

What are the challenges?

Challenges to doing business in Mexico

Challenges when doing business in or with Mexico include:

- open and competitive market, so be sure of your product's unique selling point (USP)
- takes time to build and maintain relationships with clients and distributors
- language barriers mean that interpreters may be required
- legal requirement to label products in Spanish

You should hire a broker or local lawyer to help you deal with the necessary formalities in Mexico. The Embassy can provide a list of local lawyers, see: www.gov.uk/government/publications/mexico-list-of-lawyers.

For legal enquiries, also visit Nader, Hayaux & Goebel at: <http://nhg.com.mx/>

You should ensure you take the necessary steps to comply with the requirements of the UK Bribery Act. See: www.gov.uk/government/publications/bribery-act-2010-guidance.

Read the Foreign and Commonwealth Office (FCO) Overseas Business Risk report for Mexico, at: www.gov.uk/government/publications/overseas-business-risk-mexico.

Contact the DIT team in Mexico at: www.gov.uk/world/organisations/department-for-international-trade-mexico#contact-us, for more help and advice on doing business in Mexico.

[Source: DIT/FCO/gov.uk]

Business risk

Rule of law and human rights

Despite a number of initiatives to address security, justice and human rights problems, Mexico's human rights situation remains of concern. Since 2006, the military has played a leading role in public security and there is a high rate of impunity for crimes including human rights violations. Mexico ranked second-to-last, after the Philippines, in an international study of impunity in 59 countries carried out by researchers at the Universidad de las Américas Puebla (University of the Americas Puebla—UDLAP). See: www.sinembargo.mx/20-04-2015/1318873 (site in Spanish).

The Mexican National Institute of Statistics and Geography estimates that 93.7% of crimes in 2015 was either not reported or not investigated. In Mexico there is an average of four judges per 100,000 inhabitants in Mexico (below the global average of 17 per 100,000), every judge receives approximately 500 new cases per year. 43.3% of Mexico's prison population have not been sentenced.

Amnesty International's 2016/2017 Report highlights that ten years since the start of the so-called "war on drugs and organized crime", the use of military personnel in public security operations continues and violence throughout the country remains widespread.

See: www.amnesty.org/en/latest/research/2017/02/amnesty-international-annual-report-201617/.

Human rights defenders and journalists face violence and intimidation, in person and online. According to Freedom House 2017 Index, Mexico is partially free. See: <https://freedomhouse.org/report/freedom-world/2017/mexico>. There are high levels of violence against women.

Mexico has ratified 78 International Labour Organization (ILO) conventions and 7 of the 8 fundamental labour rights conventions, most recently the Minimum Age Convention on 10th June 2015. It has not ratified the Right to Organise and Collective Bargaining Convention. The Mexican Constitution sets out rights to organise unions and strike, to a living wage and to an 8 hour work day. It also sets out the right to compensation following unjustified termination of employment and protections for women and children. Union leaders in Mexico are a powerful interest group with sometimes hereditary or purchasable access to well-paying jobs and benefits. Because of this, workers can be vulnerable to a lack of meaningful representation.

In Mexico there are concerns with the violation of economic, social and cultural rights as a result of large scale commercial projects. Projects are taken forward without adequate consultation of communities that will be affected. These projects are mainly developed in rural areas and affect the livelihood of indigenous and farming communities. Discrimination and extreme levels of inequality also play a role in how these cases unfold.

There are estimated to be at least 36 conflicts related to mining in Mexico. Most of these are because of contamination, damage to communities and dispossession of land in areas with mining developments. At least 70% of the companies involved in these conflicts are foreign. Good practice for consulting communities about developments is being developed by a number of civil society organisations and the Mexican Government is developing public policy in line with the UN Guiding Principles on Business and Human Rights.

See reference to Mexico in the FCO's Human Rights and Democracy Report, at: www.gov.uk/government/case-studies/mexico-and-impunity.

