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**New challenges for international Economic Law teaching and research in México:
Mexico's outstanding waves of reforms**

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Abstract: This position paper argues that at this time of Mexico's ongoing big transformation, legal educators and researchers in Mexico need to pay greater attention to international economic law, and that a renewal and perhaps some re-orientation of the approach to teaching international economic law, could provide significant contributions to and shape and support both the objectives and outcomes of reform in Mexico. International Economic Law courses and research can be made more useful, not only for students themselves, but also for their contribution towards the role that academics, lawyers, and other epistemic communities need to play in the political, economic and social evolution that is accelerating in Mexico.

Keywords: International Economic Law, Mexico's economic reforms, *Pacto por México*, Research and teaching IEL.

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Introduction

Mexico at this time is experiencing a significant transformation as a result of President Enrique Peña Nieto's new reforms. In this context, President Peña Nieto's first year in office stands out. Since his December 1st, 2012 inauguration his government has promoted a wave of deep-ranging structural reforms which are updating the country's legislative and institutional frameworks in line with some of the most advanced international best practices.

During its first 13 months in office, the Peña Nieto administration oversaw congressional authorization of a remarkable array of reforms in education, labor, telecommunications, banking, taxation, business competition, electoral rules, government transparency laws, and the energy sector. These achievements rested on the so-called *Pacto por México* (Pact for Mexico), careful management of powerful interest groups, a packed legislative calendar, and a bit of good fortune. Together they enabled President Peña Nieto to achieve what his far more popular predecessors failed to accomplish.

With this reform outlook and new regulatory framework, most secondary laws resulting from the constitutional reforms are still under construction, this position paper argues that legal educators and researchers in Mexico need to pay greater attention to international economic law (IEL). One of the challenges for Mexico with this branch of law, is to provide broad scholarship opportunities to universities and education centers to spread the teaching of IEL; not only with law students but also with law teachers and researchers, legal practitioners, policy makers including legislators and bureaucrats, and other stakeholders drawn from business, journalism, consumers, industry associations, civil society, and non-governmental organizations. Structural reforms from President Peña Nieto's administration will affect all of these sectors.

For the purpose of this position paper we will explain what is going on in Mexico since President Peña Nieto assumed power (1); second, the situation of IEL scholarship and research in Mexican academic institutions and the link between IEL teaching and the implementation of the legal framework emerging from the reforms implemented in Mexico in 2013 (2).

1 What's going on in Mexico today?

1.1 A new beginning: *Pacto por México*

According to Shannon O'Neil's opinion¹, as the North American Free Trade Agreement (NAFTA) celebrates its 20th anniversary, many have forgotten just how much Mexico has changed in the past two decades. Once hidden behind high tariffs, quotas, subsidies, and hundreds of state-owned enterprises, Mexico's economy is now one of the most open in the world. Mexico boasts free trade agreements with 45 countries² and a trade to GDP ratio, a common measure of economic openness, above 60%, surpassing the United States, Brazil, and even China. And whereas oil once represented over 75% of Mexico's exports, today it is manufactured goods which produce three out of every four export dollars.

This transition has not been easy. In fact, Mexico's openness was for many years seen as a weakness. Relentless international competition threatened new companies and otherwise promising industries, giving them little time to master the learning curve. Particularly after China's 2001 entrance into the WTO, the search by CEOs and their Boards of Directors for lower-cost and more flexible producers led many across the Pacific, decimating several of Mexico's manufacturing sectors, including textiles and apparel.

This trend is now reversing. The low-skilled, low-paid jobs are likely gone from Mexico for good. But rising wages in China, combined with higher Mexican productivity; increasing energy costs, making shipping more expensive; the proximity of Mexican factories to the United States with reduced delivery times; and worries about intellectual property rights, have led a number of manufacturers to choose Mexico over China. Others have brought back production once sent abroad. In advanced manufacturing industries such as aerospace and automotive, Bombardier, Embraer, Honda, Nissan, and Volkswagen have invested billions of dollars in Mexico and made the country a vital leg of their global supply chains.

As Mexico's economy has changed, so, too, has its society. Alongside a few of the world's wealthiest individuals and tens of millions who are still poor, a growing middle class has

¹ O'NEIL, 2014.

