



Doing Business in Mexico and the Corruption Role

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Doing business in Mexico and the Corruption role

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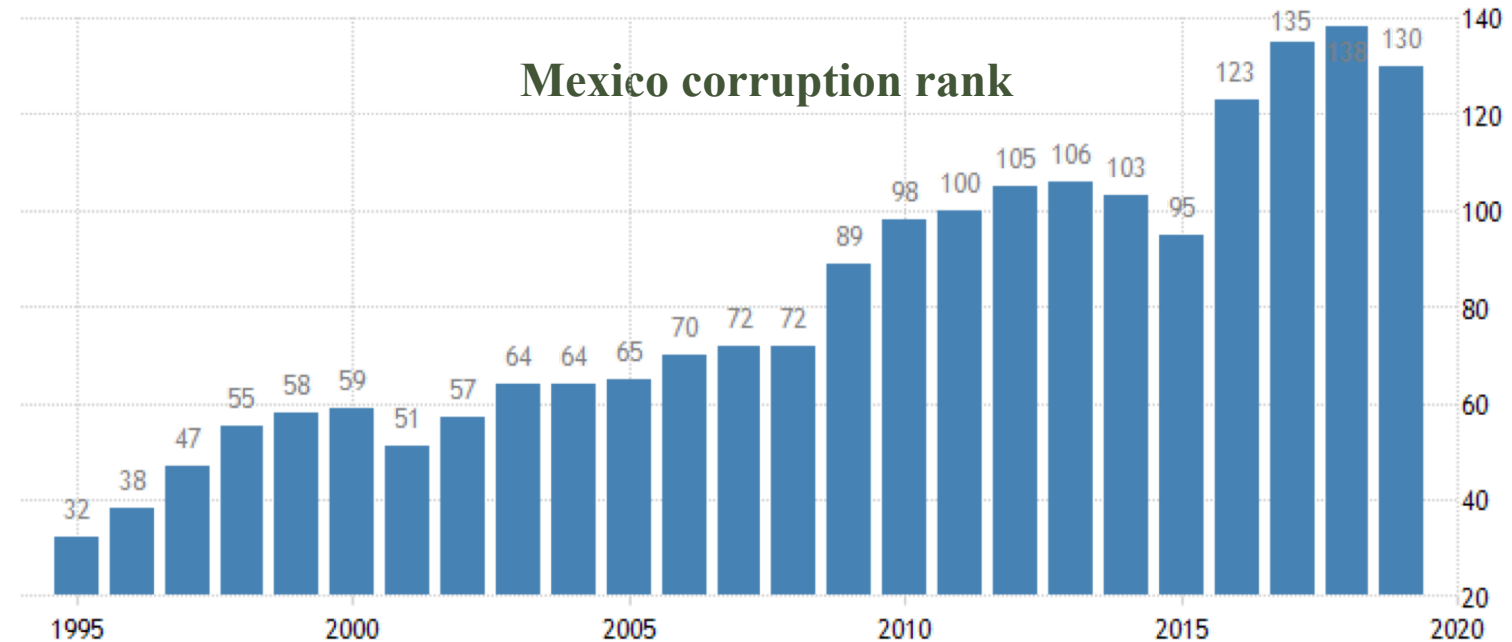
-Concept-

The Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, et seq. ("FCPA"), was enacted for the purpose of making it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business.

Noise and Fallacies

*Concept

- *Modern history
- *Perception
- *Mexico today
- *Doing business today



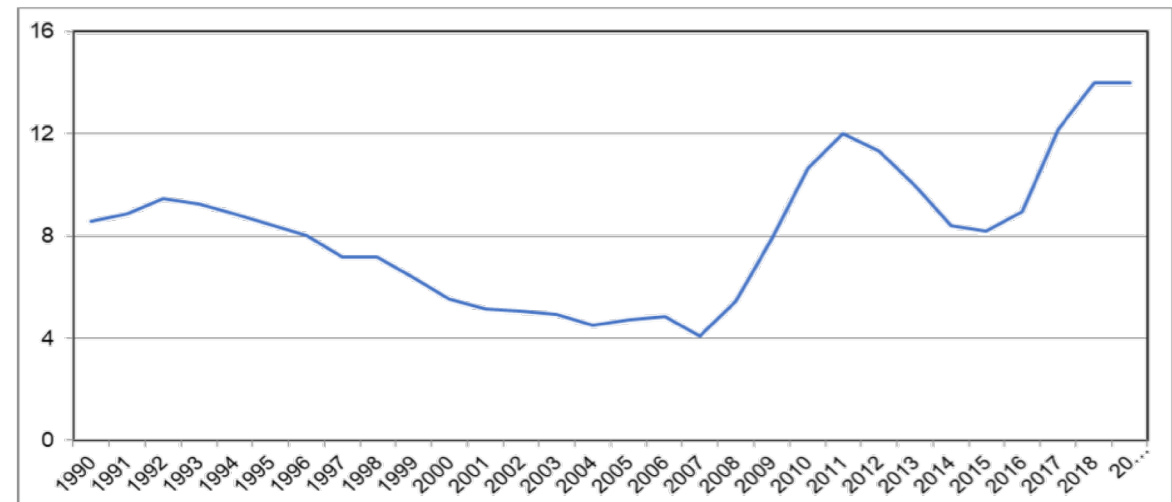
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Doing business in Mexico and the Corruption role