[Source: FCO Overseas Business Risk/gov.uk]

Organised crime and terrorism

The Foreign Office Travel Advice for Mexico is regularly updated and should be your primary source of information on the security situation and organised crime in Mexico. See: www.gov.uk/foreign-travel-advice/mexico.

Mexico was ranked 140th (138th in 2014 and 133rd in 2013) out of 163 countries in the 2016-2017 Institute for Economics and Peace's Global Peace Index.

Mexico benefits from friendly relations with neighbouring countries which makes geopolitical risk very low. Furthermore, there is a low threat from terrorism in Mexico. You should also be aware of the global risk of indiscriminate terrorist attacks, which could be in public areas, including those frequented by expatriates and foreign travellers.

[Source: FCO Overseas Business Risk/gov.uk]

Bribery and corruption

Bribery is illegal. It is an offence for British nationals or someone who is ordinarily resident in the UK, a body incorporated in the UK or a Scottish partnership, to bribe anywhere in the world.

In addition, a commercial organisation carrying on a business in the UK can be liable for the conduct of a person who performs services for it – like an employee or agent – but is neither a UK national or resident in the UK or a body incorporated or formed in the UK. In this case it does not matter whether the acts or omissions which form part of the offence take place in the UK or elsewhere.

In 2016 Mexico was ranked 123rd out of 176 countries (103rd in 2014) in Transparency International's latest Corruption Perceptions Index (CPI). See: www.transparency.org/news/feature/corruption_perceptions_index_2016.

Bribery and corruption are a significant problem in Mexico and there have been high profile allegations involving the President and his inner circle, but there have been important improvements in recent years. Mexico signed the 2016 London Anti-Corruption Global Agreement. There are currently ten former Governors being investigated, one in jail and another being prosecuted. Government tendering guidelines are being strengthened to reduce the risk of corruption in the awarding of contracts, but this can lead to the lowest bid winning without consideration of quality and also there are of course loopholes that many exploit. Numerous British businesses report successful business operations in Mexico that are free of corrupt practices or at least have managed to find ways to avoid this preventing them doing business.

Mexico is modernising its legislation against corruption, most recently with the creation of the National Anticorruption System. There will now be one independent body with the authority to co-ordinate cross government efforts against corruption. It will give the Superior Auditor's Office the powers to run 'real time' audits and to monitor resources transferred from the federal government to states. The Ministry of Public Administration and Court for Administrative Justice will be strengthened; the latter will be entitled to sanction both government officials and companies involved in corruption. All public servants are also required to declare their assets and interests, although these will not be made public.

Mexico ranked 103rd out of 138 countries in the Irregular Payments and Bribes indicator of the 2016-2017 WEF Global Competitiveness Index (down from 99th position in 2014-2015). See: www.weforum.org/reports/the-global-competitiveness-report-2016-2017-1.

It is important to develop close business relationships with your potential clients but this should not be confused with corruption. A Mexican business partner or agent will be well-placed to advise you on normal business practice, as will UK companies already in the market. You should familiarise yourself with British bribery legislation which, since 2002, also applies to UK registered companies and UK nationals committing acts of bribery wholly outside the UK.

Visit the GAN Business Anti-Corruption portal at: www.business-anti-corruption.com/country-profiles/mexico which provides a variety of advice and guidance about corruption in Mexico and some basic effective procedures you can establish to protect your company from them. Also read the information provided on the UK Government's bribery and corruption page at: www.gov.uk/anti-bribery-policy.

[Source: FCO Overseas Business Risk/gov.uk]

Intellectual Property (IP)

Intellectual Property Rights (IPR), as intangible assets, are a key factor in the competitiveness of your business in the global economy. IPR can protect your innovation from competitors and can also be an important source of cash flow through licensing deals or selling IP. IPR infringement can lead to loss of business, revenue, reputation and competitive advantage unless you take steps to protect your IP both in the UK and abroad.

Scope of Mexico's IPR problem

Both Mexican and international companies claim loss of sales and weakening of brands due to counterfeit products, which the Mexican Government has recognised as an issue.

