

# MARIE CURIE TRAINING COURSE ON THE HUMAN DIMENSION OF GLOBAL ENVIRONMENTAL CHANGE

Training Course Paper

Title:

Hybridization of the environmental regulatory framework in Mexico

Abstract:

This paper will explain and analyse how the Mexican state calls on private actors to ensure higher level of compliance with domestic environmental regulations and what are the outcomes of such dynamics in terms of environmental governance. The paper argues that it is in developing countries, where the state has little resources to ensure that business actors will comply with existing environmental regulations that voluntary regulations need to be assessed. In Mexico, the framework within which voluntary regulations take place is actually designed and shaped by the state but increasingly operated by private actors.

Key words:

Self-regulation, Mexico, environmental governance, private authority, Clean Industry program

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## **Introduction**

This paper is an extract from a broader research which explores the regulatory role played by private actors in the environmental domain in Mexico. The overall research is actually focusing on the influence of foreign business actors over the regulatory capacity of the state in the context of developing countries where domestic institutions are relatively weak. However, this specific paper will only explain and analyse how the Mexican state calls on private actors to ensure higher level of compliance with domestic environmental regulations and what are the outcomes of such dynamics.

If voluntary environmental regulations have received some attention in the literature on environmental governance in recent years, research focused by large on developed countries (see Braitwaite and Drahos 2000, Lyon and Maxwell 2008, Nash and Ehrenfeld 1996, Rondinelli and Berry 2000). However, it is particularly in developing countries, where the state has little resources to ensure that business actors will comply with existing environmental regulations that voluntary regulations need to be assessed. In Mexico, the framework within which voluntary regulations take place is actually designed and shaped by the state but increasingly operated by private actors.

Change in environmental governance occurred as a result of broader transformations in the political economy of Mexico. This paper will proceed as follows: first, it will outline the theoretical background within which the paper has to be located. The following two sections will then show how institutionally – through its legal framework – and practically – through a specific initiative: the Clean Industry Program [el programa Industria Limpia] –, the Mexican state encourages and supports self-regulatory initiatives from economic actors in the environmental domain. Finally, the last section will review the consequences of this hybridization of environmental governance in Mexico

## Theoretical background

For the most part of the 20<sup>th</sup> century, the Mexican state has been highly interventionist, restricting foreign investment, nationalizing large companies and implementing protectionist policies<sup>1</sup>. Mexico committed to take coercive measures to address the negative externalities of its rapid industrialization after Stockholm 1972<sup>2</sup> as did many other countries. However, if the Mexican state was able to design and implement a specific economic model, it seemed unable to enforce the environmental laws and regulations it was developing at the domestic level over industrial actors. The control of the state over the industrial sector, directly – through state-owned enterprises – and indirectly – through industrial policies – sounds then inconsistent with the lack of enforcement of existing environmental regulations.

In fact, from the 1970s to the mid-1990s, the Mexican government was clearly reluctant to penalize businesses which were ignoring environmental regulations. It was not exclusively because the state lacked the resources to control and fine these companies, but because it considered that complying with existing regulations would disadvantage domestic firms and therefore hinder national economic development (Gallagher 2004). On the one hand the state was establishing its first environmental regulatory framework and on the other hand it chose not to enforce environmental regulations to protect the interests of the Mexican industrial sector.

The liberalization of the Mexican economy since the early 1980s and throughout the 1990s, post-NAFTA<sup>3</sup>, increased the importance of freer markets in the Mexican political economy (Dussell Peters 2000) and therefore the influence of foreign economic actors. Such a tremendous change in the Mexican political economy has had repercussions over the state's strategy to protect and preserve the natural environment. In terms of environmental regulations, this evolution materialized in that

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<sup>1</sup> This economic model, known as Import-Substitution Industrialization, was developed by economists such as R. Prebisch, H. Singer and C. Furtado, it represented an alternative to the Free Trade agenda and has been embraced by a number of developing countries in Latin America (and to some extent in Asia and Africa) from the 1930s to the 1980s

<sup>2</sup> Stockholm 1972: UN Conference on the Human Environment: UN's first major conference on international environmental issues, and marked a turning point in the development of international environmental politics

<sup>3</sup> The North American Free Trade Agreement was signed and ratified in 1994 between Mexico, the United States and Canada

the state went from a command-and-control approach to a more inclusive strategy, inviting business actors, domestic and foreign, to participate in establishing regulatory mechanisms<sup>4</sup>. At the same time, it is the Mexican state which actively pursued economic liberalization. However, as noted by Ross Schneider (2009: 555), it does not mean that the form of capitalism which has been developing in Latin America since then – and this includes Mexico – can be qualified as “state-led” or “market-led” but in fact, it is a form of “business-led” development. The business sector has grown in terms of its political influence and its material power; within this category, foreign Multinational Corporations (MNCs) occupy a special place in Mexico.