-Modern History I-

- We can talk about Mexico as a “modern” international energy player since the end of the 70’s and beginning of the 80’s, after the discovery of Cantarell field.
- After such discovery, Mexico consolidated itself as an important market internationally.
- Mexico deemed a “closed” economy even if it had a strong (some people even say dictatorial) system, with government controlled media, limited freedom of speech and corruption was not part of everyday conversation or thought.
- In 1988 a fresh young President came into office: he opened Mexican economy with the NAFTA, more investment from international private companies was allowed (Mexican private companies “dominated” the Mexican economy) and some privatizations took place, the next President consolidated the privatization of diverse state-owned companies until the year 2000, when a new political party won the elections.



Murder rate per 100,000 inhabitants
Jan-Jun of each year. Source: INEGI
<https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2020/EstSociodemografico/DefunHomicidio.pdf>

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-Modern History II-

- From 2000 to 2006 Mexico had gained some stability until 2007 a “drug war” was declared with disastrous results and the rate of murders and violence across Mexico grew exponentially.
- Mr. García Luna is one of the several government officials who have been captured in connection with such strategies.
- In 2012 a young President comes in office, promising to control the rampant violence across the nation and implement structural and economic reforms in order to boost economy and continue to open the energy sector in a more ambitious way, even more so than Felipe Calderon’s preliminary reforms.

Noise and Fallacies

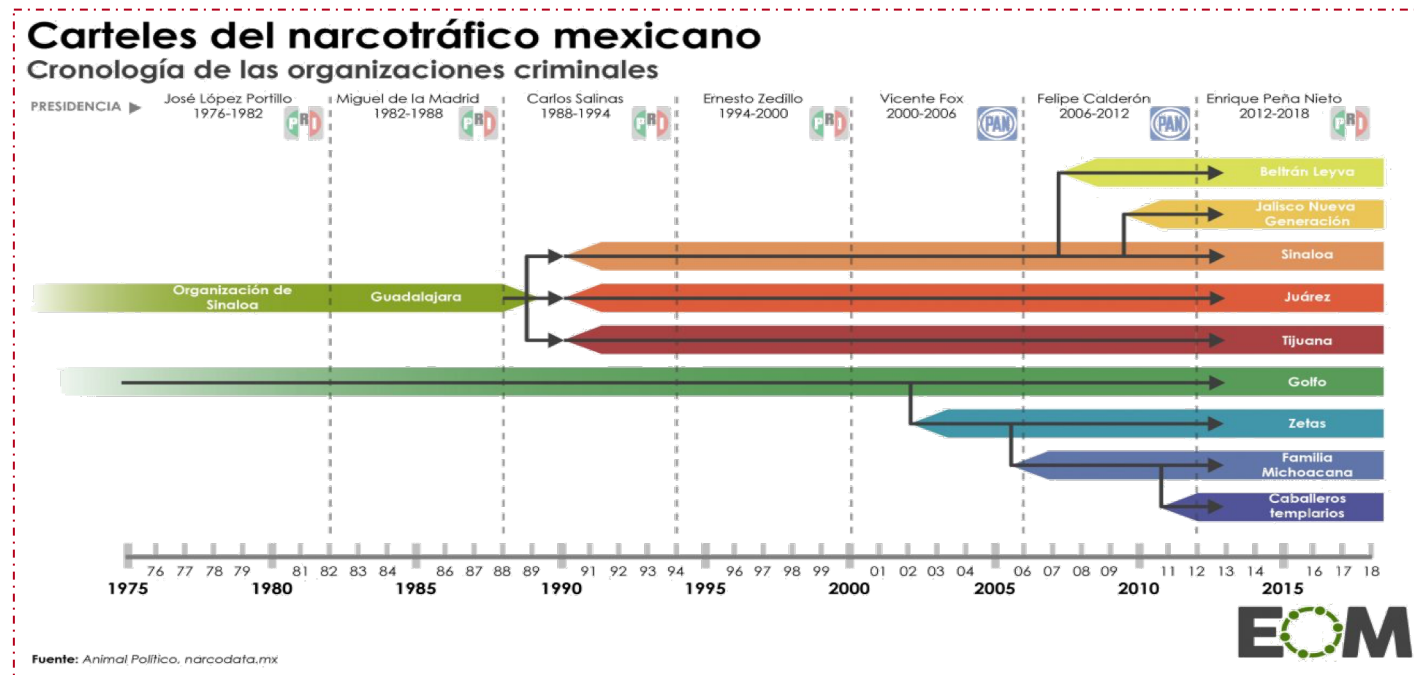
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Doing business in Mexico and the Corruption role

