

Voluntary Report – Voluntary - Public Distribution

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Report Name: Hemp Regulation and Trade in Mexico

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Report Highlights:

This report outlines the current situation for hemp and hemp-related products in Mexico. Given the proximity in both geographic and cultural terms, the growth in the industrial hemp sector in the United States is clearly recognized in Mexico. However, years of illicit cannabis cultivation in Mexico, and the resulting strict legal framework designed to prevent drug trafficking currently restricts potential for related items that have established a legal presence in the United States and other countries. Trade in hemp products is also limited, but the United States holds a sizeable market share of what hemp fiber products Mexico does import.

Introduction

The hemp industry in the United States has grown since the 2014 Farm Bill distinguished industrial hemp production from marijuana and established pilot projects for its commercial production, followed by the full legalization of the crop in the 2018 Farm Bill.¹ Meanwhile, Mexico's legal framework has not yet recognized industrial hemp as its own distinctive product or industry from other cannabis products. In Mexico, misinformation persists on the definitions of cannabis, hemp, and related terms like tetrahydrocannabinol (THC), cannabitol (CBN), or cannabidiol (CBD) oil, and of their properties, effects, and usage. Despite having a recognized potential for hemp production and commercialization, legal uncertainty and limited market knowledge has caused many business projects to stall or be cancelled. Still, through several technicalities, adjusted regulation and continuous lobbying from interested parties, Mexico is moving towards becoming an active participant in the production and trade of hemp products.

Historical Background

Cannabis was introduced to Mexico by the Spanish conquerors in the 1500s. There are publications from the late 1800s that describe how the Mexican Pharmaceutical Society distinguished two types/varieties of cannabis: sativa, with recognized medicinal properties, and indica, a less studied variety with hypnotic and sedative effects.² By 1896, the Society reported that biologists had identified extracts called *cannabin*³ as the active ingredient of the cannabis indica plant, a precursor to the discovery of cannabinoids like CBN (1940), CBD (1942) and THC (1964). Chemical and medical references began mixing the definitions of the species, their chemical components, and also their effects, causing widespread confusion when speaking of cannabis. In the early 20th century, Mexico began to establish regulations to substances like heroin, opium, peyote, and alcohol as part of its health policies. The sanitary codes of the time, instead of prohibiting, merely regulated the products considered to have potential addiction problems that could generate social disruption.

While still recognizing some medicinal properties, the regulation became stricter, and in 1920, cannabis (by now called marijuana, regardless of the variety) was included among products considered hazardous. The Government of Mexico (GOM) published a decree⁴ that year which listed morphine, opium, heroin, cocaine, and cannabis as products that represented a risk for public health. Strangely enough, except for cannabis, the decree considered the medicinal properties (at the time) of all the regulated products and allowed their production and trade. As for cannabis, the decree merely declared that its production and consumption was forbidden in Mexico. In 1925, additional regulation explicitly confirmed the prohibition and extended the restriction to imports of foreign cannabis products. By 1933, Mexican

¹ USDA Economic Research Service (ERS)

² Sociedad Farmaceutica de Mexico. *Nueva Farmacopea Mexicana*. Imprenta Ignacio Escalante, Mexico, 1874.

³ Also called cannabinine, cannabene, and cannabindine. Felter & Lloyd. *King's American Dispensatory*. 1898.

⁴ Secretaria de Gobernacion. *Disposiciones sobre el comercio de productos que pueden ser utilizados para fomentar vicios que degeneren la raza y, sobre el cultivo de plantas que pueden ser empleadas con el mismo fin*. Diario Oficial, Tomo XIV, Numero 63, Departamento de Salubridad Publica. Mexico. 1920.

regulation classified both varieties under the marijuana definition and began imposing fines and prison time for those not following the restrictions, something that prevailed until the 2000s, when legal battles resulted in recognition of the industrial/commercial uses of cannabis and its products.

Hemp's Legal Framework

Legally speaking, production, commercialization and use of cannabis is still considered a criminal offense in Mexico. Several exceptions are established in Mexico's regulatory framework, but so far only apply, in a very limited way, for medicinal and research purposes, and for some specific products containing less than 1% THC. While the Supreme Court recently declared the explicit prohibition of the recreational use of cannabis unconstitutional, it still requires Congress to setup a legal framework that would specifically regulate cannabis. Furthermore, at present, this ruling currently applies only to the specific plaintiff in the case, and instructs the *Comision Federal para la Proteccion contra Riesgos Sanitarios*(COFEPRIS) to issue the plaintiff with the necessary permissions to produce, process and sell industrial hemp products.