Foreign investment has always been present in Mexico in one form or another but this phenomenon became more visible in the second half of the 1990s through the presence of many large MNCs – subsidiaries, branches, affiliates – mostly from the United States. Materially, these foreign firms, in particular in the manufacturing sector, play an important role in the Mexican economy because they represent investments, jobs, and revenues for the state (Pacheco-López 2005: 1157). The Mexican economy grew increasingly dependent on these organizations which occupy leading positions in a number of key industrial activities such as car manufacturing, food and beverage, pharmaceuticals, chemicals, etc (Dussel Peters 2000). Foreign MNCs have therefore gained some form of material power over the Mexican state.

Regarding environmental politics, these firms have also increased their discursive power as concepts such as sustainable development or corporate social responsibility have progressively gained momentum in Mexico with the help of business-driven organizations and policy-oriented think-tanks. The Mexican Centre for Philanthropy (CEMEFI: Centro Mexicano de Filantropía) includes most large businesses in Mexico, foreign and domestic, and is a good and illustration of such a trend. The Mexican chapter of the World Business Council for Sustainable Development (CESPEDES) is another forum which strongly promotes mechanisms of self-regulation for industry and opposes traditional state policies imposed on businesses. Corporate environmental voluntary regulations are now taken seriously by the Mexican state which is willing to

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<sup>4</sup> The broader research established a parallel between the liberalization of the Mexican economy and evolution of the environmental legal framework

engage with these firms on these topics still at the same time defined primarily by the MNCs.

Foreign firms are present in industry associations, chambers of commerce, and any instances at the domestic level which play the role of political forum where private actors can express their interests and be consulted by the government. Along with opening up its economy to foreign investment, the state has also increasingly included business actors, such as industry associations, in its environmental regulatory endeavour and therefore provided foreign MNCs with the possibility to express their vision of how to tackle environmental issues. In other words, although they have ways to directly use their power, foreign MNCs do not have to oppose frontally the Mexican state. They use existing institutions to modify the dominant approach to environmental regulations and reframe environmental issues along lines which are non-threatening to their economic activities. In doing so, and because they participate in some aspects of the policy-making process in the environmental arena, they are able to convince the state that the realization of their interests, coupled with their environmental commitments, carry benefits for the state and for society and should therefore be protected and enhanced.

The environmental self-regulatory endeavour of foreign MNCs is a source and an expression of private authority in the political economy of Mexico. Theoretically, the environmental realm is an interesting arena to understand the ways in which foreign MNCs create and use power but also how the state manoeuvres and uses the private sector to try to achieve goals that it would otherwise not achieve. If little study has been conducted on voluntary regulations in developing countries, emerging research (Blackman et al. 2007) indicates that they do not play the same role than in industrialized states. In the latter case, enforcement of existing regulations and the institutional arrangements in place ensure that in general, compliance is not an issue. Self-regulations mainly exist to push firms to go beyond existing regulations (Lyon and Maxwell 2002). However, in developing countries, monitoring, control, and enforcement of existing regulations is problematic and self-regulations therefore may be a tool to ensure that firms will comply with existing norms and rules (Blackman et al. 2007), as the Mexican case suggests. The next section will review the legal context

through which the Mexican state is actively supporting the self-regulatory approach favoured by foreign MNCs.

### **The meaning of Article 38**

In 1988, the General Law on Ecological Balance and Environmental Protection (LGEEPA) was passed. It was Mexico's first comprehensive environmental law. The Law addresses a broad range of environmental matters such as protection of natural areas, exploitation of natural elements including land and water, and protection of the environment, including atmospheric contamination, water and soil contamination, hazardous activities and waste, nuclear energy and other forms of pollution. LGEEPA also sets forth control and safety measures, penalties for non compliance, guidelines for environmental impact statements and risk assessments (Gilbreath 2003). LGEEPA indeed defines the framework for all environmental laws and regulations in Mexico.