-Perception I-

- Different groups of people in Mexico might have differing views on corruption, same as anywhere in the world, the perception of those who directly or indirectly benefited from it and those who didn't could have conflicting perspectives.
- The perception is also different between Mexicans and Foreigners. NB: One and a half years ago I wrote an article titled: "Some differences between what a Mexican and a foreigner could perceive, expect or understand about a legal or structural reform or change in Mexico. Lost in translation?" http://huastecaventures.com/notas_y_articulos
- Corruption has been part of everyday life for most Mexicans, but not always discussed in news or mass media, not only because of censorship or the Government's control of important or "credible" mainstream media.
- However some foreign media did publish about corruption cases in Mexico, such as the well known "deal" of former President Lopez Portillo's family selling crude oil, using Pemex tankers in Rotterdam during the decade of 1980.

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-Perception II-

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- In the **energy markets**, ever since the first reforms at the end of the 1990's, many companies benefited from their government connections in order to gain leverage, not only at the development level but also EPC, equipment supply, etc. NB: Mexico is not the only country where this has happened, there are many examples even in developed countries.
- We must bear in mind that corruption in Mexico's energy sector is not always matter of single and isolated events or acts, it is know for many Mexican and foreign nationals that they involve a chain of events or corrupt acts. Just as an example we can read/discuss the current events involving the Former Pemex CEO: Mr. Emilio Lozoya Austin.
- Although many corrupt practices have been part of Mexican lives, sometimes the concept or action of "admiring" those government officials or private companies executives as being "very good for doing business" has been projected which is one of the "reasons" they may have progress fiscally within a few years in charge or as managers of certain companies.



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-Mexico Today I-

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- Understanding Mexico today will help private companies to successfully do business here.
- Since the Presidential campaign, current President Andrés Manuel López Obrador mentioned that the main problem in Mexico has been the rampant corruption at all levels of the government and the Mexican tradition of benefiting from **relationships** between private players, companies or executives and public officials. Example: Padrino y ahijado - Godfather and Godson
- This is not something new in the world, the FCPA and other anticorruption laws have been successfully applied to a broad range of private companies and government officials.
- Example: Agriculture and other “GRANTS” given to companies or individuals by the government.
- Non monetary “GRANTS” in the energy sector.
- Subsidies.



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-Mexico Today II-

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- When a company makes profit in one country, above the average numbers issued, it could look dubious to me or may rise a flag about something is not completely right, same if one company wins most of the projects, assuming there are many companies in the world.
- It is unfortunate that we have witnessed many corruption cases by Mexican and foreign companies in Mexico; that being sad, maybe the “many” Companies conducting business in Mexico legally, paying taxes and creating jobs –whether Mexican or Foreign- are affected by the actions of other companies. Examples.
- Equilibrium is important, so then state and private companies can fulfill their purpose.
- An Energy counter reform in Mexico is something very unlikely due many reasons, but a lot of noise has been created since 2018, even before high profile corruption cases were unveiled, and we can expect more noise in the months to come.



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-Doing business today I-

I will refer to: Developers, EPC, services companies, and investors.

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- Projects with a **sustainable social component** could be perceived by the government as important, including by the regulators. Examples. (Remember the regulators legal nature)
- JV or partnerships between Mexican and Foreign companies, local content.
- Incorporating strong anticorruption clauses in the contracts and internal manuals or policies.
- No confrontation, but negotiation. Examples.
- Strong and well justified arguments -using facts, no absolutisms, and in the law- . Examples.
- Private companies can propose the development of projects to the Government itself or to the State companies. Examples.



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-Doing business today II-

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- To be careful with “de facto” political parties and noise.
- Find a way to close the gap, especially investors, between developing a project and reaching RTB status.
- Produce your own information and analysis, and beware of analysis with a political background.
- Innovative business schemes and projects, if its not forbidden by law, it is allowed.
- Performing a deeper assessment or due diligence when planning a project or investment, considering not only what lies beyond.
- Incorporating your companies’ past experiences in other countries.
- Help, collaborate or attack? May be an offense-defense strategy?

Thank you!



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