

New Mexican Power Regulatory Framework – Defense Mechanisms Available to Investors

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The current administration has sustained an attack against the electricity legal framework established by its predecessor. The new framework reflects a major change in policy concerning the participation of the private sector in Mexico's electricity industry, which could endanger billions of dollars in investments, the creation of thousands of jobs and could result in the emission of thousands of additional tons of CO₂. The Mexican federal administration is considering a constitutional reform that would leave the affected parties with limited options. This article provides background and further detail.

I. Changing the Rules of the Game

A. POLICY SHIFT

Since 2019, under President Andrés Manuel López Obrador's ("AMLO") federal administration, Mexico has implemented a series of actions and legal reforms aimed at reversing the 2013 Energy Reform (*Reforma Energética*). The 2013 Energy Reform opened the power generation market to private investment and, given Mexico's large and diverse renewable energy resource base,¹ resulted in millionaire foreign investments for the

development and construction of solar and wind power generation projects across Mexico.

Contrary to the international trend to accommodate and support renewable sources of electricity, AMLO has publicly stated that he intends to regain Mexico's "energy sovereignty" (*soberanía energética*), by strengthening Mexican State-owned power utility, *Comisión Federal de Electricidad* ("CFE"),² whose generation plants are primarily conventional, and eliminate any "preferential treatment for private parties".³

The policy shift started in 2019 with the enactment or amendment of several regulations:

The 2013 Energy Reform imposed on qualified offtakers participating in the Wholesale Electric Market, the obligation to acquire clean energy certificates (*certificados de energías limpias*, "CELs") representing a percentage of their electricity consumption. To promote clean energy projects, the Energy Reform granted new power generators the ability to sell CELs. In October 2019, the Ministry of Energy (*Secretaría de Energía*, "SENER") announced a change to the eligibility criteria for the issuance of CELs (the "CELs Criteria Change"), which resulted in CFE's old hydro plants and

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the Laguna Verde nuclear plant becoming CEL-eligible generators. The purpose of this measure was to strengthen CFE's position, on one hand, by allowing CFE's oldest green projects to sell CELs, and on the other, to decrease the market value of CELs.⁴

- Following a decrease in electricity consumption due to the COVID-19 pandemic, in April 2020, the National Center for Energy Control (*Centro Nacional de Control de Energía*, "CENACE") issued the "Regulations to guaranty the Efficiency, Quality, Reliability and Safety of the National Electric System" (the "CENACE Measures").⁵ The CENACE Measures suspended the ongoing pre-operational and operational tests for all renewable projects, and provided for the denial of authorizations for future pre-operational and operational tests for renewable power plants. The CENACE Measures were also deemed a direct attack to private generation companies, since they intended to change the power dispatch procedures, giving priority to CFE's conventional power projects over cheaper renewable plants.⁶
- Following the CENACE Measures and after a controversial procedure within Mexico's National Commission for Regulatory Improvement (*Comisión Nacional de Mejora Regulatoria*, "CONAMER"),⁷ in May 2020, SENER issued the "Policy for the Reliability, Safety, Continuity and Quality of the National Electric System" ("SENER Policy").⁸ The SENER Policy imposed additional restrictions and conditions for the issuance of generation permits for solar and wind facilities,⁹ as well as for their interconnection to the National Electric System.¹⁰ The SENER Policy also expressly prioritized reliability over economic efficiency,¹¹ resulting in the dispatch of higher-cost CFE owned facilities over cheaper privately owned renewables projects.
- The current federal administration has expressed concerns regarding grandfathered or legacy (*legados*) generation projects, including those under the self-supply scheme (*autoabastecimiento*). Self-supply private projects date back to the 1992 reform to the Public Electric Service Law (*Ley del Servicio Público de Energía Eléctrica*). These projects may supply power to the permit holder's shareholders or partners (*socios consumidores*). Such scheme was widely used from the late 1990s until the enactment of

the 2014 Electric Industry Law ("LIE", resulting from the Energy Reform) by large commercial and industrial consumers, which acquired equity in the generation company as a way to qualify as an offtaker of such project.

In 2009, at a time when renewable technology was still expensive, the Energy Regulatory Commission (*Comisión Reguladora de Energía*, "CRE") designed a transmission fee model for renewable projects under the self-supply scheme considering the government's interest in increasing investments in renewables. Self-supply generators that used renewable sources were not charged transmission fees per kilometre; instead, they were charged a fixed fee per kilowatt hour depending on the voltage tension, regardless of distance. The LIE terminated this scheme in 2014, but projects with self-supply permits kept the same transmission fees regime then in effect. In May 2020, the CRE approved RES/893/2020 ("Resolution 893/2020") which allowed CFE to charge self-supply projects much higher transmission fees than those that were originally established.