² Mexico has 10 free trade areas network with 45 countries; 30 Investment Promotion and Protection Agreements (IPPAs) and 9 limited scope agreements under the legal framework of the Latin American Integration Association (ALADI). See: <<http://www.economia.gob.mx/comunidad-negocios/comercio-exterior/tlc-acuerdos>>.

arisen. Depending on how one measures this group, it now comprises anywhere from 40,000,000 to over 60,000,000 Mexicans. Either way, it is now a large percentage of a population of 116,000,000. These individuals and families own cars, houses, and every modern appliance, as well as new cell phones. A growing number use their newfound disposable incomes to send their children to private schools³.

On the other hand, the current government has established an ambitious reform agenda not seen in decades. To understand the political conjunction, first we have to know the meaning and scope of the so-called “*Pacto por México*” (*The Pacto*). *The Pacto* was an agreement reached between the new administration and Mexico’s three main political parties, which previously found it difficult to agree on much of any significance: the president’s Institutional Revolutionary Party (PRI); the conservative National Action Party (PAN), the party of the two previous presidents, Vicente Fox and Felipe Calderón; and the left-leaning Democratic Revolutionary Party (PRD).

Negotiated secretly during the presidential transition and signed publicly the day after Peña Nieto’s inauguration, *the Pacto* bound the signatories to work together to advance ninety five legislative initiatives. These were grouped into five broad categories:

1. Economic growth, employment and competitiveness;
2. Societal rights and liberties;
3. Justice and security;
4. Transparency, accountability and combating corruption;
5. Democratic governance.

Most analysts doubted *the Pacto* would survive long enough to address Mexico’s most pressing policy challenges, and its death was foretold repeatedly during 2013. Its surprising survival and effectiveness reflected the president’s need for cooperation with the opposition, and the political logic behind the parallel but autonomous decisions of the PAN and PRD to propose a broad policy accord with the government. The agreement carefully balanced the core policy concerns of the president and the opposition⁴.

³ Ibid.

⁴ STARR, 2014.

Since *the Pacto*, President Peña Nieto submitted several reform initiatives in education, telecommunications, banking, taxation, business competition, electoral rules, government transparency laws, and the energy sector.

1.2 Most important reforms linked with IEL

Despite these major reforms in the political realm with changes in electoral and transparency rules, and the education and labor sectors, we will focus on the economic industry which has a direct relationship with IEL.

1.2.1 Oil and Gas Energy Reform

Petroleos Mexicanos (PEMEX), is Mexico's national oil company. PEMEX is simultaneously known as the “cash cow” and “sacred cow” of Mexico⁵. As a cash cow, PEMEX is often responsible for more than one-third of the Mexican government's revenues. As a sacred cow, PEMEX is a profoundly important symbol of Mexican sovereignty and independence on par with cultural icons such as the Virgin of Guadalupe and the Mexican flag. But these dual roles are increasingly at odds. PEMEX is burdened by the enormous tax obligations of a cash cow, yet, as a sacred cow, it is handcuffed by strict constraints under Mexican law. Additionally, there are enormous corruption problems in all sectors. PEMEX is currently struggling to balance these roles while also adapting to a challenging and unfamiliar production environment.

With this background scenario, Mexico's historic energy reform bill formally became law on December 21, 2013. The current energy reform represents the most significant overhaul of the country's energy industry since 1938⁶. The bill calls for amending articles 25, 27, and 28 of the Mexican Constitution, and adding 21 transitional articles detailing the regulations to be implemented. For example, Constitutional article 27 would revert to stating what President Lázaro Cárdenas left written, word for word, following the petroleum expropriation in 1938. The model he conceived, and the platform of Peña Nieto's reform, was based on the exclusivity of

⁵ SMITH, 2004 (referring to Pemex as a “cash cow”); GRAHAM; GUTIERREZ, 2011 (referring to Pemex as a “sacred cow”).

⁶ On March 18, 1938, without passing a resolution, President Lázaro Cárdenas expropriated foreign interest in the petroleum industry. Shortly thereafter, the Mexican Congress formed PEMEX by decree. See MURPHY, 2001.

state ownership of underground resources; the suppression of individuals' rights to oil and gas through concessions; the incorporation of **private contracts** to explore and extract resources under conditions established by the government, and the possibility that individuals would undertake refining and transportation activities at their own cost, among other concepts.

