

GAS REGULATION

Mexico



Gas Regulation

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Quick reference guide enabling side-by-side comparison of local insights, including into the domestic gas market, government policy and regulatory authorities; regulation of natural gas and unconventional gas production; regulation of natural gas pipeline transportation and storage, distribution, sales and trading; LNG regulation; mergers and competition, including price restrictions; international considerations, including foreign participation, treaties and other multinational agreements, and cross-border sales and deliveries; transactions between affiliates; and recent trends.

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DOMESTIC SECTOR OVERVIEW

State of the market

Describe the domestic natural gas sector, including the natural gas production, liquefied natural gas (LNG) storage, pipeline transportation, distribution, commodity sales and trading segments and retail sales and usage.

From 1995 up until December 2013, private entities could only participate in the pipeline transportation, storage and distribution of natural gas; however, pursuant to the constitutional Energy Reform of December 2013, the Mexican Constitution was amended to fully allow private investment in the hydrocarbon and power industries (including the natural gas sector) under competitive and free market conditions, ending the state monopoly in the Mexican energy sector. The exploration and production of natural gas and other hydrocarbons (upstream activities) are considered strategic activities to be carried out by the Mexican nation through either entitlement (asignaciones) awarded directly to state productive enterprises (government owned entities with commercial purpose) or exploration and production contracts (O&G contracts) awarded through bidding processes to both state productive enterprises and private entities. All other activities of the natural gas sector (midstream and downstream activities) may be carried out by both public and private parties when granted permits by the corresponding federal authorities.

Law stated - 01 December 2022

Consumption

What percentage of the country's energy needs is met directly or indirectly with natural gas and LNG? What percentage of the country's natural gas needs is met through domestic production and imported production?

According to the Economic Commission for Latin America and the Caribbean (ECLAC) of the United Nations, natural gas is the 'energy source with the largest participation in primary energy consumption', representing more than 48 per cent of the energy sources with imports (mostly from the United States) and accounting for approximately 70 per cent of total consumption.

Law stated - 01 December 2022

Government policy

What is the government's policy for the domestic natural gas sector and which bodies set it?

The Mexican oil and gas sector is of federal jurisdiction. Mexico's legal regime sets forth a separation of industry policy from industry supervision.

The Ministry of Energy (SENER) is the policy maker for the Mexican energy industry, and it is in charge of, among other functions:

- establishing Mexico's energy policy to ensure the suitable development of the natural gas sector;
- awarding oil and gas entitlements to state productive enterprises and determining the terms and conditions of O&G contracts;
- determining the required levels of natural gas storage;
- ensuring the adequate supply of natural gas; and
- planning for the expansion and optimisation of natural gas pipeline transportation and storage systems.

The administration of President López Obrador (from December 2018) has established a policy, implemented through a series of actions by SENER and other authorities, aimed (1) at strengthening the position of both Petróleos Mexicanos (PEMEX, Mexico's national oil company) and Comisión Federal de Electricidad (CFE, Mexico's power utility company and a key consumer and trader of natural gas) over the Mexican oil and gas sector, and (2) securing Mexican state control over activities in the oil and gas industry. While neither PEMEX nor CFE (or their respective subsidiaries and affiliates) have regulatory or operational authority or exclusivity, in practice, both public entities continue to be main players in the Mexican natural gas sector.

Law stated - 01 December 2022

Regulatory authorities

Which authorities make regulatory policies and decisions in respect of the production, transmission, distribution and supply of natural gas?

The main authorities of the Mexican government involved in the regulation and supervision of the natural gas sector consist of the following:

