

QUESTIONNAIRE FOR AIDA WORLD CONGRESS, RIO, 2018

New Technologies (Autonomous Vehicles and Robots- Cyber Risks- New Technologies and Insurance Process)

Mexico

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I. DRIVERLESS/AUTONOMOUS VEHICLES AND VESSELS

1. Are there any specific laws already adopted in your jurisdiction, or proposals for laws, relating to liability in tort for injuries inflicted by the use of such vehicles or vessels? If so, please provide a short explanation. Comment: answers may include the liability of drivers, producers of vehicles and the suppliers of satellite technology.

There are no laws or regulation regarding autonomous vehicles in Mexico, neither adopted nor proposed in relation to torts for injuries caused by driverless/autonomous vehicles and vessels.

2. Are there any specific laws already adopted in your jurisdiction, or proposals for laws, relating to compulsory insurance coverage for injuries inflicted by the use of such vehicles or vessels? If so, please provide a short explanation. Comment: answers may relate to motor vehicle insurance and product liability insurance.

There are no laws nor proposals of laws adopted or issued related to compulsory insurance in relation to driverless/autonomous vehicles and vessels.

Mexico is in an early stage regarding compulsory motor insurance. It was not until September 2014, that compulsory insurance was mandatorily required for cars circulating in federal motorways. In Mexico the road safety regulation is a state-level regulation (as opposed to federal level), currently only 14 out of 32 States in Mexico require compulsory auto insurance, and notwithstanding the foregoing, in those States in which it is compulsory, it is poorly, if not at all, enforced.

3. How do you envisage the future of personal lines in motor vehicle insurance in the next 5-10 years in your jurisdiction? Comment: you may wish to comment on the future of motor vehicle insurance and the plans being made by the industry for new products

According to the Mexican Association of Insurance Companies, in Mexico only 30% of motor vehicles are insured.

We envisage efforts to implement compulsory motor insurance in all the states of Mexico and in an efficient enforcement of these obligations by competent authorities.

Compulsory insurance is opening a big opportunity for new technology to develop rapidly. Considering the foregoing, in five to ten years, we expect to see a substantial increase in the number of personal lines in motor vehicle insurance in parallel to the increase in the variety options of products to be offered in this line of business.

4. Driverless cars and autonomous vehicles apart, how do you assess the following technological developments that are expected to not only reshape the auto sector but also the insurance industry around it? (a) connected cars (i.e., Internet enabled vehicles, (IEV)); (b) automated driver assistance systems (ADAS); (c) car/ride sharing; (d) alternative fuel vehicles. Comment: answers may include identifying the legal and regulatory regime and provisions in your jurisdiction.

(a) connected cars (i.e., Internet enabled vehicles, (IEV))

Insurers will start using the information provided by the cars to assess the risks and adjust premiums. Insurers in Mexico are in an early stage of using this technology, as well as older technologies.

(b) automated driver assistance systems (ADAS);

New technology such as ADAS that assist the driver and contributes to road safety will help reduce the prices of the premiums.

(c) car/ride sharing;

Car/ride sharing has not yet represented an impact in the insurance industry.

(d) alternative fuel vehicles.

Alternative fuel vehicles are in an early stage in Mexico and the insurance products for these type of vehicles is still limited.

II. CYBER RISKS

5. Identify the concerns have emerged in your jurisdiction as a result of cyber risks. Is there any legislation in place or under consideration that might affect such risks? Comment: possible matters include cyber-terrorism, hacking, computer or software failure and financial fraud.

Mexico is the second country with more cyberattacks in Latin America. A study conducted by PwC in 2015 concluded that in Mexico between 2013 and 2014 the number of attacks increased 40% with approximately 10 million victims in 2014.

Despite these worrying figures, the Mexican government does not have a clear and feasible strategy tackle security in the cyberspace. According to the Global Security Index of the International Telecommunications Union 2016, Mexico ranks 18 out of 29 countries in cyber security. According to the Organization of American States & Trend Micro, the main

vulnerabilities are a lack of a cyber security culture, a wrong system configuration, outdated versions to be replaced by new and compatible technology, and application problems.

Mexican private sector is well aware and concerned about cyber risk. According with the Mexico Institute of the Wilson Centre, Mexico remains the second largest investor in IT management. According to PwC Mexico, more than 90% of companies in Mexico have prioritized cybersecurity in their organizations.

With regard to legislation, in Mexico there is not a specific regulation with regard to cyber risks. However, computer and crimes conducted through digital and electronic means are typified in the Federal Criminal Code with sanctions that range from approximately USD\$500 to approximately USD\$7,300 and from six months to ten years of prison. The Federal Police is responsible for investigating cybercrimes at the national level.

Moreover, Mexico has approved privacy and data protection legislation, the Federal Law on Protection of Personal Data entered into effect in June 2010. The National Institute of Transparency, Access to Information and Protection of Personal Data (INAI), is the body that guarantees, protects, and regulates the rights of individuals and corporations regarding their private information.

6. How has the insurance industry responded to cyber risks? In particular: (a) do property policies cover losses from cyber risks, or is special insurance required? (b) is insurance and reinsurance readily available? (c) are there any special restrictions imposed on cyber risks, e.g. event limits or deductibles?