On the other hand, the energy reform will enable PEMEX to concentrate on the oil industry's substantive activities. The basis of the restructuring is to form a single PEMEX entity by eliminating duplications generated by having four Subsidiaries⁷, strengthen support functions for operations, and increase transparency in all of its activities. PEMEX's subsidiary bodies will be integrated into two divisions: (i) exploration and production, focusing on extraction of oil and gas hydrocarbons from reserves with delivery for end-use processing, and (ii) industrial transformation, aimed at processing oil and gas fuels, oil-bearing products and petrochemicals. The tax reform will establish a new fiscal regime for PEMEX with conditions similar to other global companies. This will allow it to be more competitive with greater resources for investment. This will promote greater transparency and accountability in the oil sector, through the institutional strengthening of the government and its decentralized agencies: the National Hydrocarbons Commission along with the Energy Regulatory Commission.

Finally, the reform proposes the Mexican state award shared utility contracts to PEMEX and private companies to extract oil and gas. Furthermore, the government will award permits to PEMEX and private businesses for refineries, petrochemicals, transportation and storage of oil, gas and petroleum products⁸.

With these reforms, Mexico's government is quite conscious about the new challenges and opportunities which lay ahead. For example: reforms in Colombia and Brazil give clear indication of what can be achieved by giving the oil and gas sector appropriate rules. Thanks to these reforms, oil production has increased significantly, which contrasts with the fall in Mexico's energy production⁹. In Brazil, 841, 000 barrels per day were produced prior to the 1997

⁷ 1. Exploration and Production 2. Pemex-Refining 3. Pemex subsidiary which processes, transports and commercializes natural gas, liquid hydrocarbons and basic petrochemical products 4. Pemex Petrochemicals.

⁸ In the case of electricity generation, the state owned company *Comisión Federal de Electricidad (CFE)*, may neither grant licenses, nor production/profit sharing contracts for the transmission and distribution of electrical energy. However, all other activities in the electricity industry are open to contracts with private entities.

⁹ Energy Data Management, Energy Department, USA, January-April 2013.

reform. Fifteen years later, Brazil has nearly tripled its production up to 2.1 million barrels per day. Similarly energy reform in Colombia has to nearly doubled its original production¹⁰.

In the case of Mexico, investment obtained following the passage of this reform bill enabled the country to formulate a long-term hydrocarbon model which takes into account the welfare of future generations.

1.2.2 Antitrust sector (Competition and Telecom reforms)

The year 2013 will be remembered as one of the most important years in modern history for Mexican competition law. In the second quarter of 2013, a major amendment to Article 28 of the Mexican Constitution labeled “the Constitutional Amendment in Telecommunications” rocked the foundation of the Mexican Competition Regime. The objective of the 2013 amendment was to mend, within the Constitution, the competition problems in the telecom sector. However, this amendment also drastically affected general business competition policy and enforcement in Mexico.

After rapidly passing through both houses of the legislature and the majority of the State legislatures, the amendment was published in the Federal Official Journal on June 11, 2013¹¹. The 2013 Amendment was a surprise, both domestically and abroad, as it came just two short years after the May 2011 Legal Amendment which strengthened the competition regime. The May 2011 Legal Amendment had not even been fully tested and now the 2013 Amendment changed the entire competition landscape¹².

The intention to take action against the lack of effective competition and the high levels of market concentration in the telecom sector were evident from the beginning of President Peña Nieto’s administration. The first action taken was the “*Telecom Bill of Amendments*” which aimed to provide regulators with effective powers to create favorable conditions for competition. Likewise, contrary to Constitutional technique, it set forth very detailed rules which would normally pertain to secondary laws rather than the Constitution.

¹⁰ Ibid.

¹¹ Published in the Federal Official Journal on May 10, 2013. It became mostly effective on May 11, 2013.

¹² Until June 11, 2013 the Mexican Competition Regime was comprised of: (i) regulatory framework, Article 28 of the Mexican Constitution, the Federal Law of Economic Competition and other specialized laws; (ii) the competition enforcement authority, the Federal Competition Commission; and (iii) the Federal Judiciary, when competition cases were challenged on constitutional grounds (*amparo indirecto* and Federal Appeal/*recurso de revisión*).

However, the lack of competition in Mexico is not exclusive to the telecom industry. In fact, it is pervasive throughout nearly every industry in Mexico. Therefore, despite its name, through the Telecom Bill of Amendments the government has dramatically altered competition policy and enforcement rules and laws within all Mexican industries.

The most important changes to the competition regime are those regarding institutional design. The 2013 Amendment surprisingly set forth the dissolution of the Federal Competition Commission (FCC), an administrative agency, and supplanted it with two new constitutional agencies: the Federal Commission of Economic Competition (FCEC) and the Federal Institute of Telecommunications (FIT or IFETEL as known in Mexico). The FCEC will handle matters of general competition policy and FIT will be the exclusive agency for competition in the telecom sectors including radio and TV¹³.