- The Hydrocarbons National Commission (CNH) is the regulator for Mexico's natural gas upstream sector. The CNH is a coordinated regulatory body in energy matters and, even though it is part of the executive branch, it has full legal standing with technical, management and operational autonomy. It is in charge of, among other functions, the:
 - supervision and management of oil and gas entitlements;
 - bidding, award, supervision and management of O&G contracts; and
 - granting of authorisations for superficial recognition and exploration activities.
- The Energy Regulatory Commission (CRE) is the regulator for Mexico's natural gas midstream and downstream sectors. Likewise, the CRE is also a coordinated regulatory body in energy matters and, even though it is part of the executive branch, it has full legal standing with technical, management and operational autonomy. It is in charge of, among other functions:
 - the granting, supervising and revocation of permits for the transportation, storage, distribution, commercialisation (trading) and retail sales of natural gas;
 - regulating the vertical integration and cross-participation of permit-holders; and
 - approving and supervising the terms and conditions pursuant to which the permit-holders shall provide their services.
- SENER is also the regulator for certain downstream activities and is in charge of the granting, supervising and revocation of permits for the processing of natural gas, as well as for the export of natural gas.
- The National Agency for Security, Energy and Environment in the hydrocarbon sector is the regulator for industrial safety and environmental protection in the natural gas sector and is in charge of the rules for the design, construction, operation and maintenance of equipment, facilities and other infrastructure of the natural gas sector, among other functions.

Failure to comply with the relevant law and regulation may result in investigations by government agencies and regulators and could lead to the imposition of different sanctions, such as:

- fines;
- permit revocation;

- payment of damages;
- suspension of operations;
- temporary takeover of the relevant assets;
- intervention of the regulated activity; and
- personnel removal or disqualification.

Other governmental entities and authorities may have some regulatory influence on the natural gas sector; for example, the Federal Economic Competition Commission is in charge of determining the existence of effective competitive conditions in the natural gas sector, while the Ministry of Economy is in charge of national content regulations, as well as the methods for the testing, sampling, verification and volume measurement of natural gas.

Law stated - 01 December 2022

REGULATION OF NATURAL GAS PRODUCTION

Ownership and organisation

What is the ownership and organisational structure for production of natural gas (other than LNG)? How does the government derive value from natural gas production?

Pursuant to the Mexican Constitution, while in the subsoil, natural gas and other hydrocarbons are property of the Mexican nation. The exploration and production of natural gas and other hydrocarbons are considered strategic activities, and the Mexican nation is to conduct them exclusively through entitlements and O&G exploration and production contracts. Said activities do not constitute monopolies and are of public interest and public order; thus, they take precedence over any other activity. While it is the Mexican nation who exploits such resources, the exploration and production contractor may report the O&G contract in its financial statements (along with its expected benefits); natural gas is subject to private property once it is extracted from the subsoil.

The Mexican nation derives value from natural gas production through both (1) the considerations of the abovementioned entitlements and O&G contracts, and (2) the tax regime of the corresponding state productive enterprises and exploration and production contractors. Pursuant to Mexican law, the criteria to award O&G contracts has an economic nature, always with the intent to maximise the government's income.

Law stated - 01 December 2022

Regulatory framework

Describe the statutory and regulatory framework and any relevant authorisations applicable to natural gas exploration and production.

The principal laws for natural gas exploration and production are the Hydrocarbons Law (which regulates all oil and gas upstream, midstream and downstream activities within Mexico), the Hydrocarbons Revenue Law (which regulates the Mexican state's revenues derived from upstream activities) and the Hydrocarbons Law Regulations (which orders in more detail the upstream sector in Mexico). Furthermore, oil and gas companies are also subject to a wide range of statutory and regulatory framework such as environmental, financial and antitrust regulations.

Pursuant to the Hydrocarbons Law, natural gas exploration and production are deemed as strategic activities, and the Mexican nation conducts them exclusively through both (1) entitlements awarded directly to state productive enterprises, such as PEMEX, and (2) O&G contracts awarded through bidding processes to state productive enterprises, private entities or both. The main contractual schemes for natural gas exploration and production are:

- licence contracts;
- production sharing contracts;
- profit sharing contracts; and
- service contracts.

All O&G contracts must include the constitutional principle that while in the subsoil, hydrocarbons are property of the Mexican nation.

The Mexican nation is to enter into O&G contracts with third parties by means of a public bidding process called and managed by the CNH. As an exception, O&G contracts may be awarded directly (that is, without the need to conduct a public bid) to holders of mining concessions exclusively for the exploration and production of natural gas associated to the mineral carbon. The award of an O&G contract, or the cancellation of the corresponding bidding process, may only be challenged through an indirect amparo lawsuit (a recourse of constitutional control).