In 1996, the Law was amended and changed its stated purpose to include for instance the concept of sustainable development. The new added elements established amongst other things the sustainable use, preservation and remediation of soils, water and other natural resources in ways that make the obtaining of economic benefits and activities of society compatible with the preservation of the ecosystem. Economic considerations became then clearly visible in the Law (see Section 3, Article 21, 22, 22BIS and 23 of LGEEPA). It also created the establishment of mechanisms for coordination, inducement and cooperation among authorities, the public and private sector (LGEEPA, Article 1(ix)). This amendment occurred in the post-NAFTA era and reflects the changing Mexican political economy resulting from economic liberalisation. Market mechanisms and voluntary regulations then became the preferred way to address environmental issues as it reflected the broader neo-liberal agenda embedded in NAFTA and imposed on Mexico.

When the Law emphasizes the participation of the "private sector" and of "persons" (LGEEPA, Article 1(vii)), it actually invites MNCs to participate actively in the implementation of the law and in the design of any further regulations flowing from it.

The amendment makes the Law closer to adopting market-based solutions to environmental problems in Mexico by giving more room for action to economic actors and is therefore consistent with the kind of environmental ideology found in NAFTA.

One article of LGEEPA is of particular interest as it shows the willingness of the Mexican state to concretely rely on economic actors to increase levels of compliance with LGEEPA: it is Article 38. The text of the article clearly establishes the role that the Mexican legislator would like corporations to play. It starts by saying that:

*Producers, businesses or business organizations are entitled to develop voluntary processes of environmental self-regulation, through which they will improve their environmental performance, while respecting the legislation and regulatory framework and they will commit to surpass or to comply at greater levels, objectives and benefits in terms of environmental protection (author's translation)*

This is an acknowledgement that environmental policies and regulations emanating from the Mexican state are not the only option available to address environmental issues. The state establishes through Article 38 that private, business-oriented organizations are valid and legitimate actors to act on environmental problems. This introduction of the Article stipulates that businesses are entitled to develop their own environmental standards and norms as long as they respect the existing environmental regulatory framework. This means that extra norms and standards regarding pollution, designed and implemented by private actors, outside of any formal state supervision, may be considered as suitable.

Given the particular political economy of Mexico, through this legislation, the Mexican state is actually confirming and formalizing the political power of economic entities such as large foreign firms and enhancing their private authority. It is predictable that only the largest and most powerful companies will dedicate the time and resources necessary to develop and implement their own environmental norms and standards. In the Mexican context, these firms are foreign MNCs and in majority coming from the United States. Large Mexican businesses are often only starting to

develop a Corporate Social Responsibility dimension to their business identity. Foreign firms on the contrary benefit from almost twenty years of self-regulatory endeavours. In addition, the overwhelming majority of Mexican businesses are small or medium enterprise with little resources and no experience in environmental voluntary regulations. Article 38 is therefore important because it is expanding the sphere of influence of specific entities: foreign corporate actors. These foreign firms through their self-regulatory endeavours will be in a position of pulling their business partners to follow the norms they enacted independently of state regulations and they will have the back-up of a legal article to do so. Such process indicates that private and public authority are intertwined in the decision-making and enforcement aspect of environmental regulations.

Further, Article 38(ii) states that:

*The Secretary [for the environment] at the federal level will induce or will arrange:*

*The compliance with voluntary norms or technical specifications in environmental matter that will be stricter than the Mexican official norms or that refer to aspects not planned by those, which will be established through the consent of the individuals or associations or organizations that represent them.*

*For such effect, the Secretary will be able to promote the establishment of Mexican norms according to the process which applies in the Federal law on Metrology and Normalization (author's translation)*

This section of the article is more explicit concerning the outcome of such dynamics. It suggests that the federal Secretary for the Environment (SEMARNAT) will be able to transform voluntary norms or standards into formal regulations and ensure that other business actors adhere to them too. The Secretary will then make use of the Law on Metrology and Normalization to let these industry-led regulations become official Mexican environmental norms.