Before the 2013 Amendment, it was the former Federal Law of Economic Competition (FLEC) which granted powers to the FCC; the Mexican Constitution merely mandated the prosecution and punishment of monopolies or monopolistic practices which caused actual harm to consumers. Thus, Congress delegated powers to the FCC. The 2013 Amendment is particularly distinguishable in that the Constitution, not Congress, explicitly grants powers directly to the FCEC and FIT. These powers include the ability to remove barriers to competition and the free market, regulatory access to “essential facilities,” and divestiture of assets in necessary proportion to remove anticompetitive effects. One important factor to note is that Article 28 of the Constitution seems to redefine the concept of monopoly and excessive concentration of powers and not simply rely on monopolistic practices.

Another major feature instituted at the constitutional level was the creation of specialized telecom and competition courts which will sit at the Federal District and have jurisdiction for the entire Mexican territory. Presumably it eliminates forum shopping, but could create “judicial capture”. Currently, the Federal Judicial Council has re-assigned certain federal administrative courts as specialized tribunals for telecom and competition matters.

Before the May 2011 Amendment to FLEC, Article 28 of the Constitution and the FLEC§9 dealing with cartel and collusive behavior were not symmetrical. The Constitution

¹³ One of the major issues with the FCC was that it was an administrative body autonomous in regulations and adjudications but hierarchically and financially subordinated to the Ministry of Economy. The 2013 Amendment tackled this issue head-on by creating constitutionally autonomous entities. This protects the agencies from being subordinated to any other body, effectively eliminating the FCC’s previous issue but adds a more complex procedure for appointment of Commissioners.

required real harm to consumers such as paying monopoly profits and expressly “exaggerated prices”. FLEC, however, forbids price-fixing, exchange of sensitive information used for price-fixing, market division, output restriction, and bid-rigging. Thus FLEC forbade not only “purpose” but also the “effect” of collusive behavior. The FCC sanctioned cartel behavior regardless of company size or affected market. The issue was whether the language of FLEC exceeded what is allowed by the Constitution, specifically actual harm.

Following the 2013 Amendment there are now two conditions for cartel behavior: (i) any combination or agreement among competitors to avoid competition among themselves or (ii) forcing consumers to pay exaggerated prices. Therefore, the 2013 Amendment sanctions cartel behavior as *per se* illegal in one of its hypothesis to align it symmetrically with FLEC.

In the Telecom landscape, the primary goals of the bill were to increase competition in the telecommunications industry of Mexico and give regulators the power to break up dominant monopoly-type players in the market¹⁴.

The bill empowers FIT to break up dominant firms in Telecom industries where those firms control more than 50% of their respective markets. This power applies not only to the telecommunications market, but also the broadcasting industry, which is also dominantly controlled by a few companies such as *Televisa* and *TV Azteca*. FIT will also be given the power to grant and revoke broadcast and telecommunications concessions.

The reform bill also addresses the cap on foreign investment. The bill will remove the 49% cap which is currently in place for foreign investors who want to invest in the fixed-line

¹⁴ The current status of the Mexican telecommunications industry poses many barriers to investment. A recent report released by the U.S. Trade Representative’s Office highlighted many of the challenges that are faced by foreign investors. The part of the report that addressed Mexico mainly expressed concern over the dominant positions that *Telcel* and *Telmex* hold in the mobile and fixed phone markets, as both are controlled by the same parent company, *América Movil*. As of 2012, *Telcel* had 70% of the market share for mobile subscribers in Mexico, and *Telmex* held about 80% of the market share for fixed line subscribers in Mexico.

According to the report, the Mexican Federal Telecommunications Commission (COFETEL) has attempted numerous times to lower long distance and mobile termination rates, but the existing suppliers of the telecommunications services have used judicial proceedings to stall these actions. The mixture of an inefficient court process as well as weak regulatory oversight by Mexican agencies in turn means that the disputes COFETEL filed involving competition in the market have been lingering for years.