All O&G contracts must include, at minimum, provisions related to:

- the contractual area;
- the exploration and production development plans;
- the work and investment program;
- the contractor's obligations;
- the term and extension conditions;
- the grounds for termination;
- the dispute resolution mechanisms;
- the applicable penalties in case of default; and
- an acknowledgment that subsoil hydrocarbons are the property of the nation.

Law stated - 01 December 2022

Unconventional gas production

Are there different rules for, or any restrictions on, unconventional natural gas production (including fracking)?

There are no different rules for, or restrictions on, unconventional natural gas production.

Law stated - 01 December 2022

Required security and guarantees

Are participants required to provide security or any guarantees to be issued with a licence to explore for or to store gas?

As mentioned above, natural gas O&G contracts are awarded by means of public bidding processes; participants in said bidding processes must comply with the pre-qualification criteria set forth for each specific bidding process, including technical, financial and performance requirements, as well as the required experience. Furthermore, exploration and production contractors are typically required to provide both a performance guarantee (either a bond or a letter of credit) and a corporate guarantee, and if the signatory differs from the bid participant, the latter shall sign the O&G contract as joint and several obligor.

Law stated - 01 December 2022

REGULATION OF NATURAL GAS PIPELINE TRANSPORTATION AND STORAGE

Ownership and infrastructure

Describe in general the ownership of natural gas pipeline transportation, and storage infrastructure.

Natural gas transportation and storage are regulated activities that can be conducted by both state productive enterprises and Mexican commercial entities (which may be wholly owned by foreign investors); as such, there is a combination of both state- and private-owned natural gas transportation and storage infrastructure in Mexico.

Mexico's main natural gas pipeline transportation system is the National Integrated Natural Gas Transportation and Storage System (SISTRANGAS), which is comprised of a set of interconnected pipeline transportation systems with the National Pipeline System (the state-owned system) as the central system, with some peripheral systems that are private-owned. The National Centre for Control of Natural Gas manages and operates the SISTRANGAS under open access and non-discriminatory conditions.

Law stated - 01 December 2022

Regulatory framework

Describe the statutory and regulatory framework and any relevant authorisations applicable to the construction, ownership, operation and interconnection of natural gas transportation pipelines, and storage.

The principal laws for natural gas pipeline transportation and storage are the Hydrocarbons Law (which regulates all oil and gas upstream, midstream and downstream activities within Mexico), and the Third Title of the Hydrocarbons Law Regulations (which orders in more detail the midstream and downstream sectors in Mexico). Furthermore, natural gas companies are also subject to a wide range of statutory and regulatory frameworks such as environmental, financial and antitrust regulations, to name a few.

Pursuant to the Hydrocarbons Law, a permit from the Energy Regulatory Commission (CRE) is required for the transportation and storage of natural gas. Such permits may be granted to both state productive enterprises and Mexican commercial entities. Permit holders shall have ownership or legal possession of the infrastructure, facilities and equipment used to carry out their permitted activity.

Natural gas midstream and downstream activities (including pipeline transportation and storage) are considered of public interest; as such, in the event of a breach of the permit terms and conditions, the CRE may:

- cancel the relevant permit;
- temporarily take over the assets and facilities required for the performance of the permitted activity; and
- intervene in the rendering of the services.

The general rule is that pipeline transportation and storage systems are subject to open access and non-discriminatory conditions, and by way of exception, they will not be subject to said obligations only in self-use systems. The open access obligation means that permit holders can only refuse to provide their services to a third party when there is no available capacity, and the services shall be offered to all users under the same terms and conditions.

Depending on the specific characteristics of a particular system, other permits from different authorities may be required for the construction and operation of the corresponding pipeline and storage facilities (ie, crossing permits

with federal and local highways and environmental authorisations, among others).

Law stated - 01 December 2022

Land rights

How does a company obtain the land rights to construct a natural gas transportation or storage facility? Is the method for obtaining land rights to construct natural gas distribution network infrastructure broadly similar?