Despite federal government enforcement efforts, Intellectual Property Right (IPR) abuses across Mexico's industrial sectors continue. Anti-piracy efforts remain particularly weak at state and municipal government level, and losses to Mexican and international companies due to trademark counterfeiting, copyright piracy, and patent infringements lie in the hundreds of millions of dollars annually. Lack of IPR protection can affect a wide range of industries including, but not exclusively; film, music, software, pharmaceutical, literature and the clothing and textile industries. Solutions to the problem are often difficult to implement due to lack of resource, lack of communication between law enforcement agencies, slow court systems and a lack of deterrent sentences, and insufficient planning and co-ordination among industry sectors and government agencies.

The protection of IPR is also further complicated by Mexico's extensive poverty. Black markets provide a significant source of employment in the informal sector. Illegally reproduced goods, sold at a fraction of the cost of their legitimate counterparts, also give consumers with limited resources access to otherwise unattainable items. Some government leaders are reluctant to crack down on piracy out of fear that this could lead to social unrest – although the fact that this is recognised as an issue and needs to be addressed is in itself a positive step forward. IPR is one of the major pillars to be discussed in the ongoing renegotiation rounds of the EU-Mexico Global Agreement, expected to be signed by the end of 2017.

IPR protection in Mexico

Under NAFTA and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Mexico is obliged to implement certain standards for the protection of intellectual property as well as procedures to address infringements such as piracy and counterfeiting.

The Attorney General's Office (PGR) is responsible for investigating and prosecuting IPR crimes. The Mexican Institute of Industrial Property (IMPI) is the government agency responsible for administrative enforcement of IPR. However, Mexican IPR laws are often poorly understood by both law enforcement agencies and there is a lack of expertise in the court system. This can make taking cases through the legal system a long drawn out process which with it brings prohibitive costs.

Mexico has a comprehensive set of IPR laws and an increasing number of seizures and arrests, but even so, the extent of IPR violations in Mexico remains significant. It is unclear if this is because of insufficient enforcement measures but what is encouraging is that the Mexican authorities have recognised this as an issue and are looking into how their IP framework can be improved.

Trademarks

In April 2012, the Mexican Congress adhered to the Madrid Protocol of the World Intellectual Property Organization, providing certainty for international companies looking to register their marks for use in Mexico. This was the first instance of a Central or South American country signing up to the protocol and is a big step forward in bringing Mexico in line with the international IP community. In December 2009, IMPI and INTERPOL started efforts alongside WIPO, ICC, INTA and OMA to address cross-border piracy trade. As a result, in 2011, the Mexican Customs Agency and the Mexican Industrial Property Institute (IMPI) launched a new trademark scheme to identify pirate products and facilitate customs procedures.

Software

In the same theme, IMPI, the Mexican body responsible for protecting industrial property rights, has signed agreements with the Business Software Alliance. In 2012 Mexico became the first government body in the world to earn BSA's Certification in Standards-Based Software Asset Management for Organizations, a program known as CSS (O). The credential demonstrates the Mexican Government's commitment to promoting legal software use by implementing internationally-recognised best practices for maintaining compliance with software licences.

Copyright

Enforcement efforts by the Mexican Government are improving (see below), however levels of piracy are still high, which it is claimed by industry sources, has resulted in closure of legitimate copyright-related businesses. Counterfeit sound and motion picture recordings are widely available throughout Mexico, where piracy has shifted from traditional formats to optical discs (CD, DVD, and CD-ROM) and internet piracy.

More information can be found at the International Intellectual Property Alliance. See: www.iipawebsite.com

For further UK Government guidance, see: www.gov.uk/intellectual-property-an-overview.

[Source: FCO Overseas Business Risk/gov.uk]

Protective security advice

Business disputes

The vast majority of British businesses have not been prevented from operating in Mexico by the security risks although many Mexican and foreign businesses choose to hire private security.

The UK Centre for the Protection of National Infrastructure (CPNI) also provides protective security advice to businesses. See: www.cpni.gov.uk.

[Source: FCO Overseas Business Risk/gov.uk]

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