- In October 2020, the CRE approved RES/1094/2020, a resolution to amend the rules for the amendment or assignment of generation and self-supply permits ("Resolution 1094/2020").¹² Resolution 1094/2020 was granted a fast track exemption to the regulatory impact analysis of CONAMER, even when the Mexican Antitrust Commission (*Comisión Federal de Competencia Económica*, "COFECE") argued it would have an impact on free competition. Resolution 1094/2020 amended the legal framework applicable to self-supply projects, restricting the supply to new offtakers, as well as clients of *CFE Suministrador de Servicios Básicos*, or those registered as Qualified Users.
- From the beginning of the current administration and even today, several legacy projects have reported that the CRE has withheld requests (including those made prior to the enactment of Resolution 1094/2020) for amendments to include additional offtakers or change the existing ones, precluding the generators from delivering energy and optimize power supply.

All the measures described above have been challenged by generators and investors in courts, by means of promoting *amparo* procedures, a

constitutional rights protection mechanism available in federal courts. Regarding the SENER Policy, antitrust watchdog COFECE also filed a constitutional judicial procedure available to certain governmental authorities (*controversia constitucional*), claiming SENER had overstepped its authority and created disruption in the electricity market as a result of the enactment of the SENER Policy.

Although few decisions have been rendered in connection with the above, below is a summary of the key successful arguments advanced in federal courts against AMLO's energy policies.

B. CONSTITUTIONAL DEFENSE

1. Competition – COFECE Constitutional Controversy

On February 3, 2021, the Second Chamber of the Mexican Supreme Court decided *Controversia Constitucional 89/2020*, filed by COFECE against the SENER Policy. The antitrust watchdog claimed that SENER overstepped its authority and undermined competition in the market by unduly strengthening CFE.¹³

In a majority decision, the Second Chamber declared invalid several sections of the Policy, including provisions and rules: (i) prioritizing "security" over cost in the dispatch of electricity; (ii) establishing that access to the grid may be denied to a renewable generation project that requests interconnection to a congested point; (iii) providing that for the interconnection of private projects, an interconnection feasibility opinion issued by CENACE could be required; (iv) allowing SENER to prioritize certain projects and grant them a preferential status for interconnection; (v) granting CFE the right to propose to SENER certain strategic infrastructure projects for the development of the National Electric System; and (vi) providing that CENACE may consider in its interconnection studies (a) the local demand and consumption of electricity, (b) the state of congestion in the interconnection network, (c) the availability of solar and wind resources, (d) how the interconnection would impact the reliability of the electric supply, and (e) "distance" between projects.

The Second Chamber upheld some sections of the Policy, determining that the new regulations did not differ from the rules provided for in the existing

Network Code (*Código de Red*, rules governing technical matters). In a few other instances, the Second Chamber did not fully analyze the constitutional arguments advanced by COFECE against the Policy, considering those irrelevant for the decision.

The Second Chamber's decision was focused on antitrust arguments advanced by COFECE, which argued that the SENER Policy was a means to benefit CFE, which, despite its special role and status in the Mexican power sector, was just another player in the generation market (at least under the constitutional structure resulting from the 2013 Energy Reform).¹⁴

2. Environment – Greenpeace Amparo

Aside from matters related to competition policy, the SENER Policy has been deemed to present a serious threat to the attainment of the Paris Agreement goals on carbon emissions reduction and the fundamental right to a healthy environment. This prompted NGO Greenpeace Mexico to file an *amparo* trial against Resolution 1094/2020, the SENER Policy, and its predecessor, the CENACE Measures. Unlike in other proceedings, Greenpeace is not a market participant or a permit holder; instead, the District Court granted standing on the basis of the claimant's interest in defending the constitutional right of citizens to a healthy environment (*interés legítimo*).

On May 28, 2020, Greenpeace obtained a general temporary injunction against the SENER Policy and the CENACE Measures in relation to the implementation of the SENER policy.

The District Court acknowledged the fact that energy generated with fossil fuels is an environmental threat and that energy transition is a pressing issue. Therefore, it conceded that the new policies, by means of drastically changing the dispatch order in favor of CFE plants, could negatively affect the development of more renewables in the energy mix, and, therefore, authorities faced a heightened scrutiny analysis for the valid means behind their policies.