In general, the methods to obtain land rights to construct, develop and operate natural gas transportation and storage systems are similar to that of any other infrastructure project. The company may purchase, lease or enter into a variety of real estate agreements in order to obtain title, leasehold interest or any other right to use and have access to the land.

Furthermore, the Hydrocarbons Law provides for certain specific rules for the negotiation and agreement of hydrocarbons easements and encumbrances between pipeline transportation permit holders on the one hand, and landowners, title-holders or beneficiaries of rights or assets on the other hand.

Law stated - 01 December 2022

Access

How is access to the natural gas transportation system and storage facilities arranged? How are tolls and tariffs established?

Natural gas pipeline transportation and storage systems are subject to open access conditions; in consequence, access to the relevant pipeline and storage systems is subject to the available capacity in the system, the technical and economic feasibility for rendering the services, and the execution of the respective transportation or storage services agreement. Pursuant to said open access obligations:

- The permit holder shall make available such capacity through an open season (for a firm base capacity) or through the system's electronic bulletin (for an interruptible base capacity), and firm base users with reserved but unused capacity have the obligation to offer such unused capacity through a secondary market.
- The CRE shall approve the services agreements and the terms and conditions for the rendering of the services.
- The compensation, prices and tariffs for the rendering of the services shall be authorised by the CRE (these are maximums, and the permit holder may offer – in a non-discriminatory manner – discounts on its services).

Law stated - 01 December 2022

Interconnection and expansion

Can customers, other natural gas suppliers or an authority require a pipeline or storage facilities owner or operator to expand its facilities to accommodate new customers? If so, who bears the costs of interconnection or expansion?

Natural gas pipeline transportation and storage systems are subject to open access conditions. As such, prior to the granting of the corresponding permit and based on an analysis of the infrastructure needs in the project area, the CRE may require the applicant to expand the nature and scope of the proposed system.

In principle, the permit holder is obliged to expand the pipeline transportation or storage system at the request of any interested party if:

- said expansion is technically and economically viable;
- the interested party executed a firm basis service agreement;
- the approval of the CRE is obtained; and
- the permit is modified prior to the expansion of the system.

If the permit holder does not wish to develop the expansion or it is not economically viable, the permit holder may enter into an investment agreement with the interested party so that the latter bears the cost of such expansion.

Law stated - 01 December 2022

Processing

Describe any statutory and regulatory requirements applicable to the processing of natural gas to extract liquids and to prepare it for pipeline transportation.

Pursuant to the Hydrocarbons Law, a permit from the Ministry of Energy (SENER) is required for the processing of natural gas. Such permits may be granted to both state productive enterprises and Mexican commercial entities. Permit holders shall have ownership or legal possession of the infrastructure, facilities and equipment used to carry out their permitted activity.

In the event of a breach of the permit terms and conditions, SENER may:

- cancel the relevant permit;
- temporarily take over the assets and facilities required for the performance of the permitted activity; and
- intervene in the rendering of the services.

Law stated - 01 December 2022

Contracts

Describe the contractual regime for transportation and storage.

Natural gas pipeline transportation and storage systems are subject to open access and non-discriminatory conditions; as such, both the general terms and conditions for the rendering of the services and the service agreement (typically an exhibit of the general terms and conditions) are subject to prior approval from the CRE. Mexican law expressly forbids a natural gas pipeline transportation or storage permit holder to agree to terms that differ from those approved by the CRE, except for those terms expressly authorised as negotiable or with special conditions in the abovementioned general terms and conditions for the rendering of the services.

The open access and non-discriminatory conditions (including the contractual regime and the terms and conditions for the rendering of the services) for natural gas pipeline transportation and storage activities are further regulated by the applicable Open Access Natural Gas Pipeline Transportation and Storage Services Regulations published by the CRE on 13 January 2016 (as amended).

It is important to mention that different standards apply for pipeline transportation and storage services.

Law stated - 01 December 2022

REGULATION OF NATURAL GAS DISTRIBUTION

Ownership

Describe in general the ownership of natural gas distribution networks.

Natural gas distribution is also a regulated activity that can be conducted by both state productive enterprises and Mexican commercial entities; as such, natural gas distribution networks may be state- and private-owned. Currently, most natural gas distribution networks are private owned.