The local and international insurance market have reacted swiftly to the opportunities that the Mexican market offers in cyber risk insurance. International insurers have been prone to introduce their cyber-risk products into Mexico and join efforts with local insurers. One example is the collaboration scheme between the UK insurer Beazley and the Mexican insurer Grupo Nacional Provincial to distribute throughout Mexican territory Beazley's cyber insurance product.

There are still however ambiguities on the wording of the policies for cyber risk due to the complexity and broad spectrum of technology, which may bring disputes between the parties. We have seen these kinds of disputes in reinsurance of cyber risks. In Mexico foreign insurance companies are not allowed to take direct insurance, therefore it is common to use fronting schemes. The technical language of IT and the variety of means and forms of cyber-attacks may cause misunderstandings and conflicts of interpretation between the cedant and the reinsurer.

(a) do property policies cover losses from cyber risks, or is special insurance required?

Generally, property policies would not cover cyber risk and a special insurance would be required.

(b) is insurance and reinsurance readily available?

Even though the increase of interest in cyber insurance in Mexico is fairly recent, nowadays the Mexican market offers a wide variety of cyber risk and data protection insurance products.

(c) are there any special restrictions imposed on cyber risks, e.g. event limits or deductibles?

Mexican insurance law does not impose any special restriction on cyber risk policies.

III. NEW TECHNOLOGIES AND THE INSURANCE PROCESS

7. To what extent have the availability of new technologies affected the way in which insurance policies are placed? In particular: (a) has there been any effect on the traditional use of agents and brokers? (b) has the underwriting process been affected by the availability of information, particularly big data, from sources other than the applicant for insurance? (c) has the means of providing information to policyholders changed significantly, e.g. are written documents provided or are policyholders directed to websites?

(a) has there been any effect on the traditional use of agents and brokers?

With approximately 62.4 million Internet users which account for a total of 57.4% of the population, new technologies have an important impact in Mexico. Nevertheless, insurance brokerage and distribution is still mainly conducted through traditional means, primarily through insurance brokers and bancassurance.

(b) has the underwriting process been affected by the availability of information, particularly big data, from sources other than the applicant for insurance?

Not necessarily due to the low penetration in insurance, however, new sources of information, such as big data, will be more and more used by underwriters to complement the applicant's disclosure, assess better the risks and also used by insurance companies in the design of new insurance products.

(c) has the means of providing information to policyholders changed significantly, e.g. are written documents provided or are policyholders directed to websites?

Mexico has a regulatory framework for the use of electronic means in insurance operations. Mexican insurance companies are allowed to underwrite business and serve their customers via electronic means of communication.

Insurance companies are allowed to provide information to policyholders through a wide variety of electronic means, such as email, websites and sms texts messages and telephone.

However, the insurance company must provide the means for the insured to obtain a hard copy of the policy.

8. To what extent is genetic testing regarded as important by life and accident insurers? Is there any legislation in place or in contemplation restricting requests for genetic information, and are there any relevant rules on privacy that preclude its disclosure?

Mexico genetic testing is not common and there is no legislation or regulation on this topic.

9. Has the assessment of claims been affected by the availability of data. In particular, are there any industrywide arrangements in place whereby insurers can share information on fraud?

The Mexican Association of Insurance Companies promotes information and measures to prevent fraud throughout the Mexican insurance sector, however, there is not an industrywide agreement for sharing information on fraud.

10. Are there any other ways in which the new technologies have affected the insurance process in your jurisdiction?

The Law to Regulate Financial Technology Institutions (also known as “Fintech Law”) was published in the official gazette of the federation on 9 March and became effective the following day.

The Fintech Law regulates, among others: (i) the organization and operation of financial technology institutions (“ITFs”), under the form of collective financing institutions (that will operate crowdfunding platforms), or electronic payment funds institutions, (which will operate e-money or e-wallet platforms) (ii) virtual assets or cryptocurrency, (iii) the obligation of financial entities to establish programming interfaces for applications or (APIs), and (iv) temporary authorizations to provide financial services through new technological models within a regulatory sandbox.

The regulatory sandbox (iv) is of particular relevance for the insurance industry. It will promote the development of start-ups that offer innovative models to provide insurance coverage. This special regulatory framework is flexible and aims to facilitate start-ups to meet the regular requirements through a progressive and controlled process. The purpose is not to have two different regulatory frameworks, but to create a temporary legal status for innovative companies to develop their products and to be ready to meet the standard regulation. Companies with innovative models must file an application with the National Insurance and Bonding Commission. Authorizations may be granted for a maximum of one year with the possibility of renewal for one additional year. The secondary regulation required for the implementation of this sandbox scheme and other aspects of the Fintech Law is to be issued within one-year of the publication of the Fintech Law.

IV. OTHER NEW TECHNOLOGY RISKS

11. Are there any other particular risks from new the new technologies that have been identified in your jurisdiction? If so, is there any legislation in place or under consideration to regulate them?

A problem that is affecting civil population is cyber threats due to the increasing phishing activities. Also, financial companies have reported a large number of cyber threats were malware and spams that were used as a method of extortion and data falsification. Specific provisions regarding these kinds of crimes are typified in the Federal Criminal Code, however, the police forces have been unable to properly address and prosecute most of these crimes.