The court considered that the possible entry into operation of new renewable generation projects would be at risk, unless the temporary injunction was granted. Thus, by making a preliminary analysis of the situation, the District Court concluded that (i) the collective benefit of having new clean and cheap

energy in the mix outweighs the possible negative impact on the reliability of the system caused by the interconnection of new renewable generators; and, (ii) there is a legal and viable option to solve the increasing intermittency in the grid, which does not involve halting the development of clean energy.

3. Legality and Acquired Rights – Transmission Amparo

Amparo trial 236/202015 was filed by a legacy project against Resolution 893/2020, which resulted in the increase of transmission fees for those projects between 446 percent and 775 percent, depending on the tension level, with respect to the transmission fee model designed by the CRE in 2009. A decision was rendered on December 15th, 2020.

Judge Juan Pablo Gómez Fierro, of the Second District Court in Administrative Law, specialized in Antitrust and Telecom (*Juez Segundo de Distrito en Materia Administrativa Especializado en Competencia Económica, Radiodifusión y Telecomunicaciones*) found that the sudden and extreme increase in transmission fees was unconstitutional.

By applying a constitutional control test, the Court found that an increase in transmission fees could be a valid means to increase CFE's income and match transmission costs. Nevertheless—the Court held—an “abrupt, sudden and disproportionate increase”¹⁶ was not the most adequate policy to achieve such result, and, in turn, affected private parties' rights in violation of retroactive legislation prohibition.

II. The Ongoing Fight

A. NEW POLICY – NEW LAW

On February 1, 2021, President López Obrador presented to the House of Representatives (*Cámara de Diputados*) a proposal for the amendment of the LIE (the “LIE Amendment Bill”).

The LIE Amendment Bill was approved by the House of Representatives with minor changes on February 23, 2021. Shortly after, on March 3, 2021, the Senate (*Cámara de Senadores*) also approved it. The LIE Amendment Bill was officially published in the Federal Official Gazette on March 9, 2021, and entered into effect the following day.¹⁷

The LIE Amendment Bill resulted in the amendment of nine articles of the LIE, addressing the following key aspects:

- **Dispatch preference for CFE.** Modification of the dispatch criteria to be applied by CENACE so that it is carried out in the following order: (1) hydro-electric plants, (2) plants owned by CFE, (3) solar and wind plants owned by private parties, and (4) combined cycle plants owned by private parties.
- **No obligation for public auctions.** Basic service suppliers may enter into electricity coverage contracts that are not awarded exclusively through public auctions.
- **Transmission and distribution preference for CFE.** CENACE must give priority to the legacy power plants (owned by CFE) for the use of the national transmission network and the general distribution networks.
- **Network access restriction.** Establishment of open and not unduly discriminatory access to the national transmission network and the general distribution networks only if “technically feasible”.
- **Energy market to discriminate against clean energy.** The wholesale electricity market must prefer “Electricity Coverage Contracts with a Physical Delivery Commitment” (which may only be entered into by basic service suppliers) and, in a second instance, contracts with clean energy generators. Contracts with a physical delivery commitment, unlike the current electricity coverage contracts, include the commitment to physically deliver the electric energy, power or other associated products.
- **Restriction of permits.** Permits to be granted in compliance with the “planning criteria” established by the SENER.
- **Change in CEL Criteria.** CELs will be granted to any generator that produces energy from clean energy (regardless of the date of commencement of commercial operation of the corresponding plant, which would include, among others, CFE's hydroelectric and nuclear plants).

In its transitory articles, the LIE Amendment Bill provides the following:

- **Cancellation of self-supply permits.** The self-supply permits that are governed by the previous

Electric Power Public Service Law may be revoked by the CRE in accordance with the administrative procedure established by the law, if it is determined that they were obtained fraudulently, e.g., by means of artificial corporate and contractual arrangements.

- **Termination of electric power contracts.** Contracts for the purchase of capacity and electric power entered into with independent power producers in terms of the abrogated Electric Power Public Service Law may be reviewed by CFE and, where appropriate, renegotiated or terminated early. The purpose of the review would be to verify compliance with the “profitability requirement” mandated by law. In the event that said requirement is not met, the referred contracts could be renegotiated or terminated early.