Law stated - 01 December 2022

Regulatory framework

Describe the statutory and regulatory structure and authorisations required to operate a distribution network. To what extent are gas distribution utilities subject to public service obligations?

Pursuant to the Hydrocarbons Law, a permit from the Energy Regulatory Commission (CRE) is required for the distribution of natural gas. Such permits may be granted to both state productive enterprises and Mexican commercial entities. Permit holders shall have ownership or legal possession of the infrastructure, facilities and equipment used to carry out their permitted activity.

Natural gas pipeline distribution networks are considered of public interest; as such, in the event of a breach of the permit terms and conditions, the CRE may:

- cancel the relevant permit;
- temporarily take over the assets and facilities required for the performance of the permitted activity; and
- intervene in the rendering of the services.

Natural gas pipeline distribution utilities are subject to open access and non-discriminatory conditions. The open access obligation means that permit holders may only refuse to provide their services to a third party when there is no available capacity, and the services shall be offered to all users under the same terms and conditions.

Depending on the specific characteristics of a particular distribution network, other permits from different authorities may be required for the construction and operation of the corresponding distribution network.

Law stated - 01 December 2022

Access and pricing

How is access to the natural gas distribution grid organised? Describe any regulation of the prices for distribution services. In which circumstances can a rate or term of service be changed?

Natural gas pipeline distribution networks are also subject to open access conditions; in consequence, access to the relevant distribution network is subject to the available capacity in the pipelines, the technical and economic feasibility for rendering the services, and the execution of the respective distribution services agreement.

The compensation, prices and tariffs for the rendering of the distribution services shall be authorised by the CRE (these are maximums, and the permit holder may offer – in a non-discriminatory manner – discounts on its services). Both the

general terms and conditions for the rendering of the distribution services and the service agreement (typically an exhibit of the general terms and conditions) are subject to prior approval from the CRE. Mexican law expressly forbids a natural gas pipeline distribution permit holder to agree to terms that differ from those approved by the CRE, except for those terms expressly authorised as negotiable or with special conditions in the abovementioned general terms and conditions for the rendering of the services.

Natural gas distribution networks have less stringent standards compared with natural gas pipeline transportation and storage systems.

Law stated - 01 December 2022

System/service expansion and limitation

May the regulator require a distributor to expand its system to accommodate new customers?
May the regulator require the distributor to limit service to existing customers so that new customers can be served?

It is not clear whether the CRE (as the competent regulator) may require the applicant for a natural gas distribution permit to expand the nature and scope of the proposed network. On the one hand, pipeline distribution networks are subject to open access and non-discriminatory conditions. On the other hand, pipeline distribution is subject to less stringent regulation (than pipeline transportation), and the applicable provisions are silent on that matter.

While the CRE cannot require a distributor to limit the rendering of its services to existing users (customers) so that new users can be served, pipeline distribution networks are subject to open access conditions, and the distributor can only refuse its services to a third party when there is no available capacity in the respective network.

Law stated - 01 December 2022

Contracts

Describe the contractual regime in relation to natural gas distribution.

Natural gas pipeline distribution networks are subject to open access and non-discriminatory conditions; as such, both the general terms and conditions for the rendering of the distribution services and the service agreement (typically an exhibit of the general terms and conditions) are subject to prior approval from the CRE. Mexican law expressly forbids a natural gas pipeline distributor to agree to terms that differ from those approved by the CRE, except for those terms expressly authorised as negotiable or with special conditions in the abovementioned general terms and conditions for the rendering of the distribution services.

Natural gas distribution networks have less stringent standards compared with natural gas pipeline transportation and storage systems.

Law stated - 01 December 2022

REGULATION OF NATURAL GAS SALES AND TRADING

Ownership and organisation

What is the ownership and organisational structure for the supply and trading of natural gas?

The commercialisation (trading) and retail sales of natural gas are regulated activities that can be conducted by both state productive enterprises and Mexican commercial entities. Pursuant to the Hydrocarbons Law, a permit from the

Energy Regulatory Commission (CRE) is required for the commercialisation and retail sales of natural gas in Mexico.

