broad" as they are formed by several actors from different branches of the executive. Narrow

reviewing authorities, on the other hand, operate with a small number of formally involved actors, usually two.[49] CNIE can certainly be leveraged and used as a basis for the future Mexican ISM reviewing authority, but several challenges persist and need to be addressed.

First, the number of branches of the executive represented is a key consideration. The number of actors and the decision-making procedures followed in the screening process could impact the review process itself. While difficult to ascertain considering the security sensitive nature of investment screening, it has been proposed that the higher the number of veto players within a screening committee, the higher the chances that veto players may succeed in blocking a particular investment and, overall, that could seek to influence the screening process.[50]

Importantly, the design of a Mexican ISM will have to include branches of government that bring in the necessary security expertise. This includes a role for the Mexican Secretariat of Defense, the Secretariat of the Navy, agencies with relevant cybersecurity and data protection capabilities, as well as a role for the National Intelligence Center (CNI). These actors are all often involved in different roles in ISMs in other jurisdictions. Relatedly, their formal role needs to be determined. For instance, in the United States, the director of national intelligence is a non-voting member of CFIUS.

The inclusion of intelligence services in the ISM can leverage their capabilities to detect economic espionage operations, identify hidden ownership structures linking investors to foreign states, assess threats to critical infrastructure, and access classified information from allied services. For Mexico, CNI involvement would be particularly valuable given its unique expertise in counterintelligence and threat assessment operations, which the Commission currently lacks.

Considering the need to include specific security expertise, which also requires a cognitive shift for members part of the existing Commission, Mexico may also consider the creation of a new state body dedicated solely to FDI screening. This would correspond to the Foreign Investment Review Board in Australia or CFIUS. Mexico has to choose whether to leverage the existing CNIE as the leading body of the review process or establish a completely new committee for the purposes of a more independent ISM. The latter option would preempt potential conflicts of interests that arise between FDI attraction and security considerations. Alternatively, a selected secretariat can be entitled to have the leading position in the process. Such a strategy would be in line with practices in countries such as France or Germany, where specific ministries are in charge of the review process.[51] In the Mexican case, this would most intuitively be a role for the Secretariat of Economy.

The choice between establishing a new dedicated committee, reforming the current CNIE, or designating a lead ministry involves important trade-offs. First, creating a new specialized body would provide focused expertise on national security matters and clear accountability, while avoiding potential conflicts of interest. At the same time, this approach requires significant resources, time to build institutional capacity, and risks creating bureaucratic overlap with existing structures. This option may not be the most attractive one for the Mexican government, considering budget cuts in the past years have severely constrained administrative capacity in key ministries such as defense and security.[52] Reforming the current CNIE to include security expertise may be more cost efficient, but will require a cognitive shift alongside the development of appropriate procedures to address potential conflicts of interest between attracting FDI and security.

Alternatively, designating the Secretariat of Economy and taking advantage of key complementarities with the CNIE offers faster implementation, cost effectiveness, and leverages existing expertise in investment matters. Yet this approach may face similar challenges as reforming the CNIE would face, such as conflicting mandates between promoting economic growth and protecting national security, potentially compromising the rigor of security assessments. Alternatively, designating another lead ministry may increase the risk of inter-institutional competition that could give rise to inefficiencies or delays in implementation if not addressed early.

Policy Recommendations

The previous sections have demonstrated that Mexico's current FDI framework falls short in addressing the main challenges linked to incoming FDI on the basis of national security. The rapid rise of greenfield investments in strategic sectors demands a comprehensive ISM capable of protecting national security while maintaining Mexico's attractiveness to responsible foreign investors. To that end, the following recommendations provide a roadmap for policymakers:

- **Make ISM Part of a Comprehensive Economic Security Strategy:** Mexico's ISM should be part of a broader national economic security strategy. This strategy should define the main security threats to Mexico in the economic domain. The ISM should be identified as one of the key instruments to mitigate these risks, alongside other tools such as export controls and supply-chain resilience policies. Such a strategic

document would align Mexico's economic security interests with its industrial and development goals, reflected, for instance, in Plan México.

- **Cooperate with Regional Partners:** Given Mexico's integration into North American production networks, the ISM should promote structured coordination with its USMCA partners. Cooperation with North American partners could facilitate the exchange of intelligence on sensitive transactions and best practices for screening. Collaboration should also extend to Latin American partners, especially those developing similar mechanisms (e.g. Chile). International cooperation should be pursued during the design and implementation of the ISM.
- **Develop a screening law for the screening of national security risks in FDI:** Ideally, this law provides the legal framework for screening on the basis of national security, outlines security risks to be taken into account in the risk assessment, defines mitigation measures, and aligns this with the proposed security strategy and international best practice. Providing clarity on the goals and ambitions of the law, how it diverges and complements the existing LIE, will provide a solid basis for government to screen investment, and investors to include these considerations in their dealmaking.
- **Expand the List of Covered Sectors:** Mexico's current FDI regulation covers a few strategic areas, but a new ISM could expand screening coverage. Moreover, the EV and battery supply chain sectors should also be included given their key role in Mexico's economy and their exposure to state-backed foreign investors.
- **Lower the Ownership Threshold for Review**: The current 49% ownership threshold for triggering CNIE review is excessively high by international standards. Most advanced economies apply thresholds between 10% and 25%. Mexico should adopt a system combining (a) an ownership threshold lowered to 25% or below, and (b) a monetary threshold for deals exceeding a certain value (e.g., USD $5 million), regardless of ownership share. This would ensure timely scrutiny of potentially problematic investments and prevent risks from materializing after controlling stakes have already been acquired.
- **Include Greenfield Investments within the ISM Scope:** Given the rise of greenfield investments in Mexico, excluding them from ISM coverage would leave Mexico's key sectors unprotected. However, the review should focus on greenfield projects in

strategic sectors or those involving state-controlled investors. By doing so, Mexico can reduce security risks without discouraging nearshoring or foreign investment.