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A day after the publication of the LIE Amendment Bill, Judge Juan Pablo Gómez Fierro, of the Second District Court in Administrative Law, specialized in Antitrust and Telecom, granted a temporary injunction against the amendments to the LIE, ruling that the stay would have general effects (*efectos generales*) across Mexico, thus benefiting all participants of the power market.¹⁸ According to the decision, the previous version of the LIE would be deemed valid and effective until a final decision is reached on all terms.

On March 16, 2021, Judge Rodrigo de la Peza López Figueroa granted another preliminary injunction against the LIE Amendment Bill. This ruling confirms that federal judges across Mexico believe that the LIE Amendment Bill has some constitutional faults.

The arguments that have been advanced by litigators against the LIE Amendment Bill are the following:

- **Prohibition of retroactive legislation.** It includes new provisions that affect acquired rights under contracts, permits, and authorizations, such as legacy projects.
- **“Legitimate Expectations” principle.** By changing the regulations based on which investment decisions were made, contracts were awarded and long-term permits and authorizations were granted which legitimately generated an expectation of permanence and growth of the relevant projects, the LIE Amendment Bill could

be deemed to affect the legal certainty and legitimate expectations principle.

- **Constitutional right to a healthy environment.** By preferring conventional energy generation projects, and eliminating all benefits granted by the government to advance investment in renewables, the Mexican government is affecting climate change and its obligations under international treaties regarding the reduction of greenhouse gas-emissions, with no alternative policy being advanced for such purposes.
- **Proportionality principle.** According to the Supreme Court of Justice, any legislation affecting rights has to be suitable, necessary and proportional to meet a legitimate and valid government purpose.

C. INTERNATIONAL DEFENSE

1. Investment Treaties

Foreign investors need assurance that the host country is committed to protect investments. States may achieve this by executing treaties to protect investors of one state investing in another state, mitigate the non-commercial risk involved in such investments, and promote a stable investment environment.¹⁹

Investment agreements may be bilateral investment treaties (BITs) or multilateral investment treaties, which are usually executed by a number of countries in broader trade and investment agreements. Example of the later are the North American Free Trade Agreement (NAFTA), currently replaced by the United States-Mexico-Canada agreement (USMCA), the Transpacific Partnership agreement (TPP) or the Energy Charter Treaty (ECT). Mexico has 30 BITs in force.²⁰ Further, Mexico is a party to other 15 bilateral or multilateral international treaties (including Free Trade Agreements) with an investment protection chapter.²¹

Investment treaties contain standards of protection for the host state that mitigate the risk of expropriation, change in law, discrimination and other authoritative acts that could result in a reduction of the value or the loss of the investment and offer an international form of dispute settlement mechanism between the investor and the host state that is an alternative to litigation in the host state.

This international mechanism of dispute settlement in respect of foreign investment may result in an attractive option to investors. First, this mechanism takes place in an international forum, normally in international arbitration administered by international institutions, and usually including the investor's right to participate in the appointment of the arbitrators. Disputes are decided under international law, and not primarily under the law of the host state, and the awards issued by these tribunals are internationally enforceable.

Investors alleging the violation of standards of protection under an investment treaty can claim compensation for the suffered damages, looking to reestablish the situation of the investor as if the treaty had not been violated.

2. Investment in Mexico

A number of foreign companies (mainly from the United States, Canada and the European Union) have invested significant amounts to develop renewable projects based on a legal and contractual framework that established certain conditions. The change of such conditions may be considered as discriminatory and potentially result in the reduction in value of the investment or the impossibility to pursue the project.

Affected foreign investors could file investment arbitration claims against Mexico alleging that, by amending the LIE, Mexico has breached certain standards under such applicable investment treaties. Such standards include, among others, that the investment shall be granted fair and equitable treatment, enjoy full protection and security, and has to be treated on a basis not less favorable than treatment granted to nationals or to nationals of third states, not be subject to discriminatory measures, and not be subject to expropriation without just compensation.

3. New Restrictions

The investment chapter of the USMCA, which applies to measures taken after July 1, 2020, restricts access to international arbitration for most United States companies investing in Mexico. Unlike NAFTA, the USMCA distinguishes between two types of investors: those with covered government contracts and those without them. The former will still have unrestricted access to arbitration, similar to the one that NAFTA offered. However, the latter will

only be able to start arbitration proceedings under limited circumstances.

Thus, US investors without covered government contracts may only challenge measures in breach of the national treatment and most-favored nation treatment principles (other than with respect to the establishment or acquisition of an investment) and expropriation. The minimum standard of treatment, including fair and equitable treatment, and full protection and security principles are also excluded.