This second aspect of Article 38 and its paragraph (ii) reveals further how the Mexican state plans to use regulations designed and implemented by private economic entities as draft norms. When an industry or a group of producers or



industries creates specific environmental standards and regulations, the state is then willing to incorporate these norms into its regulatory framework. This means that to an extent, it is business – not any kind of business though, foreign [American] MNCs in majority – which is in charge of creating environmental regulations that the state will then validate. If article 38 legitimizes the regulatory power of firms and industries by inviting them to issue environmental standards and norms, it also allows them to get involved in establishing the parameters of the environmental agenda through inscribing these new rules into the Mexican legal system.

Finally, Article 38 BIS operationalises how the voluntary commitment of firms to environmental regulations will take place. It creates the institutional infrastructure necessary for this enterprise:

*The responsible for the operation of a business will be able in a voluntary manner, through an environmental audit, to carry out the methodological exam of their operations, regarding the pollution and risk that they generate, as well as their degree of compliance with the environmental regulatory framework and with the international parameters of good practices with the purpose to define the necessary corrective and preventive measures to protect the environment (author's translation).*

Through Article 38, the state did not only include private economic actors as potential designers of environmental norms in its legal framework, it also created the space to concretely allow further implication from the business sector in enhancing levels of compliance with existing environmental regulations. Within the LGEEPA, Article 38 validates the approach that private actors will be relied on by the state to maximize the efficiency of existing regulations. In fact, the National Environmental Auditing Program[Programa Nacional de Auditoria Ambiental (PNAA)], commonly called the Clean Industry Program, comes out of this legal possibility given to businesses to self-regulate and will be further explained in the next part.

This section showed that the Mexican state recognized the voluntary environmental regulatory endeavours of businesses, and agreed on assisting these private actors in their initiatives through including them as potential “regulators” in its legal

framework. Implicitly, the state is relying mostly upon foreign MNCS to play this role though considering that they are the most environmentally aware private actors in Mexico due to their institutional background and global production model. Not only does the Mexican state inscribe in its legal framework the regulatory role that private actors can play, but it also creates institutional mechanisms to facilitate this evolution. The next section will now explore what these mechanisms are and look at the Clean Industry Program to understand how the private authority of foreign MNCS is consolidated through this state-led but corporate-driven initiative.

### **The Clean Industry program**

If the Mexican state has included in its legal framework the possibility for companies to self-regulate, it created as well more practical mechanisms to assist firms in their self-regulatory endeavour. The Clean Industry program reflects how the state is not only counting on foreign companies to become models of compliance with environmental regulations, but it also delegates to them part of the responsibility to ensure that smaller firms are complying with existing legislations. At the same time, this process illustrates how foreign firms are able to use this program to advance their own environmental agenda.

The liberalization of the Mexican economy from the early 1990s onward changed drastically the economic model adopted by Mexico. Compliance with environmental laws and regulations became an area of scrutiny not only at the domestic level but also internationally, especially in the context of the negotiations and ratification of NAFTA. The creation of the Clean Industry program in Mexico in 1997 came from the realization that in Mexico, public and private business actors were not following environmental norms and were disregarding the various existing environmental regulations and legislations.

The program represents indeed a clever political manoeuvre for the Mexican state to buy time in terms of evaluating its environmental commitments post-NAFTA and to avoid to close or at least to heavily fine more than 95% of private and publicly-owned Mexican firms. As explained earlier, Mexican businesses were not complying with

the regulations, and the government was not either coercing them to do so or punishing them for ignoring them. The opening of the Mexican economy and the ratification of NAFTA however forced the state to ensure a satisfying level of compliance with environmental regulations.

The Clean Industry program is run by the PROFEPA [la Procuraduría Federal de Protección al Ambiente]. The PROFEPA is an organ of the state in charge to promote the establishment and the control of environmental norms, regulations, laws, technical criteria to improve the quality of the natural environment and to receive complaints about entities in breach of existing environmental laws and regulations (PROFEPA website). In 1992, the PROFEPA launched the National Environmental Auditing Program. In 1997, the first Clean Industry certificates were issued to businesses that voluntarily invested and fixed the environmental irregularities detected during the audit. In fact, early in the 1990s, the United States implemented a few programs – Green Lights, WasteWise, and 33/50 for instance (Videras and Alberini 2000) – based on a similar dynamics. Mexico seems to have imported from the United States certain institutional mechanisms to increase the degree of compliance of industrial actors. The concept of environmental audit is understood as a participatory, voluntary mechanism which involves an evaluation of the environmental results of particular industries and firms in terms of their environmental records and levels of compliance.