Since 2018, 20 different cannabis-related regulation proposals have been received by the Senate. In 2020, these were amalgamated into one Cannabis Regulatory Federal Law⁵ that was approved by the Senate and sent for its review to the Lower House. Among other things, the proposed bill confirms a 1% THC limit for hemp, creates a regulatory agency specifically for cannabis products, establishes some production licenses, and requires a percentage of said licenses to be granted to underprivileged communities and farmers. Because the reviewing chamber heavily modified the original proposal, it had to be again reviewed by the Senate, but it lost traction and was eventually discarded. Post has received information that a new version, very similar to the original, will be discussed in the Senate during the current session period. Still, that will only be a first step towards legalization, with a need for second-tier regulations to be set in place as well. There is a [Senate webpage](#) which concentrates all the information related to the development of cannabis regulation.

Mexico's Federal Penal Code establishes procedures and sanctions applied to crimes against public health, but refers to Article 234 of the National Health Law (*Ley General de Salud*, or LGS) for definitions of products considered narcotics. The list includes: "Cannabis sativa, indica and americana⁶ or marijuana, its resin, prepared products and seeds". All prepared or derived products which include the listed substances, or its chemical precursors, will be considered a narcotic. Article 235 of the LGS then establishes that any activity related to narcotics (including, but not limited to planting, harvesting, processing, possession, trade, transportation, prescription, use or consumption) will need authorization from the Health Secretariat (*Secretaria de Salud*, or SALUD).

A reform on the LGS was enacted in 2017, mandating SALUD to design and execute public policies that would regulate the medicinal use of pharmaceutical derivatives from cannabis, including tetrahydrocannabinol (THC) and to oversee the research and domestic production of said derivative products for medicinal and investigation purposes. To that effect, on October 30, 2018, COFEPRIS

⁵ Proyecto de Decreto por el que se expide la Ley Federal para la Regulacion del Cannabis, y se reforman y adicionan diversas disposiciones de la Ley General de Salud y delCodigo Penal Federal. [Senado de la Republica](#).

published the Guidelines regarding the Sanitary Control of Cannabis and its Derivates.⁷ The guidelines sought to regulate the medicinal and research markets for cannabis products and established the first mechanism under which the Mexican government could authorize the commercialization, imports, and exports of cannabis-derived products with ample industrial uses and containing less than 1% THC.

Through the established mechanism, COFEPRIS approved and granted around 60 permits to produce cannabis-based ingredients, food items, beverages, supplements, cosmetics, and pharmaceutical products. Between 10 to 15 companies benefited from the regulation, but it was short lived, as a new Administration took office on December 1, 2018. On March 26, 2019, due to the guidelines not following the proper regulatory approval process and not considering related agencies input for its publication, the guidelines were revoked, and the permits were cancelled. COFEPRIS announced it would seek to publish the appropriate regulation required by the 2017 reform and published a Ruling for the Sanitary Control of the Production, Research and Medicinal Use of Cannabis and its Products.⁶

This new regulation defines the procedures required to get authorizations from COFEPRIS to carry out the two current authorized uses of cannabis: research and manufacturing/sale of medicines. Investigative projects using cannabis-based products will require Research Protocols to be approved by COFEPRIS. Meanwhile, companies wishing to produce, import, export or use raw materials, pharmaceutical derivatives or medicines containing cannabis, will require a COFEPRIS Authorization.

The Ruling also establishes the conditions to produce cannabis that would be used for the aforementioned research or medicinal purposes. In the case of importing seeds, interested parties need to request a Raw Material Import permit, issued by SALUD, and cleared by the National Plant and Animal Health, Food Safety and Agri-Food Quality Service.

Hemp Trade

The only current available data for hemp products trade in Mexico refers to the two tariff codes describing fiber derived from hemp. Similar to the U.S. Harmonized Tariff Code, Mexico uses the following classification:

5302 True hemp (*Cannabis sativa* L.), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garneted stock):

5302.10.01 – True hemp, raw or retted

5302.90.99 – All other

Exports for this tariff code are minimal, while imports, only slightly more robust, have remained steady for the last three years. In terms of volume, for 2021, the United States accounted for 63% of the total Mexican imports of this tariff group, France came second, with 29%. With Mexico's total imports of hemp fiber in 2021 standing at roughly \$120,000, or just under 25 metric tons (MT), trade is currently

⁶ Reglamento de la Ley General de Salud en Materia de Control Sanitario para la Produccion, Investigacion y Uso Medicinal de la Cannabis y sus Derivados Farmacologicos. [Diario Oficial de la Federación](#).

minimal when considering the United States exported worldwide an estimated \$2.8 million and over 1,000 MT under this tariff code group in 2021.