- **Establish a Specialized ISM Reviewing Committee:** Mexico should build upon the existing CNIE but tailor it to the ISM's security-oriented mandate. The reformed committee should include the security services and other security-oriented ministries to ensure access to counterintelligence assessments and threat analysis capacities. Two institutional models are possible. As discussed above, both options involve trade-offs that will need to be carefully considered by Mexican policymakers.
    - **Dedicated Agency Model:** Reform the CNIE or establish a new ISM inter-agency authority, similar to CFIUS.
    - **Lead Ministry Model:** Designate the Secretariat of Economy (or another Secretariat) as the coordinating entity, integrating the CNI and other security Secretariats.
- **Build Domestic Awareness and Stakeholder Support:** Successful ISM implementation requires broad political and societal legitimacy. Policymakers should familiarize the Mexican business community, regional governments, and civil society with the ISM's role as a tool of economic protection —not an obstacle to foreign investment. Such an approach can reduce resistance, particularly among those who may view the ISM as an FDI deterrent.

Conclusion

With the widespread global tendency of introducing new or tightening existing ISMs, the case of Mexico is particularly relevant in this context. The recent surge in greenfield investment, particularly from non-democratic countries, has triggered national debates on the need to establish a coherent national ISM. While foreign investment offers Mexico substantial economic benefits, including job creation, technology transfer, and enhanced integration into North American production networks, it also exposes Mexico to strategic vulnerabilities that its current regulatory framework is ill-equipped to address. The concentration of FDI in critical sectors, combined with ownership structures that obscure

ultimate beneficial ownership, underscores the urgent need for a comprehensive ISM capable of identifying potential security risks originating from such FDI.

Our analysis reveals fundamental gaps in Mexico's existing legal architecture, centered around the existing Foreign Investment Law, that leave the country vulnerable to the security risks associated with contemporary FDI patterns. First, the LIE focusses primarily on FDI attraction and economic development. While not lacking the ability to screen, they lack the relevant legal provisions and institutional capabilities to screen investment from a security perspective. Current ownership thresholds that trigger review are considerably higher than international standards and the omission of greenfield investments from review processes creates a regulatory environment unable to respond to strategic challenges. Moreover, the CNIE, while providing a foundational institutional structure, lacks the mandate, criteria, and expertise necessary to conduct rigorous security assessments of foreign investments. These deficiencies are concerning given Mexico's strategic position within USMCA and the potential for Chinese investments to serve as a backdoor to the U.S. market – a dynamic that also threatens broader North American economic security. Considering the renegotiation of the USMCA, which includes discussions on investment screening, Mexico may need to consider that the development of ISMs may well be key to retaining crucial market access to the U.S.

The recommendations presented in this report provide Mexican policymakers with an initial roadmap for developing an ISM that can strengthen the country's security while not halting much-needed foreign investment. Investment screening should not be understood as a backlash against economic globalization or a rejection of foreign investment. Rather, it is a tool to refine Mexico's approach to FDI governance in an era where the lines between economic gains and security risks have become increasingly blurred. Mexico's geographic position, economic integration with North American partners, and role as a manufacturing hub for critical goods make such tools inevitable. An effective ISM, transparently implemented and focused on genuine security risks, can enhance rather than diminish Mexico's attractiveness as an investment destination by providing greater predictability, reducing the need for ad hoc political interventions, and signaling to investors that Mexico has a highly developed institutional architecture for regulating FDI.

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[10] For example, under the America First Investment Policy (February 2025), certain countries are designated as 'foreign adversaries', which include China, Hong Kong, Macau, Cuba, Iran, North Korea, Russia and Venezuela. Another similar example is Bulgaria, which has a so-called black list that includes Russia and Belarus, and investments from those countries must undergo FDI screening regardless of sector.

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[32] Article 6 of the LIE. These economic activities include the following: a) domestic land transportation for passengers, tourism and freight, not including messenger or courier services; b) development banking institutions, under the terms of the law governing the matter; c) rendering of professional and technical services set forth expressly by applicable legal provisions.

[33] These are member-owned, democratic organizations where members engage in joint labor to produce goods or services, sharing profits and operational management. Regulated by the General Law of Cooperative Societies

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The report was commissioned by the Center for International Private Enterprise (CIPE), and in collaboration with the CELIS Institute, and is the result of the research conducted by the authors of the report. This report aims to provide Mexican policymakers with a comprehensive, evidence-based framework for designing and implementing an investment screening mechanism tailored to Mexico's specific context. Additional analysis and data support was provided by Fathom Consulting's Capital Flows Tracker and consultations with Procopio Law.

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