The commercialisation of natural gas encompasses:

1. the sale of the molecule;
2. the procurement and management of transportation, storage or distribution services; and
3. the rendering of added value services to the clients.

Commercialisation does not cover the ownership of any infrastructure nor the rendering of the services mentioned in (2) above.

Law stated - 01 December 2022

Government oversight

To what extent are natural gas supply and trading activities subject to government oversight?
What authorisations are required to engage in wholesale trading of gas?

Pursuant to the Hydrocarbons Law, a permit from the CRE is required for the commercialisation and retail sales of natural gas in Mexico. Such permits may be granted to both state productive enterprises and Mexican commercial entities. The commercialisation permit is required as long as the trader offers in Mexican territory to sell natural gas, regardless of whether the sale takes place or not in the jurisdiction in which such sale is perfected or formalised (Mexico or abroad). Retailers shall have ownership or legal possession of the infrastructure, facilities and equipment used to carry out their permitted activity.

In addition, a cross-participation authorisation from the CRE is required, among other scenarios, when:

- a person controls (directly or indirectly):
 - a natural gas trader or retailer that uses pipeline transportation or storage services; and
 - a permit holder for natural gas pipeline transportation or storage for third parties (thus, is subject to open access provisions); and
- said entities (1) and (2) above belong to the same economic interest group.

The commercialisation and retail sale of natural gas is subject to less stringent regulations compared with other midstream and downstream activities. Traders are free to negotiate and agree on the specific terms and conditions of their respective purchase or sale or supply agreements, and even though in principle the commercialisation of natural gas can also be subject to price regulations, to date there are no price regulations for the commercialisation of natural gas. Retail sale of natural gas is not subject to price regulation (the prices are determined by market conditions). Notwithstanding, traders and retailers have several reporting and disclosure obligations toward the competent regulators (including information regarding the prices, volume, quality and revenue generated by the natural gas sold).

Traders and retailers shall refrain from selling products of illicit origin; in consequence, it is necessary to trace the natural gas pursuant to the regulations issued by the CRE.

Law stated - 01 December 2022

Trading processes

How are physical and financial trades of natural gas typically completed?

Natural gas traders are free to negotiate and enter into purchase or sale or supply agreements. Notwithstanding, considering a substantial percentage of Mexico's natural gas needs is met through natural gas imported from the United States, traders typically use the North American Energy Standards Board, Inc standardised form of contract for the sale and purchase of natural gas.

Law stated - 01 December 2022

Available services and products

Must wholesale and retail buyers of natural gas purchase a bundled product from a single provider? If not, describe the range of services and products that customers can procure from competing providers.

The commercialisation and retail sales of natural gas in Mexico are subject to market conditions. There is no legal requirement to purchase a bundled product from a single provider and, in consequence, buyers may procure the natural gas molecule from one or more traders, and the corresponding logistic services (ie, transportation, distribution and storage services) from one or more non-related service providers. Notwithstanding, Mexico's midstream infrastructure may limit the number of available suppliers depending on the available capacity in the relevant system for a particular project.

Law stated - 01 December 2022

REGULATION OF LNG

Ownership and organisation

What is the ownership and organisational structure for LNG, including liquefaction and export facilities, and receiving and regasification facilities?

Liquefied natural gas (LNG) related activities, such as the liquefaction, regasification, import and export of natural gas are regulated activities that can be conducted by both state productive enterprises and Mexican commercial entities; as such, there is a combination of both state- and private-owned LNG facilities in Mexico.

Law stated - 01 December 2022

Regulatory framework

Describe the regulatory framework and any relevant authorisations required to build and operate LNG facilities.

The principal laws for LNG related activities are the Hydrocarbons Law (which regulates all oil and gas upstream, midstream and downstream activities within Mexico), the Third Title of the Hydrocarbons Law Regulations (which orders in more detail the midstream and downstream sectors in Mexico) and the Agreement that establishes the goods the importation and exportation, subject to regulation by the Ministry of Energy (SENER) (which regulates which hydrocarbons, fuel products and petrochemicals require an import or export permit). Furthermore, LNG companies are also subject to a wide range of statutory and regulatory framework such as environmental, financial and antitrust regulations. There are no special rules for, or restrictions on, LNG facilities.

