COUNTRY: **MEXICO**

SCORE: 60.79 | RANK: 15/24

Mexico has implemented many relevant cyberlaws, including privacy legislation, rules on data breach notification, and up-to-date cybercrime legislation.

Intellectual property laws in Mexico generally meet international standards, but enforcement action is rare and the bar is set very high for prosecution. Considerable improvement is required to gain confidence in intellectual property protection in Mexico. Proposals to update Mexico's copyright law to include a multiple notice and takedown regime were pursued in 2012 and 2013, but these efforts appear to have stalled.

In 2013, Mexico adopted a formal policy on technology neutrality as part of the National Digital Mexico Strategy. The strategy commits Mexico to the use of "technological solutions favoring neutrality and interoperability."

Internet use and broadband penetration remain very low in Mexico, and the country continues to face challenges in delivering a modern information technology (IT) infrastructure that can facilitate cloud computing. In 2014, the Mexican president announced a plan to develop a broadband network with a focus on expanding Mexico's wireless capability with a view to increase market competition.

Overall, Mexico's ranking did not change in 2015, remaining in 15th place. However, the country recorded impressive gains in both its legal / regulatory settings and its IT infrastructure.

Q MEXICO	RESPONSE	EXPLANATORY TEXT
DATA PRIVACY (SCORE: 8.4/10 | RANK: 5/24)		
1. Are there laws or regulations governing the collection, use, or other processing of personal information?	✔	The Federal Law for the Protection of Personal Data in Possession of Private Persons (Personal Data Protection Law) 2010 applies to the private sector. Regulations for the law were issued in December 2011. The Federal Law for Information Access and Government Transparency 2002 applies to the public sector. Mexico also has a specific children's privacy law, the General Law for Children and Teenagers (GLCT) 2014.
2. What is the scope and coverage of privacy law?	Comprehensive	Mexico has comprehensive privacy legislation covering all sectors.
3. Is the privacy law compatible with the Privacy Principles in the EU Data Protection Directive?	◑	The Personal Data Protection Law is broadly compatible to the principles in the European Union (EU) Data Protection Directive.
4. Is the privacy law compatible with the Privacy Principles in the APEC Privacy Framework?	◑	The Personal Data Protection Law is similar to the Asia-Pacific Economic Cooperation (APEC) Privacy Principles.
5. Is an independent private right of action available for breaches of data privacy?	Available	In addition to the Personal Data Protection Law, the Constitution and the Civil Code both contain limited privacy rights — personality rights and implied privacy rights. However, cases are rare and the rights are limited to very specific circumstances, such as interception of communications.
6. Is there an effective agency (or regulator) tasked with the enforcement of privacy laws?	National regulator	The Federal Institute for Information Access and Data Protection (Instituto federal de acceso a la información pública (IFIA)) <www.ifai.org.mx> has been established.
7. What is the nature of the privacy regulator?	Collegial body	The regulator consists of five commissioners, with one acting as the lead commissioner.
8. Are data controllers free from registration requirements?	✔	There are no registration requirements in Mexico's privacy law.