In addition to the monopolies currently in place, foreign companies are also deterred from investing in the Mexican telecommunications market because of the current laws in place that create difficulty for foreigners to invest in the industry. One of these laws is the Foreign Investment Law, which limits the foreign ownership of the wired telecom industry to 49%. Foreign investors must also jump through more hoops than domestic companies if they want to invest in the telecommunications industry because Mexican law states that foreign companies are required to form joint ventures with Mexican partners in order to provide any satellite-based services in Mexico. See ESTEVEZ, 2013.

phone industry in Mexico. Currently, *América Movil* has dominant control over the network used in fixed and wireless telephone lines, thus creating a conflict of interest when new competitors try to enter the market and use those same lines to provide service. In February of 2013, *Telmex* was fined by the Federal Competition Commission in the amount of \$52,000,000 for refusing to give a rival competitor access to its landlines. The new bill aims to address some of these concerns by creating a state-owned "carrier of carriers" telecom network. This new network would allow new rival entrants into the market to completely bypass America Movil's existing network and have a seamless and easier process for entering the industry.

The telecommunications bill also addresses some of the issues of dominant players in the broadcasting industry. The bill contains a contingent provision, pending review by a foreign investment commission, which would allow foreign investors to gain up to 49% ownership of both TV and radio stations and networks.

With all of this movement within the Mexican government on telecommunications reform, some of the dominant players in the telecommunications industry have started to feel the effects. Recently, the Mexican government filed a barrage of lawsuits against America Movil's subsidiaries, *Telcel* and *Telmex*¹⁵.

1.2.3 Financial Reform

Peña Nieto's administration presented a reform bill before the Permanent Commission of Mexico's Federal Congress on May 15, 2013, which amends, adds, and repeals 34 statutes, primarily financial in nature dubbed "Financial Reform".

The Financial Reform presented by the President underwent diverse amendments in the Chamber of Deputies on September 10, 2013. The resulting bill, which amended, added, and repealed

¹⁵ One of the lawsuits involves the fixed-line industry, in which Telmex has 80% control of the market. The Mexican Federal Attorney's Office of Consumer (PROFECO) filed suit in civil court in order to attempt to recover money on behalf of millions of telephone users. This suit is taking advantage of a law that was put into place in 2012, which basically allows for the equivalent of a class-action suit in the United States, the only difference being that the right to the cause of action is given to a government agency rather than a group of citizens. At the core of the suit is the issue that *Telmex* has been illegally charging a fee to all fixed-line subscribers who opted to keep their names out of a public directory. According to PROFECO, the fees that were being charged to the subscribers were unconstitutional because the Mexican Constitution guarantees the right to privacy, therefore the option to keep your name out of the public directory should be free. The other action involves the wireless service provider, *Telcel*. PROFECO filed suit against *Telcel* in February 2013. The *Telcel* suit was filed on the basis that *Telcel* has failed to reimburse subscribers for a series of service outages that occurred.

diverse provisions of the Financial Law and issues of the Law of Financial Groups, passed the Chamber of Deputies the same day. Additionally, on November 26, the Senate Chamber passed the bill without any amendments; therefore, to become enforceable, the modified statutes needed only to be promulgated and published in the Official Federation Gazette.

According to statements made by the executive branch, and legal pronouncements issued by the legislative branch, the Financial Reform is based on the following fundamental grounds:

- The creation of new incentives encouraging banks to provide more loans;
- Contributions toward fair competition with regard to the banking and financial system, so that rates and expenses are reduced;
- The fortification of the financial and banking system so it may experience long-term, continuous growth;
- The establishment of a new chain of command for the development-banking sector which will contribute to the evolution of the financial sector;
- The strengthening of the financial authorities' legal power to impose penalties;
- The goal of ensuring the relationship between debtors and creditors is properly rooted in equity.

One of the key issues linked to IEL concerns foreign investment. The goals of the Financial Reform Decree are to reduce the limits of foreign investment and establish within the Federal Code of Criminal Procedures a catalogue of crimes which shall be considered serious or grave offenses¹⁶.

1.2.4 Tax Reform

On October 30, 2013, the Mexican Congress approved the final 2014 tax reform bill. This legislation is the final product of the legislative process which began with the tax reform bill the Secretary of Finance submitted on October 8, 2013.

¹⁶ For more detail on the Decree see <<http://www.presidencia.gob.mx/tag/reforma-financiera/>>.

For the interest of IEL, the bill may adversely affect foreign companies with *Maquiladora*¹⁷ interests in Mexico. In addition, the bill substantially increases the scope of items subject to Mexican value-added tax, VAT. Indeed, the bill sets forth several tests which *Maquiladora* must meet in order to qualify for the income tax benefits available for such type of companies¹⁸, such as manufacturing, assembly, transformation, repair or refurbishing activities for a foreign-related party, and the product subject to any of these processes must be exported out of Mexico. The materials, components and parts used by the *Maquiladora* must generally be furnished by a foreign-related party. Any materials which are sourced from domestic vendors should also be exported out of Mexico.