The program includes a detailed technical evaluation of regulated aspects of industrial activities such as control of sewage, air pollution, dangerous residues and noise. It is not only a corrective mechanism but also a preventive one as it considers aspects which are not yet regulated like the design of the installations, the processes of production, the maintenance of infrastructure, the training of the personnel, etc. Plants volunteering to join the program pay for an environmental audit by an accredited third-party, private sector inspector (PROFEPA website). Companies are responsible for financing the auditor, selecting technical specialists of the sector; they also have the responsibility for providing the auditor with the necessary material support for the elaboration of the environmental audits, such as equipment for analysis, computation and all necessary supports to conduct the audit. All these costs are the sole responsibility of the company.

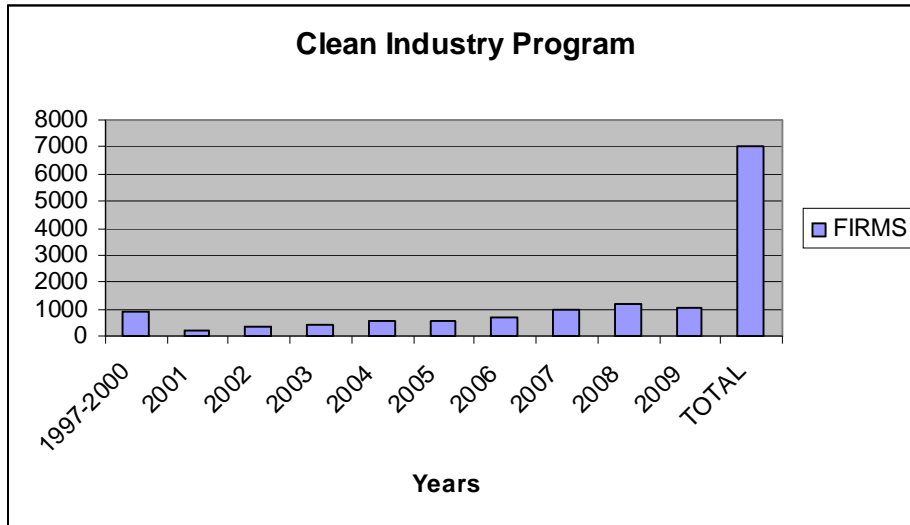
When the plant agrees to correct all violations to existing environmental norms and regulations, the state, in return, agrees not to penalize it during the time deemed necessary to fix these violations (Blackman 2008). Once that date has passed and if the firm is now complying with existing regulations or go beyond them, the state delivers the “Clean Industry” certificate and the plant will not be controlled for an agreed period of time (usually 2 years).

The preventive aspect of the program is where foreign firms have some latitude to act and push for norms, standards and self-regulations which would reflect their own identity and their understanding of their environmental duties and responsibilities. It gives them a window to influence further regulations in these areas. As it has been mentioned earlier, when the norms and standards established are judged satisfactory as a result of the auditing process, the state can validate them through the Law on Metrology and Normalization and transform them into Official Mexican Norms. This suggests that private foreign actors shape environmental norms and the state legitimizes them. The hybrid nature of the environmental regulatory framework in Mexico is then visible.

Only a few recent studies measure the effectiveness of the Mexican PNAA (see Blackman et al 2007, Foster and Gutierrez 2009, Gallagher and Zarsky 2007) but these are partial results. However, if more recent data are rare, it seems that already in 2000, 1,614 installations, which represented more than 70% of the GDP of Mexico, were part of the program (SEMARNAT 2008). 1,085 plans for action were signed, including all the installations from the para-state sector and the major big private groups, foreign and domestic. Some information released by the National Institute for Ecology (INE) suggests that the Clean Industry program has had positive results. From 1995 to 2000, atmospheric emission from the participating firms decreased by 22.5%, the release of residual waters decreased by 41.2% and the Bio-chemical demand for Oxygen decreased by 15.76%.