Q MEXICO	RESPONSE	EXPLANATORY TEXT
9. Are cross-border transfers free from registration requirements?	✔	There are no registration requirements for cross-border transfers. Some other limited cross-border privacy requirements are in place.
10. Is there a breach notification law?	✔	The Personal Data Protection Law includes a general requirement that data subjects (and the regulator) must be notified when a data breach occurs, depending on the nature and severity of the breach.
SECURITY (SCORE: 5.2/10 | RANK: 14/24)		
1. Is there a law or regulation that gives electronic signatures clear legal weight?	✔	Mexico amended its Civil Code and other statutes in 2003 to include basic provisions recognizing electronic signatures. Further recognition of "advanced digital signatures" was implemented by the government in 2011.
2. Are ISPs and content service providers free from mandatory filtering or censoring?	✔	There is little Internet censorship in Mexico. In 2014, the Telecommunications Competition Bill 2014 became law. Article 197 allows telecommunication signals to be blocked only in prisons or when requested by "authorities" for reasons of crime prevention. This article was altered by the Mexican Senate after criticism that the original wording granted the government wider scope for censorship.
3. Are there laws or enforceable codes containing general security requirements for digital data hosting and cloud service providers?	Limited coverage in legislation	Security measures must be taken through administrative, physical and technical means (Personal Data Protection Law 2010). The IFAI <www.ifai.org.mx> has also published several guidelines on security requirements <inicio.ifai.org.mx/SitePages/Documentos-de-Interes.aspx?a=m9>.
4. Are there laws or enforceable codes containing specific security audit requirements for digital data hosting and cloud service providers?	None	There are no enforceable security audit requirements in Mexico.
5. Are there security laws and regulations requiring specific certifications for technology products?	No requirements	Mexico is not a participant in the Common Criteria Recognition Agreement (CCRA) <www.commoncriteriaportal.org>, and product certifications are not used at this stage.
CYBERCRIME (SCORE: 8.6/10 | RANK: 12/24)		
1. Are cybercrime laws in place?	✔	The Mexican Federal Criminal Code (FCC) contains comprehensive cybercrime provisions.
2. Are cybercrime laws consistent with the Budapest Convention on Cybercrime?	✔	The Mexican Federal Criminal Code (FCC) includes provisions that closely match the Convention on Cybercrime, and Mexico has been considering a formal invitation to accede to the Convention.
3. What access do law enforcement authorities have to encrypted data held or transmitted by data hosting providers, carriers or other service providers?	Not stated	There are no specific laws or regulations regarding encryption in Mexico. General access to data requires a warrant.
4. How does the law deal with extraterritorial offenses?	Limited coverage	Mexico's Federal Code of Criminal Procedure 2010 contains some limited guidance on jurisdiction. The exact extent of extra-territoriality is undecided. Mexico's planned accession to the Cybercrime Convention may lead to greater certainty.
INTELLECTUAL PROPERTY RIGHTS (SCORE: 12.4/20 | RANK: 19/24)		
1. Is the country a member of the TRIPS Agreement?	✔	Mexico became a member of the TRIPS Agreement in 1995.
2. Have IP laws been enacted to implement TRIPS?	✔	In Mexico, international treaties are self-executing and do not need to be implemented by law. The Mexican Copyright Act 1984 (heavily amended in 1991 and 2003) and the Industrial Property Act 1991 cover most copyright and trademark issues. They need to be read together with Mexico's international treaty obligations. Some critics argue that the absence of any rights to an injunction for copyright breaches in Mexico represents a breach of the TRIPS Agreement. However, TRIPS does allow some flexibility in implementation, and this breach appears minor.
3. Is the country party to the WIPO Copyright Treaty?	✔	Mexico signed the WIPO Copyright Treaty in 1997 and ratified it in 2000. It entered into force in Mexico in March 2002.
4. Have laws implementing the WIPO Copyright Treaty been enacted?	◑	The 2003 amendments to copyright legislation in Mexico attempted to implement the main provisions of the WIPO Copyright Treaty. The legislation has been the subject of significant criticism as it sets a very high bar for criminal prosecutions and it does not include specific guidance on Internet service provider (ISP) liability.

Q MEXICO	RESPONSE	EXPLANATORY TEXT
5. Are civil sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	◑	Civil sanctions are available. However, there is little enforcement action or case law on Internet copyright issues.
6. Are criminal sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	◑	Criminal sanctions are available, but intellectual property rights in Mexico tend to be dealt with by the two administrative agencies, the PGR <www.pgr.gob.mx> (Prosecutor's Office at the Attorney General's Office) and IMPI <www.impi.gob.mx> (the Industrial Property Office). Court action is rare. Criminal action is very rare, and requires a direct complaint from the copyright holder and the presence of a "profit motive."
7. Are there laws governing ISP liability for content that infringes copyright?	◑	There is no specific legislation on ISP liability. ISPs are subject to the general liability principles in the copyright legislation, but there has been no enforcement or cases against ISPs. Provisions in the Telecommunications Law prohibit ISPs from disclosing personal information on customers to rights holders seeking civil recourse for copyright infringement. Proposals to update Mexico's copyright law to include a multiple notice and takedown regime were pursued in 2012 and 2013, but these efforts appear to have stalled.
8. Is there a basis for ISPs to be held liable for content that infringes copyright found on their sites or systems?	◑	There is no specific law on this issue, but in some cases liability may flow from the general principles in the copyright legislation in situations where the ISP was made aware of the infringing material.
9. What sanctions are available for ISP liability for copyright infringing content found on their site or system?	Civil and criminal	Both civil and criminal sanctions are available, but, in practice, enforcement is very rare.
10. Must ISPs take down content that infringes copyright, upon notification by the right holder?	✖	There is no takedown regime in Mexico.
11. Are ISPs required to inform subscribers upon receiving a notification that the subscriber is using the ISP's service to distribute content that infringes copyright?	✖	There is no specific notice requirement in Mexico.
12. Is there clear legal protection against misappropriation of cloud computing services, including effective enforcement?	Limited protection (criminal activity only)	Mexico has cybercrime laws and privacy laws. However, Mexican copyright law contains gaps in key areas and is poorly enforced. This may represent a risk for the protection of cloud computing services in Mexico.
SUPPORT FOR INDUSTRY LED STANDARDS & INTERNATIONAL HARMONIZATION OF RULES (SCORE: 9.2/10 | RANK: 15/24)		
1. Are there laws, regulations or policies that establish a standards setting framework for interoperability and portability of data?	✔	The Federal Law on Metrology and Standardization establishes a national standards-setting framework.
2. Is there a regulatory body responsible for standards development for the country?	✔	Traditionally, most Mexican standards were managed by the National Standardization, Metrology and Conformity Assessment System, which is coordinated by the Dirección General de Normas (DGN), part of the Ministry of Economy <www.economia.gob.mx>. However, Mexico is proposing to consolidate all Mexican standards development organizations (SDOs) into a single Mexican agency to be called AMEXNOR. This proposal has not yet been implemented.
3. Are e-commerce laws in place?	✔	The E-Commerce Act 2000 was implemented in Mexico in 2001.
4. What international instruments are the e-commerce laws based on?	UNCITRAL Model Law on E-Commerce	The E-Commerce Act amended the Mexican Civil Code, Code of Commerce and other statutes to implement the key provisions of the UNCITRAL Model Law on E-Commerce. Further amendments were made in 2003 to implement the UNCITRAL Model Law on E-Signatures.
5. Is the downloading of applications or digital data from foreign cloud service providers free from tariff or other trade barriers?	✔	There are no relevant tariffs or other trade barriers in Mexico.

