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# **Investment Committee Freedom of Investment Roundtable**

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## **Mexico's review process of FDI restrictions**

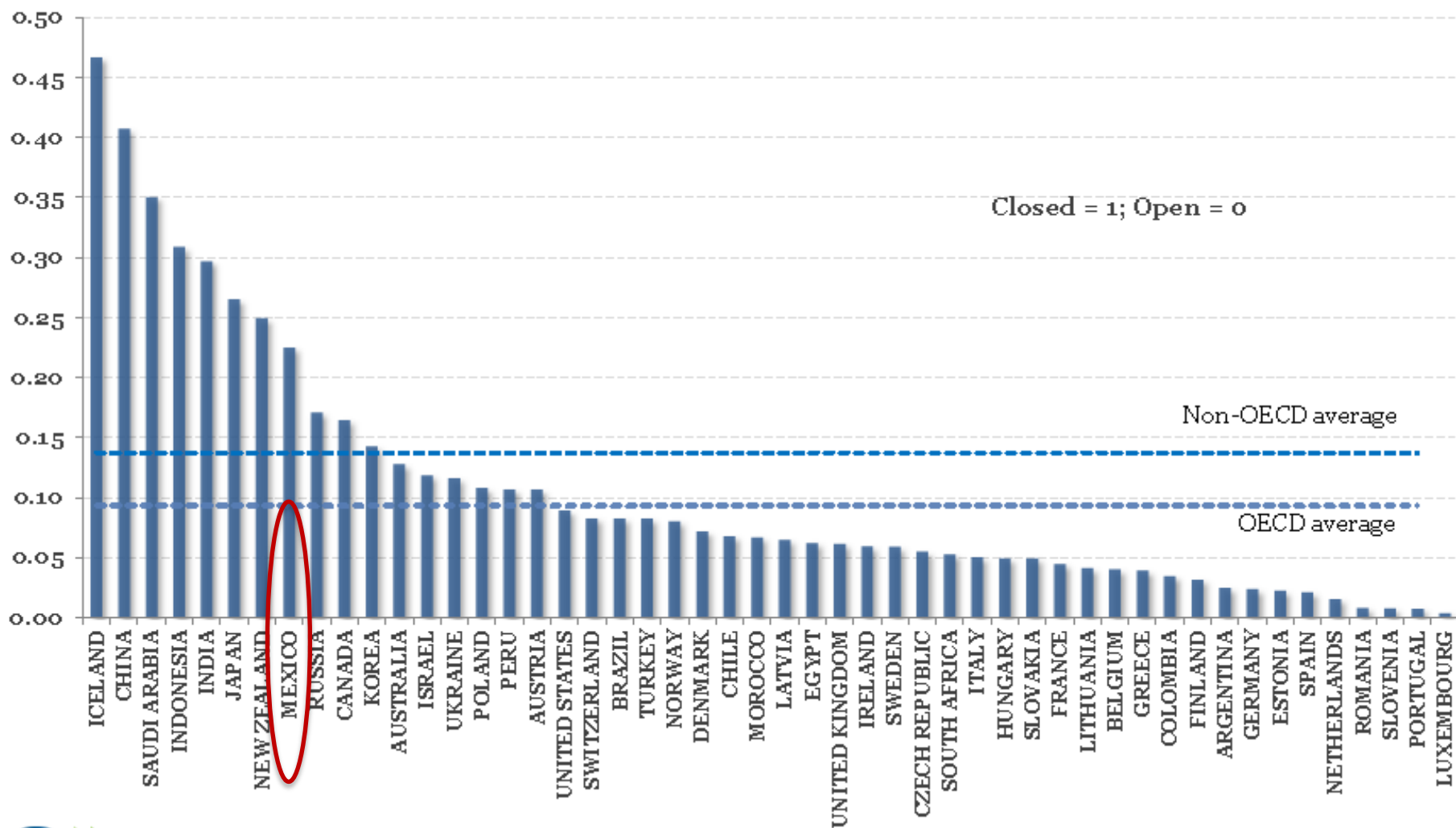
December 2011



## Four categories of activities pursuant to the Foreign Investment Law:

- **Reserved to the Mexican State**
  - e.g. oil & electricity, nuclear energy, radioactive minerals, telegraphy
- **Reserved to Mexican nationals**
  - e.g. broadcasting, road transport, gasoline franchises, distribution of liquefied petroleum gas
- **Subject to maximum equity caps from 10% to 49%**
  - e.g. fixed line telecommunications, air transport, maritime cabotage, newspapers, insurance, pension funds, currency exchange, explosives, fisheries
- **Subject to equity caps of 49% which may be exceeded through prior approval**
  - e.g. legal services, railway transport, airports, maritime services, education, mobile telephony, drilling of oil & gas wells

# MEXICO UNDER THE OECD RESTRICTIVENESS INDEX





The National Commission on Foreign Investment (the Commission) is composed by the heads of 10 Ministries and is empowered to:

- *establish policy guidelines on foreign investment,*
- *approve acquisitions of Mexican enterprises by foreign investors,*
- *provide opinion on foreign investment matters to the Federal Administration, and*
- *issue administrative regulations for the application of the Foreign Investment Law*

# REVIEW PROCESS ON FDI CAPS



- On July 2011, the Commission instructed its Technical Secretariat (Directorate General on Foreign Investment), to coordinate and produce an assessment on the economic rationale and convenience of the most relevant FDI equity restrictions set at the Foreign Investment Law
- The activities chosen are the following:
  - Broadcasting (open air television)
  - Fixed line telecommunications
  - Distribution of liquefied petroleum gas
  - Air transport
  - Road transport (freight, passengers & tourism)
  - Maritime cabotage
  - Financial services
  - Gasoline franchises
- The scope of the mandate does not include activities reserved to the Mexican State, as they do not constitute exceptions to the National Treatment principle

stage 1

stage 2

# REVIEW PROCESS ON FDI CAPS



- **An assessment per sector will be made, focusing on:**
  - ✧ existing work, studies & recommendations
  - ✧ international practice
  - ✧ regulatory elements
  - ✧ market structure (offer, demand & price)
  - ✧ levels of market concentration & competition conditions
  - ✧ the existence of any public justification behind the restriction
  - ✧ strengths, opportunities, weaknesses and threats
- **The assessments are meant to be brief and pragmatic but properly substantiated. They may recommend:**
  - ✧ the relaxation of the barrier
  - ✧ the elimination of the barrier
  - ✧ the maintenance of the barrier
- **Final implementation lies within the Federal Congress, as the Foreign Investment Law would have to be amended**

# REVIEW PROCESS ON FDI CAPS



- A session of the Commission is scheduled for December 15, 2011, in order to submit a preliminary version of the documents corresponding to “stage 1”:
  - **TV**
  - **fixed line telecommunications**
  - **LPG**
  - **air transport**
- After a reasonable process of review and comment within the members of the Commission, these assessments are expected to be released to the public opinion early next year
- The assessments corresponding to “stage 2” would be released during the first semester of 2012
- The Commission is conscious that unjustified restrictions to FDI inhibit investment flows and erode the competitiveness landscape in detriment of the efficiency of the various markets and the national economy’s dynamism