More broadly, from 1997 until 2009, more than 7,000 plants have entered the program (Graph 1) and more than 2,700 firms received the Clean Industry certification (Foster et al. 2009, Alvarez-Larrauri and Fogel 2008). Large domestic firms and foreign MNCs are the most represented but increasingly, middle-size companies are joining

the Clean Industry program as well. Participating firms, particularly foreign MNCs tend to enter the program and then require their business partners to participate in the Clean Industry program.



Source: PROFEPA 2010

Overall, it seems that the program has economic advantages for the participating firms. Between 1995 and 2000, the INE reports that 70% of the firms surveyed confirmed important economic benefits, an estimated 283 million de pesos and the ones which detailed the kind of saving they were able to make did it along the following lines: insurance premium costs went down 60%, energy consumption efficiency saved them 22% of their regular energy bill, and they decrease their payment on water use and water pollution by 14.5%. At the same time they declared that these actions have favoured financial gain resulting from the implicit savings that are generated upon establishing plans, programs and procedures for the recycling, optimal use of supplies, by-products, residues and economic, natural, and human resources.

At the international level, the Clean Industry program has received a number of official recognitions. In the US, at the time of the first presidential report regarding the results of NAFTA, the then president Clinton stated that the Clean Industry was an innovative and successful program which was progressively ensuring the compliance of all businesses in Mexico to environmental norms and regulations (REF). In fact, a parallel agreement to NAFTA, the North America Cooperation Agreement,

established in its article V, that the Mexican environmental audit program was a form of compliance with the environmental legislation in Mexico as defined in the treaty.

This also resulted in an incentive for the exporting sector to enter the National Program for Environmental Audit. The Organization for Economic Cooperation and Development (OECD), of which Mexico is a member since 1994, acknowledged in its 1998 report on the environmental situation in Mexico that the Clean Industry program has allowed serious improvements in terms of environmental protection. In the rest of the Latin American continent, a number of workshops and training sessions have been organized to publicize the mechanisms and results of the Clean Industry program. In fact, the path chosen by the Mexican state to develop mechanisms of environmental governance was validated by all the economic actors, institutional and private, as it was considered as a way to reconcile economic growth and environmental considerations and at the same time to minimize the involvement of the state.

### **Meaning and consequences of the Mexican hybrid environmental regulatory mechanisms**

The Clean Industry program shows how in the Mexican context, the state relies on private actors and their voluntary commitments to increase the level of compliance with existing environmental regulations. It represents an alternative to traditional control and enforcement mechanisms and a concrete illustration of state and private authority being combined to achieve specific outcomes. If the state has established the institutional framework through which self-regulation can take place, they are the firms, and in particular foreign MNCS, that indeed drive this initiative. In fact the head of the auditing department of the PROFEPA confirmed that foreign firms were the most represented and that their environmental records were better than national companies<sup>5</sup>. The interviewee also indicated that attracting foreign MNCs into the program was one of the goals of the PROFEPA because of the “pull” effect that it represented on other businesses.

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<sup>5</sup> Interviewed on 20<sup>th</sup> February 2010, PROFEPA, Mexico City

Viewed from the state, the Mexican environmental audit is a procedure that combines the advantages of private certification with those of the oversight from governmental authorities. On the one hand, the elaboration of the audit itself is realized by private consultants with businesses internalizing the cost of the audit and at the same time, business are responsible towards governmental authorities which emits the Clean Industry Certificate. The state therefore does not have to use its resources to measure the level of non-compliance and once a Clean Industry certificate is issued, the state does not have to control the firm and this represents another source of savings. In the context of a country with little resources available to monitor and enforce the Law, this mechanism is perceived by the Mexican state as a successful alternative to traditional form of governance.

For foreign MNCs, the Clean Industry Program has also a number of advantages beyond the ones already mentioned. It enables their products to be sold in global or regional markets as they carry a label validated by the Mexican state regarding the respect of environmental norms and standards in their processes of production. When most environmental labelling is operated by private organizations, it is a comparative advantage to display a label backed-up by the state. At the same time, the cost to participate is relatively low because these foreign firms already comply with existing Mexican regulations due to their national origins, global production standards and to their commitment to appear as champions of sustainable development for marketing purposes.