Q MEXICO	RESPONSE	EXPLANATORY TEXT
6. Are international standards favored over domestic standards?	✔	Mexico has a strong focus on international standards in the IT sector.
7. Does the government participate in international standards setting process?	✔	Mexico is a member of the International Standards Organization (ISO) and an active participant in international standards development processes.
PROMOTING FREE TRADE (SCORE: 5/10 | RANK: 16/24)		
1. Are there any laws or policies in place that implement technology neutrality in government?	✔	In 2013, Mexico adopted a formal policy on technology neutrality as part of the National Digital Mexico Strategy <embamex.sre.gob.mx/italia/images/pdf/national%20digital%20strategy.pdf>. The strategy commits Mexico to the use of "technological solutions favoring neutrality and interoperability."
2. Are cloud computing services able to operate free from laws or policies that mandate the use of certain products (including, but not limited to types of software), services, standards or technologies?	✔	Proposed legislation to mandate open-source software (in 2001 and again in 2009) was unsuccessful.
3. Are cloud computing services able to operate free from laws or policies that establish preferences for certain products (including, but not limited to types of software), services, standards or technologies?	✔	Proposed legislation to mandate open-source software (in 2001 and again in 2009) was unsuccessful.
4. Are cloud computing services able to operate free from laws that discriminate based on the nationality of the vendor, developer or service provider?	✘	The Law on Procurement, Leases, and Services by the Public Sector (LAASSP) allows agencies to include a 10% preference for local suppliers in most cases. Mexico is not a member or an observer of the World Trade Organization (WTO) plurilateral Agreement on Government Procurement.
IT READINESS, BROADBAND DEPLOYMENT (SCORE: 12/30 | RANK: 21/24)		
1. Is there a national broadband plan?	• By 2018, a new national wireless broadband carrier network	In October 2014, the Mexican president announced a plan to develop a broadband network with a focus on expanding Mexico's wireless capability with a view to increase market competition. The government opened bids in January 2016 with a completion target of 2018. Mexico is also pursuing a program called "Mexico Conectado" <www.mexicoconectado.gob.mx>, which is seeking to provide Internet connectivity to public places, including schools, hospitals, parks and community centers. These follow the 2013 release of the Mexican National Digital Strategy <embamex.sre.gob.mx/italia/images/pdf/national%20digital%20strategy.pdf>. The strategy reports that increased investment in fiber-optic infrastructure is an "enabler" to achieve its goals by 2018, however it does not contain a national broadband plan, and no speed or connectivity targets have been published. The government hosts an online portal to view the implementation of the objectives of the digital strategy <www.presidencia.gob.mx/edn/indicadores>.
2. Are there laws or policies that regulate the establishment of different service levels for data transmission based on the nature of data transmitted?	Multiple regulations and extensive public debate	Article 146 of the Telecommunications Competition Bill 2014, explicitly favors net neutrality, stating that service providers "must provide Internet access that respects capacity, speed, and quality as contracted by the user, independent of the content, origin, destination, end, or application." The original wording of the article was changed in the Legislature after concerns that it may have permitted the establishment of Internet fast lanes.
3. Base Indicators		
3.1. Population (millions) (2014)	122	In 2014, the population of Mexico increased by 1.2%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
3.2. Urban Population (%) (2014)	79%	[World Bank, Data Catalog, Indicators, Urban Population (2015) <data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS>]
3.3. Number of Households (millions) (2014)	27	In 2014, the number of households in Mexico increased by 1.2%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]