Furthermore, claimants must first initiate domestic litigation in the courts of the host state before submitting their claim to arbitration. They can only commence arbitration if there is a final decision of a court of last resort of the respondent or if 30 months have elapsed after the initiation of the domestic court proceedings. Additionally, there is a four-year statute of limitations for investment-related claims, forcing investors to act quickly, both at a domestic and international level.

The situation for Canadian companies and Canadian investors is even worse, as they will be unable to file new claims against Mexico.

Investors who have invested in Mexico prior to the termination of NAFTA are still entitled to the protections granted under NAFTA for three years following its termination (i.e., July 1, 2023) but only in respect of breaches committed prior to the date of termination of NAFTA (July 1, 2020).

4. Securing Access Treaty Protection

Investors that are not protected by an investment treaty, and investors that lose their rights to arbitration or have such rights diminished (such as United States and Canadian companies now enjoying only limited protection under the USMCA), should consider restructuring their investments to obtain protection. For example, in order to be covered, an investor could incorporate a special purpose company organized under the laws of a country with which Mexico has an investment protection treaty and make such company the investor in Mexico or the owner or controller of the investor in Mexico. There are, however, limitations in respect of the timing of such restructuring, and it is generally considered that the resulting investor does not qualify for protection under the treaty if it has become an investor (i.e., the

restructuring has taken place) after the dispute with the host state has occurred.

Finally, investors should also be aware that some treaties contain limitations in respect of the compatibility of actions under the treaty and prior or simultaneous legal actions before local courts. Such is the case, for example, under the NAFTA/USMCA and TPP, which require investors to waive local remedies as a requirement to bring international arbitration. Also, investors should consider that if they allege in domestic litigation that a measure breaches an investment-related rule in an international treaty, they could be precluded from alleging breach of that same rule in a subsequent arbitration procedure (also the case under NAFTA/USMCA and TPP). These issues need to be addressed carefully on a case-by-case basis but it is important for companies to consider their options before taking any domestic or international action and prepare so as to protect their investments.

5. Environmental Commitments

The Paris Agreement is an international treaty on climate change. It was adopted by 196 parties at the 21st Conference of the Parties to the 1992 United Nations Framework Convention on Climate Change in Paris on December 12, 2015, and entered into force on November 4, 2016. Its goal is to limit global warming to well below 2, preferably to 1.5 degrees Celsius, compared to pre-industrial levels.

To achieve this long-term temperature goal, countries aim to reach global peaking of greenhouse gas emissions as soon as possible to achieve a climate neutral world by mid-century. The Paris Agreement is a landmark in the multilateral climate change process because, for the first time, a binding agreement brings all nations into a common cause to undertake ambitious efforts to combat climate change and adapt to its effects.

The Paris Agreement requests each country to outline and communicate their post-2020 climate actions, known as their nationally determined contributions (“NDCs”). Mexico capped off 2020 by

submitting “new” NDCs. While NDCs are supposed to progressively set more ambitious mitigation targets as required under the Paris Agreement, the Mexican government took several steps to boost fossil fuels at the expense of renewable energy. Mexico’s NDCs merely ratify the mitigation commitments established in 2015.²²

In accordance with the contradiction of thesis 293/2011 resolved by the Mexican Supreme Court, human rights set forth in international treaties have the same hierarchical level and should be treated as constitutional rights (which includes providing them with equivalent means of defense).²³ If so, investors could file amparo claims for breach of the human rights set out in the Paris Agreement, such as the right to a healthy environment.

III. Uncertain Future

In view of the foregoing, it is likely that the LIE Amendment Bill will be nullified in federal courts. However, considering that the federal administration is determined to strengthen CFE by any means, the government could try to pursue a constitutional amendment to undo the 2013 Energy Reform and circumvent around judicial review of laws and regulations. This was advanced by AMLO while rallying against the judicial system and judges.

The result of the upcoming mid-term elections (to be held on June 6, 2021) may have an important impact on the government’s power to undo the energy reform. If the National Regeneration Movement (*Movimiento de Regeneración Nacional*) performs well and obtains a qualified majority in the House of Representatives (*Cámara de Diputados*) and a simple majority in most of the state legislative bodies, it could hypothetically be able to achieve a constitutional counter-reform. At this point in time, it is not possible to ascertain the potential results of the election, but these are definitely tense times for Mexico’s energy sector and its future.