Figure 1: Mexico’s Imports of Tariff Code Group 53.02; Value in ‘000 USD

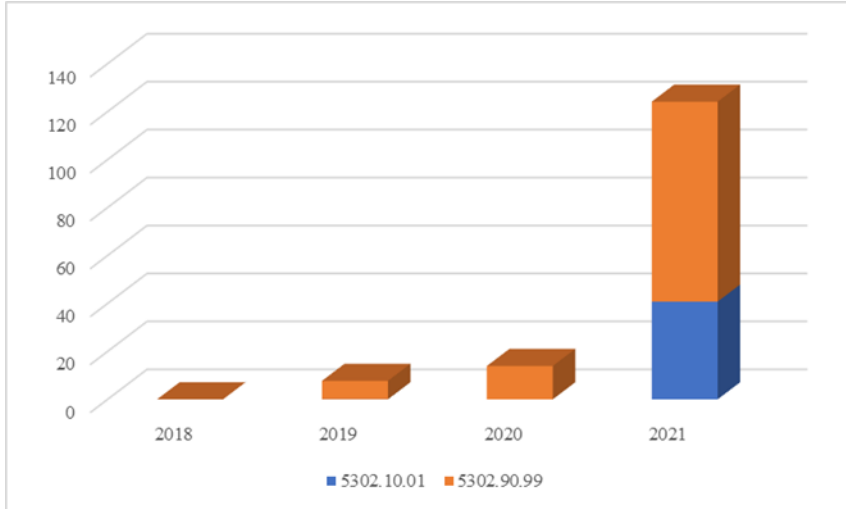
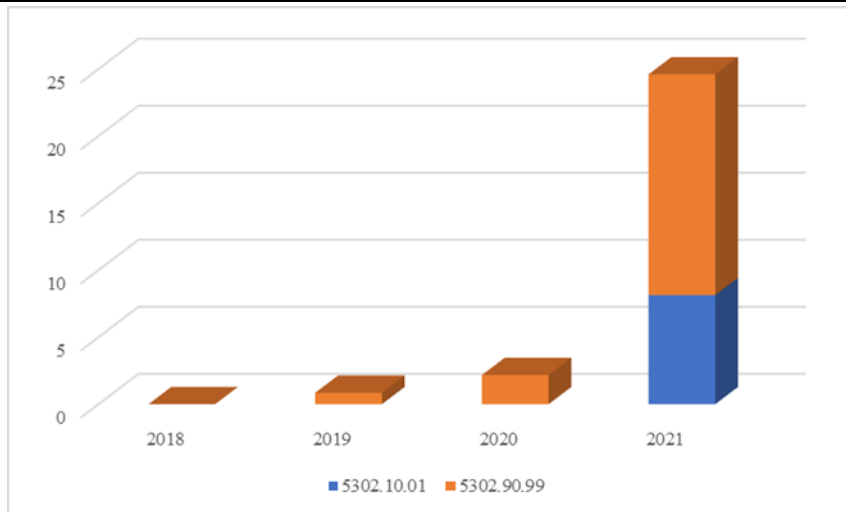


Figure 2: Mexico’s Imports of Tariff Code Group 53.02; Volume in MT



Mexico had a tariff code for hemp seeds, but it was eliminated in 2020, and hemp seeds are now bundled in an “all other” category.

- 1207 Other oil seeds and oleaginous fruits, whether or not broken:
- 1207.99.01 Hemp seed

Since 2021, products classified in the above tariff code now use code 1207.99.99, which encompasses seeds of different species. Likewise, exports of this tariff code were irrelevant, while imports showed a more stable behavior.