Also, in performing its activities, the *Maquiladora* may use self-owned machinery and equipment, as well as machinery and equipment owned by the foreign-related party. However, the net value, calculated under Mexican tax rules, of the hardware owned by the foreign-related party has to represent at least 30% of the aggregate net value of all the machinery and equipment used by the *Maquiladora*. Finally, *Maquiladora* may not earn revenue from any other activities. U.S. companies which have *Maquiladoras* with various types of activities should consider restructuring their operations in Mexico to segregate export activities from other activities.

Concerning Value-added tax, imports made by *Maquiladoras* will be subject to a 16% VAT rate, payable at the point and time of entry. As of 2013, these imports were subject to a 0% VAT rate.

The bill contemplates more changes regarding income tax, the imposition of strict requirements which severely limits payments to foreign related parties, a tax of 10% on dividends paid by a Mexican company to Mexican residents, individuals and foreign owners among others¹⁹.

¹⁷ The *Maquiladora* program in Mexico (now known as IMMEX) allowed for materials and components to be temporarily imported into Mexico, duty-free, regardless of their origin. The only stipulation is that the materials had to be exported out within a certain deadline. Once NAFTA was instituted, this practice had to change in order to prevent products made with non-NAFTA materials from being shipped to Mexico for processing and then shipped to the U.S. completely duty-free. NAFTA article 303 stipulates that non-NAFTA materials imported into Mexico for assembly/processing are subject to the same duties as if they were permanently exported to Mexico. When this policy went into effect, the duty fees were as high as 20 to 25%.

¹⁸ The three basic income tax benefits available for qualifying *Maquiladoras* are: (1) permanent establishment protection for its foreign-related parties, (2) simplified transfer pricing compliance and (3) the potential to reduce the effective Mexican income tax rate to approximately 17%.

¹⁹ See <<http://reformahacendaria.gob.mx/>>.

2. Teaching and Research IEL in Mexico: New Challenges For New Reforms

2.1 IEL Course offerings and research in Mexico

Without going into a detailed account of the present state of and the future prospects for law school education in Mexico, it is nevertheless relevant to note the constraints which any improvement efforts of the system must address. The obvious constraints in an unequal country like Mexico are inadequate financial and academic resources which limit opportunities for both teaching and research. The problem affects both public and private institutions with under-funded libraries, limited electronic resources, including basic computers in some cases, and a scarcity of suitable updated study materials and books. In addition, inadequate remuneration fails to attract qualified and committed faculty to teaching careers, leading to low standards²⁰. Further, the resources which do exist, tend to be located in elite institutions leading to huge quality differences in Mexican law schools.

There are 31 separate states and one federal district in Mexico known as Mexico City. Each of them has a variable number of public and private universities offering law degrees and among them Master and PhD degrees²¹. According to the Ministry of Public Education, there are 975 universities in Mexico offering law degrees through 1597 different law programs. Despite that sizeable number, the education, faculty, curricula and research standards, when applicable, are quite dissimilar. The cities which have the greatest concentration of law schools are Mexico City, Guadalajara and Monterrey²². In most of them legal education standards are acceptable, and in a few of them outstanding, comparable to any law school in the developed world with high standards. On the other hand, standards in many of the non-elite law colleges spread across Mexico remain low.

In most Mexican universities and their corresponding law programs, IEL is not included as part of the curriculum. In the best-case scenario it is treated as a special module or spread out with other courses such as administrative law, intellectual property or finance law.

²⁰ The National Council of Science and Technology (CONACYT), which is the Mexican agency for supporting and stimulating research in Mexico, makes an additional effort to support economically professional research in Mexico through the National System for Research (SNI).

²¹ See Escuelas de Derecho en México at <<http://www.juridicas.unam.mx/navjus/esc/>>.

²² CARBONELL, 2013.

According to *Reforma* newspaper²³ which every year publishes a survey of Mexico's top Universities, established that for 2014, Mexico's top ranked universities are the *Universidad Nacional Autónoma de México* (UNAM), *Instituto Tecnológico Autónomo de México* (ITAM), *Universidad Iberoamericana* (Ibero), *Tecnológico de Estudios Superiores de Monterrey* (TEC) and *Universidad Panamericana* (UP), *Universidad La Salle* (La Salle), *Instituto Politécnico Nacional* (IPN), *Universidad Claustro de Sor Juana* and *Universidad Autónoma Metropolitana* (UAM).