Q MEXICO	RESPONSE	EXPLANATORY TEXT
3.4. Population Density (people per square km) (2014)	65	[World Bank, Data Catalog, Indicators, Population Density (2015) <data.worldbank.org/indicator/EN.POP.DNST>]
3.5. Per Capita GDP (US$ 2014)	$10,230	In 2014, the per capita gross domestic product (GDP) for Mexico increased by 2.1% to US $10,230. [World Bank, Data Catalog, Indicators: GDP per capita, current US$ (2015) <data.worldbank.org/indicator/NY.GDP.PCAP.CD> and GDP growth, annual % (2015) <data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG>]
3.6. IT Service Exports (2014) (billions of US$)	Not available	This World Bank indicator for 2014 for Mexico was not available at the time of publication. [World Bank, Data Catalog, Indicators: ICT Service Exports US$ (Dec 2015) <data.worldbank.org/indicator/BX.GSR.CCIS.CD>]
3.7. Personal Computers (2014) (% of households)	38%	In 2014, 38.3% of households in Mexico had personal computers. This is an increase of 7% since 2013 and ranks Mexico 95 out of 183 countries surveyed. The growth from 2013 is below the five-year compound annual growth rate (CAGR) from 2009 to 2014 of 7.4%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/en/ITU-D/Statistics/Pages/publications/wtid.aspx>]
4. IT and Network Readiness Indicators		
4.1. ITU ICT Development Index (IDI) (2015) (Score is out of 10 and covers 167 countries)	4.68	Mexico's ITU ICT Development Index (IDI) for 2015 is 4.68 (out of 10), resulting in a rank of 95 (out of 167 economies). The 2015 IDI for Mexico increased by 9.1%, and the IDI ranking has remained the same since 2013. [International Telecommunication Union (ITU), Measuring the Information Society (Dec 2015) <www.itu.int/en/ITU-D/Statistics/Pages/publications/mis2015.aspx>]
4.2. World Economic Forum Networked Readiness Index (NRI) (2015) (Score is out of 7 and covers 143 countries)	4.03	Mexico has a Networked Readiness Index (NRI) score of 4.03 (out of 7), resulting in a rank of 69 (out of 143 countries) and a rank of 16 (out of 40) in the upper middle income grouping of countries. The 2015 NRI for Mexico increased by 3.5% and improved from a rank of 79 since 2014. [World Economic Forum, Global Information Technology Report (2015) <reports.weforum.org/global-information-technology-report-2015>]
4.3. International Connectivity Score (2014) (Score is out of 10 and covers 52 countries)	4.10	Mexico has an International Connectivity Score of 4.1 (out of 10), resulting in a rank of 17 (out of 26) in the resource-driven grouping of countries. [International Connectivity Scorecard (2013) <www.connectivityscorecard.org>]
5. Internet Users and International Bandwidth		
5.1. Internet Users (millions) (2014)	53	[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
5.2. Internet Users as Percentage of Population (2014)	43%	In 2014, 43% of the population in Mexico used the Internet, resulting in a ranking of 103 out of 199 countries surveyed. This represents an increase of 9.3% since 2013.The growth from 2013 is below the five-year CAGR from 2009-2014 of 14.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/en/ITU-D/Statistics/Pages/publications/wtid.aspx>] Note: There may be some variations as to how countries calculate this. Some countries base this upon all or part of the population, such as between 16 and 72 years of age.
5.3. International Internet Bandwidth (2014) (bits per second per Internet user)	20,926	The International Internet Bandwidth (per Internet user) of Mexico has increased by 11% since 2013. The growth from 2013 is below the five-year CAGR from 2009-2014 of 32.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
5.4. International Internet Bandwidth (2014) (total gigabits per second [Gbps] per country)	1,150	Mexico has increased its International Internet Bandwidth by 15% since 2013 to 1,150 Gbps and is ranked 30 out of 215 countries surveyed. The growth from 2013 is below the five-year CAGR from 2008-2013 of 49.3%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]