Endnotes

- ¹ Dolf Gielen, Deger Saygin, Nicholas Wagner, Laura Isabel Gutiérrez y Eduardo René Narváez Torres: *Renewable Energy Prospects: Mexico*. Abu Dhabi: International Renewable Energy Agency (IRENA). 2015. Accessed March 9, 2021. https://www.irena.org/-/media/Files/IRENA/Agency/Publication/2015/IRENA_REMap_Mexico_report_2015.pdf?la=en&hash=8A259915297B04B0D50A422EDF48AD87007B56B1
- ² Mexican Presidency, *Press Conference*, May 6, 2020.
- ³ Mexican Presidency, *Press Conference*, May 18, 2020.
- ⁴ Federal court injunction procedures in November and December of 2019 have suspended the government's change to the CELs eligibility criteria. Final decisions are pending.
- ⁵ "Resolution with measures to ensure the efficiency, quality, reliability, continuity and safety of the Mexican National Electric System, in response to the national emergency caused by the virus SARS-Cov2". (*Acuerdo para garantizar la eficiencia, Calidad, Confiabilidad, Continuidad y seguridad del Sistema Eléctrico Nacional, con motivo del reconocimiento de la epidemia de enfermedad por el virus SARS-Cov2*), published on April 29, 2020.
- ⁶ Mayer Brown Legal Update: *Mexican Ministry of Energy's New Policy: Impact on Wind and Solar Generation Projects*. Mexico City. May 22, 2020. Available at: <https://www.mayerbrown.com/-/media/files/perspectives-events/publications/2020/05/mexican-ministry-of-energys-new-policy-impact-on-wind-and-solar-generation-projects.pdf>
- ⁷ *Ibid.*
- ⁸ "Policy for the Reliability, Safety, Continuity and Quality of the National Electric System" (*Política de Confiabilidad, Seguridad, Continuidad y Calidad del Sistema Eléctrico Nacional*), published on May 15, 2020.
- ⁹ As per section 5.6 of the SENER Policy.
- ¹⁰ As per sections 5.12.1, 5.12.3, and 15.2.8. of the SENER Policy.
- ¹¹ As per sections 5.3 and 7.1. of the SENER Policy.
- ¹² Mayer Brown Legal Update: *Mexican CRE Changes Rules for Inclusion of New Offtakers of Legacy Generation Permits*. Mexico City. October 9, 2020. Available at: <https://www.mayerbrown.com/en/perspectives-events/publications/2020/10/mexican-cre-changes-rules-for-inclusion-of-new-offtakers-of-legacy-generation-permits>
- ¹³ Mayer Brown Legal Update: *Mexican Supreme Court Invalidates Sections of Ministry of Energy's Controversial Reliability Policy*. Mexico City. February 4, 2020. Available at: <https://www.mayerbrown.com/en/perspectives-events/publications/2021/02/mexican-supreme-court-invalidates-sections-of-ministry-of-energys-controversial-reliability-policy>
- ¹⁴ As of March 16, 2021, the Second Chamber's opinion regarding *Controversia Constitucional* 89/2020 has not been published. After public discussions and decision on the merits, the Supreme Court takes some time to draft the final version of its opinions, a first draft of which is reviewed by the Justices prior to discussion.
- ¹⁵ *Juicio de amparo indirecto 236/2020, del índice del Juzgado Segundo de Distrito en Materia Administrativa Especializado en Competencia Económica, Radiodifusión y Telecomunicaciones*.
- ¹⁶ *Ibid.* P. 76.
- ¹⁷ First Transitory Article of the Decree that Amends and incorporates various provisions to the Electrical Industry Law. Published on March 9, 2021. http://dof.gob.mx/nota_detalle.php?codigo=5613245&fecha=09/03/2021
- ¹⁸ *Incidente de suspensión* 118/2021.
- ¹⁹ <https://www.oecd.org/daf/inv/investment-policy/BFO-2016-Ch8-Investment-Treaties.pdf>
- ²⁰ <https://investmentpolicy.unctad.org/international-investment-agreements/countries/136/mexico>. However, the BIT between Mexico and Brazil, while technically a BIT, does not provide for a dispute settlement mechanism for investment disputes between investors and host State.
- ²¹ <https://investmentpolicy.unctad.org/international-investment-agreements/countries/136/mexico>
- ²² Mexico's Nationally Determined Contributions 2020 Update.
- ²³ *Contradicción de tesis* 293/2011.

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