Pursuant to the Hydrocarbons Law, a permit from the Energy Regulatory Commission (CRE) is required for the liquefaction and regasification of natural gas, while a permit from SENER is required for the export of natural gas or LNG (no permit is needed for the import of natural gas). Such permits may be granted to both state productive enterprises and Mexican commercial entities. Permit holders shall have ownership or legal possession of the infrastructure, facilities and equipment used to carry out their permitted activity.

Natural gas midstream and downstream activities (including LNG related activities) are considered of public interest; as such, in the event of a breach of the permit terms and conditions, the competent regulator (ie, the CRE or SENER, as applicable) may:

- cancel the relevant permit;
- temporarily take over the assets and facilities required for the performance of the permitted activity; and
- intervene in the rendering of the services.

Depending on the specific characteristics of a particular LNG facility, other permits from different authorities may be required for the construction and operation of the corresponding infrastructure.

Law stated - 01 December 2022

Pricing

Describe any regulation of the prices and terms of service in the LNG sector.

The LNG sector is subject to price regulation by the CRE; however, the Federal Economic Competition Commission may determine that the LNG sector has real competition conditions, in which case the relevant price regulation will no longer be in effect and the corresponding prices will be set by market conditions. The price regulation should aim for the adequate development of the LNG sector and competitive markets.

Law stated - 01 December 2022

MERGERS AND COMPETITION

Competition authorities

Which government body may prevent or punish anticompetitive or manipulative practices in the natural gas sector?

The Federal Economic Competition Commission (COFECE) is Mexico's antitrust regulator whose constitutional mandate is to promote, protect and guarantee access to competitive markets and free concurrence. Regarding the natural gas sector, COFECE acts in coordination with the Ministry of Energy and the Hydrocarbons National Commission (CNH) for upstream activities, as well as the Energy Regulatory Commission (CRE) for midstream and downstream activities.

Law stated - 01 December 2022

Competition standards

What substantive standards does that government body apply to determine whether conduct is anticompetitive or manipulative?

COFECE is in charge of determining the existence of effective competitive conditions in the natural gas sector. In order to fulfil this purpose, it shall deliver favourable opinions on the bidding guidelines for O&G contracts and cross-participation authorisations for open access activities and determine the existence of competition conditions for midstream and downstream price regulation purposes, among other functions.

Law stated - 01 December 2022

Enforcement

What authority does the government body have to preclude or remedy anticompetitive or manipulative practices?

COFECE has powers to:

- order measures that eliminate barriers to the freedom of competition and concurrence;
- determine the existence of competition conditions; and
- investigate and sanction anticompetitive practices.

For such purposes, COFECE shall coordinate with the different regulatory authorities to ensure the adequate development of competitive markets in the natural gas sector.

In addition, both the CNH and CRE may impose monetary and non-monetary sanctions for failure to comply with the relevant law and regulations applicable to the natural gas sector, including the applicable price regulations and open access conditions (if applicable) to midstream and downstream activities.

Law stated - 01 December 2022

Merger control

Does any government body have authority to approve or disapprove mergers or other changes in control over businesses in the sector or acquisition of production, transportation or distribution assets?

The transfer of production assets via the assignment or sale of the interests in the O&G contract; the merger, acquisition or change in control of the exploration and production contractor; and the assignment of the control of the operations of the production asset, requires the prior written consent from the CNH and, depending on the specifics of the transaction, the notification to, or approval from, COFECE.

Likewise, the assignment of pipeline transportation, pipeline distribution and storage permits, and the change in control of the permit holder, require the prior approval of the CRE. Depending on the specifics of the transaction, a cross participation authorisation (with favourable opinion from COFECE) may be needed.

Law stated - 01 December 2022

Price restrictions

In the purchase of a regulated gas utility, are there any restrictions on the inclusion of the purchase cost in the price of services?

There are no restrictions on the inclusion of the purchase cost of the gas utility in the price and tariff of the relevant

service. Notwithstanding, regulated gas utilities are subject to price regulation by the CRE, and the inclusion of said purchase price in the compensation, prices or tariff may not be approved by the CRE.