The Software Alliance

Q MEXICO	RESPONSE	EXPLANATORY TEXT
6. Fixed Broadband		
6.1. Fixed Broadband Subscriptions (millions) (2014)	13	Mexico has increased the number of fixed broadband subscribers by 8% since 2013 to 13 million, and is ranked 12 out of 215 countries surveyed. The growth from 2013 is below the five-year CAGR from 2009-2014 of 12.3%.
		[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
6.2. Fixed Broadband Subscriptions as % of households (2014)	48%	[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
		Note: This may be skewed by business usage in some countries.
6.3. Fixed Broadband Subscriptions as % of population (2014)	10%	Mexico has increased its fixed broadband subscriptions (as a % of the population) by 0.8% since 2013, which is below the five-year CAGR from 2009-2014 of 4.8%. This ranks Mexico 90 out of 215 countries surveyed.
		[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
		The Organization for Economic Cooperation and Development (OECD) figures below present a breakdown on the type of fixed broadband connections in Mexico.
		Note: The OECD data for Mexico for 2014 is preliminary, and Mexico is currently reviewing the fixed broadband data in relation to reporting on this to OECD.
		In the OECD during 2014, Mexico was ranked 34 out of 34 for fixed broadband subscribers as a percentage of population [OECD Broadband Subscribers (July 2015) <www.oecd.org/sti/ict/broadband>]
		• DSL: 3%
		• Cable: 6.7%
		• Fiber/LAN: 0.7%
		• Other: 0.3%
		Total: 10.7% (12.8 million subscriptions). The OECD average total for 2014 was 28.2%.
		Mexico's fixed broadband growth for 2014 was -1% (ranked 34 out of 34 for growth), significantly below the OECD average growth of 7.7%.
		In Mexico, fiber makes up 6.9% of fixed broadband subscriptions (ranked 19 out of 34), below the OECD average of 17%. The growth in fiber subscriptions for 2014 was 14.7% (ranking Mexico 24 out 34 for growth) and above the OECD average of 13%.
		Note: From July 2015, OECD adjusted its definitions of fixed and mobile broadband by transferring the categories satellite and fixed wireless from mobile to fixed broadband.
		Note: Fiber subscriptions data includes FTTH, FTTP and FTTB and excludes FTTC.
		Note: There may be minor variations in the ITU and OECD subscriber totals due to definition or timing differences.
6.4. Fixed Broadband Subscriptions as % of Internet users (2014)	25%	[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (June 2014) <www.itu.int/ITU-D/ict/publications/world/world.html>]
7. Mobile Broadband		
7.1. Mobile Cellular Subscriptions (millions) (2014)	102	In 2014, Mexico decreased the number of mobile cellular subscriptions by -4.6% and is ranked 13 out of 215 countries surveyed. The number of subscriptions account for 83% of the population.
		[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
		Note: This figure may be inflated due to multiple subscriptions per head of population, but excludes dedicated mobile broadband devices (such as 3G data cards, tablets, etc.).

Q MEXICO	RESPONSE	EXPLANATORY TEXT
7.2. Active Mobile Broadband Subscriptions per 100 inhabitants (2014)	41	Mexico has increased the number of active mobile-broadband subscriptions (as a % of the population) by 28% since 2013. This ranks Mexico 84 out of 215 countries surveyed. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>] Note: This refers to the sum of standard mobile-broadband and dedicated mobile-broadband subscriptions to the public Internet. It covers actual subscribers, not potential subscribers, even though the latter may have broadband-enabled handsets. The OECD figures below present a breakdown on the type of mobile broadband connections in Mexico. For 2014, Mexico's OECD rank was 31 out of 34 for mobile wireless broadband subscribers as a percentage of population [OECD Broadband Subscribers (July 2015) <www.oecd.org/sti/ict/broadband>] • Standard mobile broadband subscription: 41.7% • Dedicated mobile data subscriptions: 0.8% Total: 42.5% (51 million subscriptions). The OECD average total for 2014 was 81.3%. Mexico's mobile broadband growth for 2014 was 239% (ranked 1 out of 34 for growth), significantly above the OECD average growth of 21.1%. Note: The OECD data for Mexico for 2014 is preliminary, and Mexico is currently reviewing the broadband data in relation to reporting on this to OECD. Note: From July 2015, OECD adjusted its definitions of fixed and mobile broadband by transferring the categories satellite and fixed wireless from mobile to fixed broadband. Note: The OECD figures include mobile data subscriptions, which are not as consistently reported in the ITU indicators.
7.3. Number of Active Mobile Broadband Subscriptions (millions) (2014)	51	In 2014, Mexico increased the number of active mobile-broadband subscriptions by 29% and is ranked 12 out of 215. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]

2016 BSA Global Cloud Computing Scorecard · www.bsa.org/cloudscorecard | 7