Of the universities mentioned above, only five communicate and share with each other and with law schools worldwide the challenge of preparing students for the increasingly globalized practice of law. IEL encompasses a wide spectrum of subjects including trade in goods and services, financial law, economic integration, development law, antitrust law, business regulation, and intellectual property among others topics.

In the case of UNAM, the law school program offers IEL courses every semester at the bachelor degree level. It is one of the unique law schools which offers a complete course in Economic Law with an entire unit dedicated to IEL. However, other courses covering more specialized areas of IEL are offered as options such as intellectual property, international arbitration, economic integration, foreign investment, MERCOSUR, WTO dispute resolutions, NAFTA and European Union²⁴. Yet, UNAM Law School also offers advanced specialization for lawyers in intellectual property, international commercial law and international business transactions. UNAM also has one of the most prestigious research centers in the country called *Instituto de Investigaciones Jurídicas*²⁵.

Regarding ITAM law, IEL scholarship is offered as optional courses at the bachelor degree level. However, the most important highlight of ITAM law school, is that it is the only law school in Mexico which has a Centre for International Economic Law²⁶. ITAM has been active in the area of international economic law for many years, offering many courses in this field, including International Economics, WTO Law, NAFTA Law, Law and Economics, Public International Law,

²³ Reforma's newspaper survey is not an official parameter to measure universities performance and academic standards however is a regular and constant reference for Mexico. The survey is composed through questions formulated by 465 public and private employers, with the evaluation of 17 programs taught in 74 universities in Mexico. See <<http://gruporeforma-blogs.com/encuestas/?s=universidades>>.

²⁴ See <<http://www.derecho.unam.mx/oferta-educativa/licenciatura/presencial/plan-1447.php>>.

²⁵ See <<http://www.juridicas.unam.mx/>>.

²⁶ See <http://cdei.itam.mx/medios_digitales/in/about_centre.php#about_us>.

International Business Transactions and International Economic Relations Policy. ITAM students have won various awards in the European Law Students Association moot court competition on WTO law. ITAM graduates who competed in this prestigious moot competition have gone on to pursue careers in the private sector, in Mexico City and Washington, and the public sector, in the Permanent Mission of Mexico to the WTO and the Secretary of Economics.

The mission of ITAM's Centre for International Economic Law is to promote the study of an interdisciplinary research in international economic law which includes the regulation of international trade in goods and services, the regulation of foreign investment, intellectual property law, business competition law, treaties for the avoidance of double taxation and law governing international economic organizations such as the World Bank, the International Monetary Fund, the World Trade Organization and the World Intellectual Property Organization. IBERO²⁷ and TEC²⁸ law schools offer optional topics of IEL for bachelor candidates such as international commercial law, foreign investment, regional trade agreements, intellectual property, etc.

Finally, UP has, as well, optional topics of IEL in their law program for bachelor's degrees. However, UP Law School offers post-grad specialization for lawyers in intellectual property and business transactions, as well as a Master's degree program on Business Law including antitrust law, international banking law, intellectual property law, and international tax law among others. A PhD program is also available for research in any law field²⁹. All of these Mexican universities have international student exchange programs with universities worldwide.

2.2 New challenges for IEL teaching and research in Mexico

Mexico is one of the most open economies in the world, with free trade agreements and is an active member of the OECD and WTO. It is true that the most important region for Mexico is and will be North America. The region is a global economic powerhouse, with Canada, the United States, and Mexico together boasting around 470 million citizens and an economy totaling

²⁷ See <<http://www.uia.mx/web/site/tpl-Nivel2.php?menu=adAspirantes&seccion=LDerecho>>.

²⁸ See <<http://www.itesm.mx/wps/wcm/connect/ITESM/Tecnologico+de+Monterrey/Carreras+Profesionales/Areas+de+estudio/Derecho/>>.

²⁹ See <<http://www.up.edu.mx/depto.aspx?doc=4879>>.

some \$19 trillion-nearly equaling the EU in population and outpacing it in production. But it is not only NAFTA; Mexico also now forms part of the United States most ambitious international trade effort, the Trans-pacific Partnership (TPP). Bringing NAFTA partners together with Chile and Peru in the Western Hemisphere and Australia, Brunei, Japan, Malaysia, New Zealand, Singapore, and Vietnam across the Pacific, the bloc represents one-third of the world's trade and 40% of global GDP. The TPP is intended to transcend traditional free trade agreements and address such issues as regulatory coherence, e-commerce, and how to encourage small and medium size businesses to trade internationally, all of which would increase competition and deepen production chains.