Figure 3: Mexico's Imports of Tariff Code 1207.99.01; Value in '000 USD

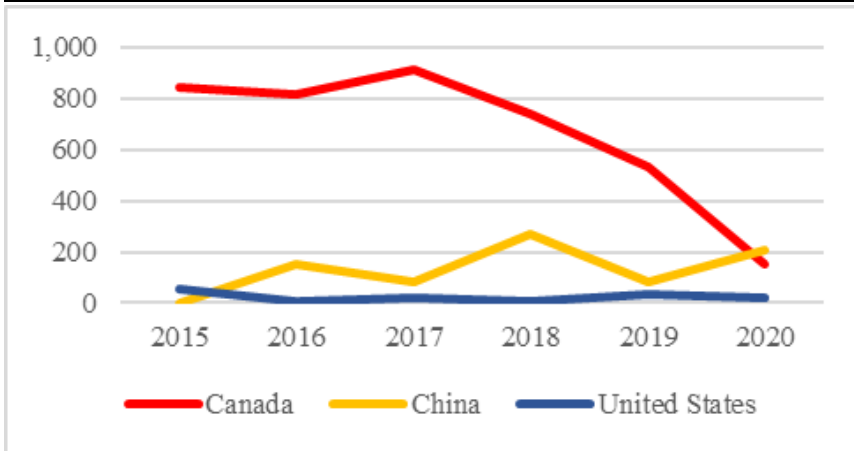
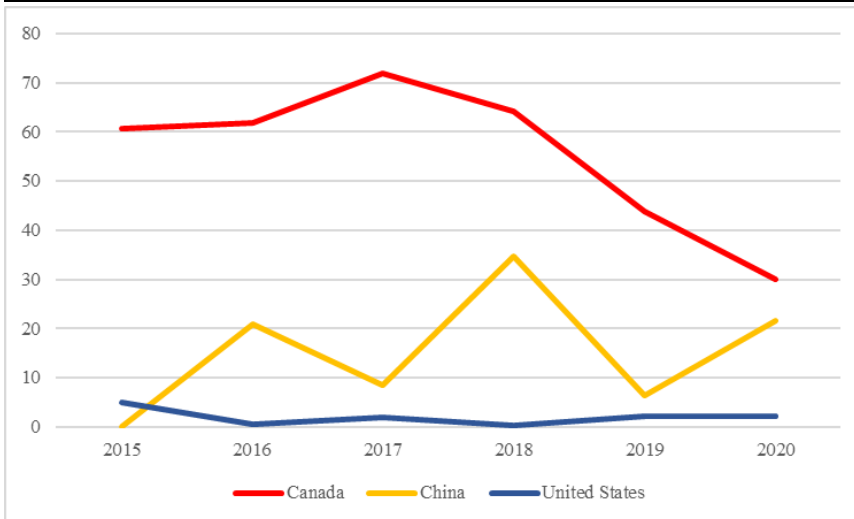


Figure 4: Mexico's imports of tariff code 1207.99.01; volume in MT



Mexico has other tariff codes for cannabis-related products, but the Ministry of the Economy reports them as “Forbidden” and does not report any trade data. The tariff codes are:

1209 Seeds, fruits, and spores, used for sowing:

1209.99.07 Of marijuana (*Cannabis indica*), even when mixed with other seeds

1211 Plants and parts of plants, including seeds and fruits, of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal, or similar purposes, fresh, chilled, frozen or dried, whether or not cut, crushed or powdered:

1211.90.02 Marijuana (*Cannabis indica*)

1302 Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products:

1302.29.02 Of marijuana (*Cannabis indica*)

1302.39.04 Derived of marijuana (*Cannabis indica*)

3003 Medicaments (excl. goods from 3002, 3005 or 3006) consisting of two or more products which have been mixed for therapeutic or prophylactic uses, not in measured doses or in packings for retail sale:

3003.49.01 Preparations based on *Cannabis indica*

3003.90.05 Preparations based on *Cannabis indica*

3004 Medicaments (excl. goods from 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, in measured doses (including transdermal administration systems) or in packings for retail sale:

3004.40.02 Preparations based on *Cannabis indica*

3004.90.33 Preparations based on *Cannabis indica*

According to the Custom Brokers' Association, the proposed Law that got stalled and discarded in Congress considered eliminating the forbidden status of some or all of the above tariff codes.

The Future of Hemp in Mexico

In terms of competitiveness, several foreign companies specialized in hemp production and trade have praised Mexico for having the adequate conditions to become a hemp producing powerhouse. First, the unavoidable reference of "successful" illicit plantations of cannabis in Mexico's Golden Triangle (formed by the states of Chihuahua, Durango, and Sinaloa) and cases like the 2011 announcement of a 120-hectare state-of-the-art marijuana plantation in the state of Baja California, can provide references of the potential Mexico has for hemp production.

Second, the country is often referred to as having lower-cost labor, and more competitive logistics and trade costs, with top-notch infrastructure and services, and a very useful network of free-trade agreements with over 50 countries. Several companies have made alliances with foreign suppliers, preparing networks of distribution for consumer-oriented products. U.S., Canadian and European companies have either established an office in Mexico or partnered with distributors, pharmaceutical companies and specialized retailers.

Conclusion

Based on information provided by industry contacts, the Mexican regulatory framework has established the path to develop, at first, a legal path for industrial hemp products. However, it lacks particular details

and specific procedures to achieve this goal. This creates commercial uncertainty for many potential importers and those seeking to develop domestic industries. Despite the lack of a legal market for hemp products in Mexico, they do exist on the market, with most introduced during the small window created during the political transition in 2018-2019. As evidenced by recent court decisions in favor of industrial hemp production, processing and trade (albeit for a single entity), speaks to the intense interest in establishing a domestic hemp industry in Mexico. However, the lack of a formal legal framework will continue to dampen prospects of potential business opportunities in the sector.

Attachments:

No Attachments.