Law stated - 01 December 2022

Corporate governance regulations

Are there any restrictions on the acquisition of shares in gas utilities? Do any corporate governance regulations or rules regarding the transfer of assets apply to gas utilities?

Other than the potential need for cross-participation authorisation from the CRE, there are no restrictions on the acquisition of gas utilities.

Law stated - 01 December 2022

INTERNATIONAL

Foreign participation

Are there any special requirements or limitations on foreign companies acquiring interests in any part of the natural gas sector?

Per Mexican law, natural gas upstream, midstream and downstream activities shall be carried out by Mexican entities, which may be wholly owned by foreign investors.

Law stated - 01 December 2022

International agreements

To what extent is regulatory policy affected by treaties or other multinational agreements?

The Mexican Constitution, the laws issued by the federal congress – such as the Hydrocarbons Law – and the international treaties subscribed by the Mexican state, are the Supreme Law of Mexico; as such, the regulatory policy in the natural gas sector must conform to the treaties subscribed by the Mexican state. However, most Mexican treaties entered into prior to the constitutional Energy Reform of December 2013 provide for reserves (exclusions) regarding the Mexican oil and gas sector.

Law stated - 01 December 2022

Cross-border sales and deliveries

What rules apply to cross-border sales or deliveries of natural gas?

There are no special rules for cross-border sales and deliveries of natural gas. Notwithstanding, the specifics of each transaction may have certain consequences (ie, whether the transaction is subject to added value tax or who is the importer thereof, among others).

Law stated - 01 December 2022

TRANSACTIONS BETWEEN AFFILIATES

Restrictions

What restrictions exist on transactions between a natural gas utility and its affiliates?

As a general rule, permit-holders subject to open access and non-discriminatory conditions (ie, natural gas utilities) cannot sell the natural gas transported, distributed or stored in their system. The exceptions to said rule are (1) the percentage of capacity allocated to the permit holder by the Energy Regulatory Commission (CRE) and (2) cases of cross participation authorisation.

Law stated - 01 December 2022

Enforcement

Who enforces the affiliate restrictions and what are the sanctions for non-compliance?

The CRE is the regulator in charge of supervising and enforcing the affiliate restrictions. Failure to comply with such restrictions could lead to the imposition of different sanctions, such as:

- fines;
- permit revocation;
- payment of damages;
- suspension of operations;
- temporary takeover of the relevant assets;
- intervention in the regulated activity; and
- personnel removal or disqualification.

Law stated - 01 December 2022

UPDATE AND TRENDS

Gas sector-specific regulation

Describe recent trends and developments in the regulation of the domestic natural gas sector.

The current administration has implemented a policy to strengthen the position of both PEMEX and the Energy Regulatory Commission (CFE) in the Mexican natural gas sector, including, among others:

- two amendments to the Hydrocarbons Law: the first was published on 4 May 2021, increasing the requirements for obtaining natural gas permits, as well as setting forth new grounds for the revocation and suspension of permits, among others; and the second was published on 19 May 2021, eliminating the asymmetrical regulation applicable to PEMEX;
- the implementation of a policy in June 2022 by the Ministry of Energy that favours the allocation of capacity in the National Integrated Natural Gas Transportation and Storage System to users that purchase gas from the CFE or PEMEX;
- the suspension of O&G contract bidding rounds; and
- the CRE's silence in relation permit applications, amendments and other requests.

Law stated - 01 December 2022

Other regulatory developments of particular relevance to the gas sector

Describe any other recent regulatory trends and developments of particular interest to those operating in the domestic natural gas sector.

Please see the natural gas sector specific regulation section above.

Law stated - 01 December 2022

Jurisdictions

	Angola	Vieira de Almeida & Associados
	Austria	Schima Mayer Starlinger
	Brazil	Campos Mello Advogados
	Colombia	Figueroa Sierra & Asociados Abogados
	Denmark	Bech-Bruun
	East Timor	Vieira de Almeida & Associados
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	Germany	Luther Rechtsanwaltsgesellschaft
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