But even as Mexico is reaching out to the north, it is also actively looking south. In 2012, it became a founding member of the Pacific Alliance, along-side Chile, Colombia, and Peru (Costa Rica and Panama are also expected to join soon). These like-minded globalizing countries are working to eliminate tariffs, allow the free movement of people, share diplomatic embassies overseas, and combine their stock markets into a joint trading platform. Although current trade and investment among the members of the Pacific Alliance remains modest, the bloc offers a space for rapid growth.

Nevertheless, and despite the perception of Mexico as one of the most open economies in the world, there is not enough IEL teaching and research to meet the "high demand" of knowledge in this area. Only five of the most prestigious universities in Mexico teach IEL seriously, and only one of them has a research center dedicated to IEL. Thus there is a need not only to teach more of IEL components, but more importantly to rethink why IEL must be taught in Mexico. Without hesitation, Mexico needs more IEL teachers and researchers due to our current and future international economic engagements. Further, IEL teaching and research can significantly contribute to the project of national transformation described above.

In particular, and inspired with *Seema Sapra* ideas³⁰, IEL teaching could contribute towards creating a network of linked discourses on governance reform. Such discourse networks are required to frame, design and execute the Mexican reforms. There is a need for a broad-based and inclusive discourse in Mexico which would support economic reforms and help legitimate them, particularly with the energetic reforms which have been the most criticized. IEL scholarship is one of many discourses and social processes where interventions could be initiated

³⁰ SAPRA, 2008.

by interested actors, in this case, by IEL academics, researchers and practitioners. IEL teaching could generate new knowledge and discourses by fostering an inward-looking focus on curricula. It could create new issue linkages and empower stakeholders with relevant knowledge and new ideas to critically analyze the reforms and devise better solutions to problems. All this would engender more inclusive dialogs and debates, which are necessary to build reform consensus and create legitimacy for actual programs.

IEL courses in Mexico need to be more present in universities curricula. However, they must not be orientated towards preparing a student for a possible, though extremely unlikely, career at the WTO, or in a Brussels or Washington trade law firm, or UNCTAD. Neither must they be directed only at preparing a student for a career at a Mexican anti-dumping firm or IP firm. Instead, IEL teaching in Mexican universities must be made relevant for many more students who will end up working for Federal, state or municipal governments, become entrepreneurs, join private business or industry as lawyers or managers, enter politics, or work in media. More specifically, IEL teaching and research will also contribute towards trade policy-making in Mexico by involving greater numbers of stakeholders. Thus, implementing IEL teaching in Mexico should consider a broader target audience than simply bachelor students. IEL courses could be specifically designed for existing legal practitioners, policy makers, including legislators and bureaucrats, and other stakeholders drawn from business, journalism, consumers, industry associations, civil society, and non-governmental organizations.

Finally, as mentioned in the case of India³¹, IEL teaching in Mexico needs to cover the domestic and international issues that IEL raises. Indeed, a focus on domestic issues in the IEL classroom and research agenda will help in better identification of IEL related concerns for Mexico. Rather than treating international treaties as foundational material and then going on to interpret and respond to Mexican problems, the analysis would begin first with a definition of the problem in the light of Mexican reform agendas and then move on to consider how IEL can contribute to the solution.

This section presents very preliminary thoughts on the types of challenges and changes that IEL curricula face in Mexico. These ideas would need to find their concrete shape in specific contexts of curricula design projects in Mexican academic institutions.

³¹ Ibid.

Conclusion

Mexico needs and has the obligation to teach more IEL in universities at different levels and targeting a broad base of students. Despite the globalization of this economy, north, south and overseas, Mexican academic institutions do not teach and research enough IEL. Only five of the most prestigious universities in Mexico teach some of the principal IEL disciplines, and only UNAM and ITAM have the most important centers for IEL research in Mexico. In particular, ITAM has the Center for International Economic Law with the WTO chair. For the size of its growing economy, Mexico more than ever, needs to teach and research more IEL.

The approval of President Peña Nieto's reforms has been a great success; nevertheless, we come to the complex part creating the secondary laws which will legally frame the reform agenda and its implementation. Mexico has to improve its institutional performance and enhance the administrative capacity of the public sector, at federal state and local levels. At this point, IEL teaching and research has an important role to play. IEL teaching can facilitate a more interactive engagement between the international community and domestic political and economic structures, so that stakeholders can more effectively influence, use and respond to IEL, to achieve broader domestic and international objectives for Mexico.

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