The program also enables these foreign firms to enhance their authority over domestic small and medium Mexican firms and to also increase their political power. If the Mexican state seems unable to coerce these small and medium businesses and does not have the financial resources to conduct thorough controls over them, foreign MNCs can play this role and they are encouraged to do so. The firms from the case studies interviewed for the broader research confirmed that they were increasingly requiring their business partners to enter the Clean Industry Program to remain commercial interlocutors. This suggests that, through pushing Mexican businesses to voluntary commit to follow environmental regulations, foreign MNCs gain power over them as it becomes an argument they can use in their commercial negotiations.

At the same time, the Mexican state also realizes that it can ensure much higher levels of compliance through the informal partnership happening within the Clean Industry program than on its own.

This last point matters because it grants foreign MNCs with a new form of power that might be qualified as “self-regulatory capture”. As explained earlier, the Clean Industry program does not only aim at correcting processes of production but it also has a preventive dimension. Firms which already comply with environmental regulations, as it is the case with most foreign MNCs, can influence further state norms and regulations through the extra norms and standards they have established and intent to spread. The call for self-regulations from the state is echoed by the foreign firms but on their own terms. With the possibility of validating corporate-led norms and standards established by the private sector through the Law of Metrology and Normalization, foreign firms can dictate the shape of future formal norms applicable to other economic actors. This means that the source of environmental regulations is to be found in the private sector, dominated by foreign actors, more than in the public sector although the legitimizing role of the latter is still needed.

At the societal level, the fact that foreign MNCs, legally and ideologically responsible first and foremost to their shareholders, became increasingly involved in setting-up the environmental agenda and in so doing shaping the normative aspects of the ecological crisis is highly problematic. If it has been argued that this process weakens the autonomy and independence of the Mexican state to regulate, it also affects the democratic dynamic in Mexico. In spite of a chaotic Mexican political sphere, national and local governments are accountable to the Mexican society which is entitled to validate or dismiss their actions through the voting process. The political power gained by foreign firms is outside of this democratic process. MNCs are not accountable or responsible to the Mexican society but to their headquarters and shareholders. The transfer from a public to private form of environmental governance is therefore accompanied by the confiscation of the possibility for citizens to express their satisfaction or disagreement with the outcomes of such a new model of environmental governance.



With the advent of private environmental governance, the Mexican society is even more subjugated to the power of foreign economic actors. In terms of authoritative decisions, the reach of these profit-driven entities spread to non-economic aspects of society. Not only MNCs have increasing material power over the Mexican society because they are sources of employment and they provide the goods and services available to society, but they also progressively determine the way in which the natural environment ought to be preserved and protected. The consequence of the shift from government to governance in the Mexican context is the weakening of the autonomy of the Mexican society to decide on non-economic factors affecting social life. At the same time it increases the concentration of power in the hands of economic entities with interests and preferences dictated by the profit motive and with the authority to decide to an extent of the environmental agenda.

## **Conclusion**

This paper has explained and analysed an instance of environmental governance in which both public and private forms of authority get involved. This model represents an evolution of the design, implementation and control of regulatory mechanisms in environmental governance. It is particularly in developing countries that such a model can flourish as it builds on the inability of traditional institutional actors to play their regulatory and enforcement role. However, this phenomenon occurs through a legal framework originating from the state and which provides the institutional infrastructure necessary for private actors such as foreign MNCs to push for their (self-) regulatory agenda. At the same time, the pragmatism of the Mexican state has problematic consequences for its own capacity to further regulate these actors autonomously. Most importantly, it affects the Mexican society which is faced with a system of governance, in the environmental realm, over which it has no control or possibility to participate, and dominated by actors with who it cannot engage.

The broader research within which this paper fits looks in details into the kind of self-regulations promoted by foreign MNCs based on the institutional dynamics playing out in the states they originate from. Empirical data show that if they publicize their voluntary commitments and to an extent act on these commitments, they also select

the environmental issues which they can address without threatening their quest for profits. When structural changes are needed to tackle the ecological crisis that Mexico is facing, foreign MNCS will only modify aspects of their business model which will in fact potentially enhance their economic growth. Beside a visible contradiction between environmental well-being and productive activities in the current global political economy, there is therefore only a relative short-term positive impact coming out of the hybridization of environmental governance in Mexico and they do not weight favourably compared to the problematic consequences of such an evolution of environmental regulatory dynamics for the Mexican state and for the Mexican society.

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