

Improving the regulatory framework for WSS

OECD work plan & the pilot case of Mexico

International Summer School on regulation of local
public services

Turin, 13 September 2013

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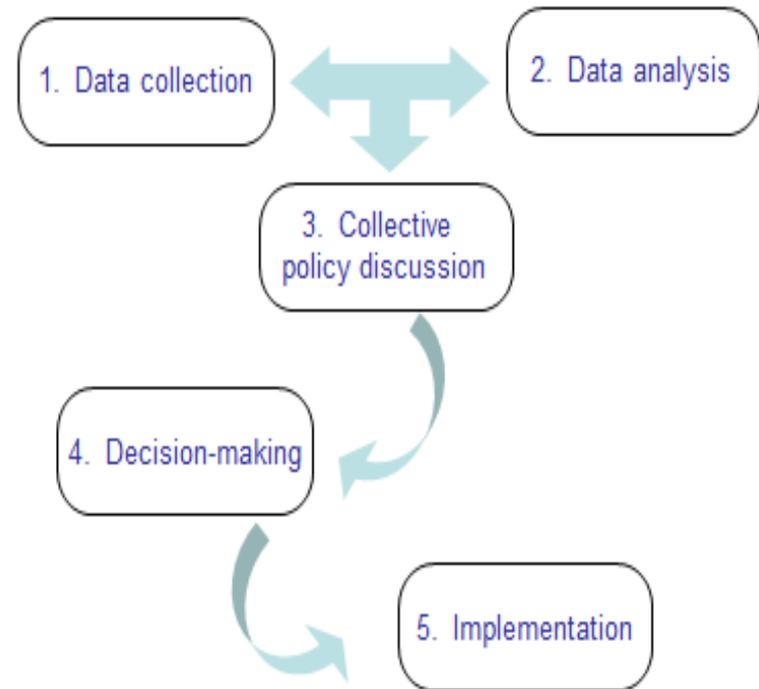
The OECD:

34 member countries committed to democracy and the market economy

- Helps governments compare policy experiences, seek answers to common problems identify good practice, coordinate domestic and international policies
- Provides statistics & eco and social data, analyses and forecasts economic developments, researches social changes and evolving patterns in trade, environment, agriculture, technology, fiscal policy and more



OECD in action



Applying better regulation in WWS

- **Background**

- OECD's established authority in the regulatory policy field and water area (REG Recommendation, HWP + WGI)
- Increasing development of dedicated regulatory bodies for WWS across OECD & non-OECD countries
- No international platform for water regulators => build on OECD *Ad Hoc* Network of Economic Regulators

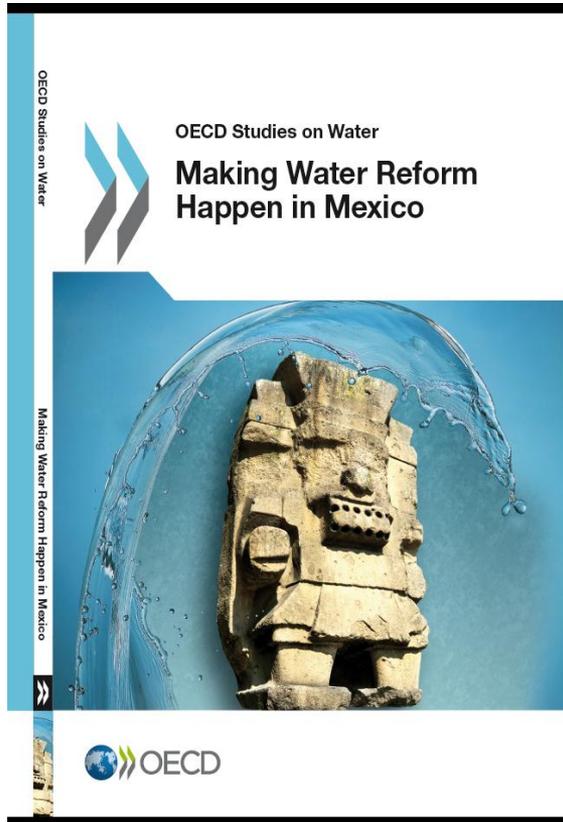
- **Focus of OECD work**

- the role of dedicated regulatory bodies for WWS, their co-ordination with other relevant entities, their governance arrangements and operational modalities to ensure adequate WWS regulation.

OECD work plans

- Sample a variety of water regulators on:
 - institutional setting;
 - mandates, roles, core regulatory functions and powers;
 - internal organisation (incl. personnel, resources);
 - accountability mechanisms;
 - use of tools and mechanisms to ensure regulatory quality.
- Support exchange of experience among regulators
 - Analytical report based on a survey & case studies
 - Developed in close cooperation with water regulators
 - Support discussion in meetings of the NER, WGI and Forum of Water Regulators (Sept 2014)

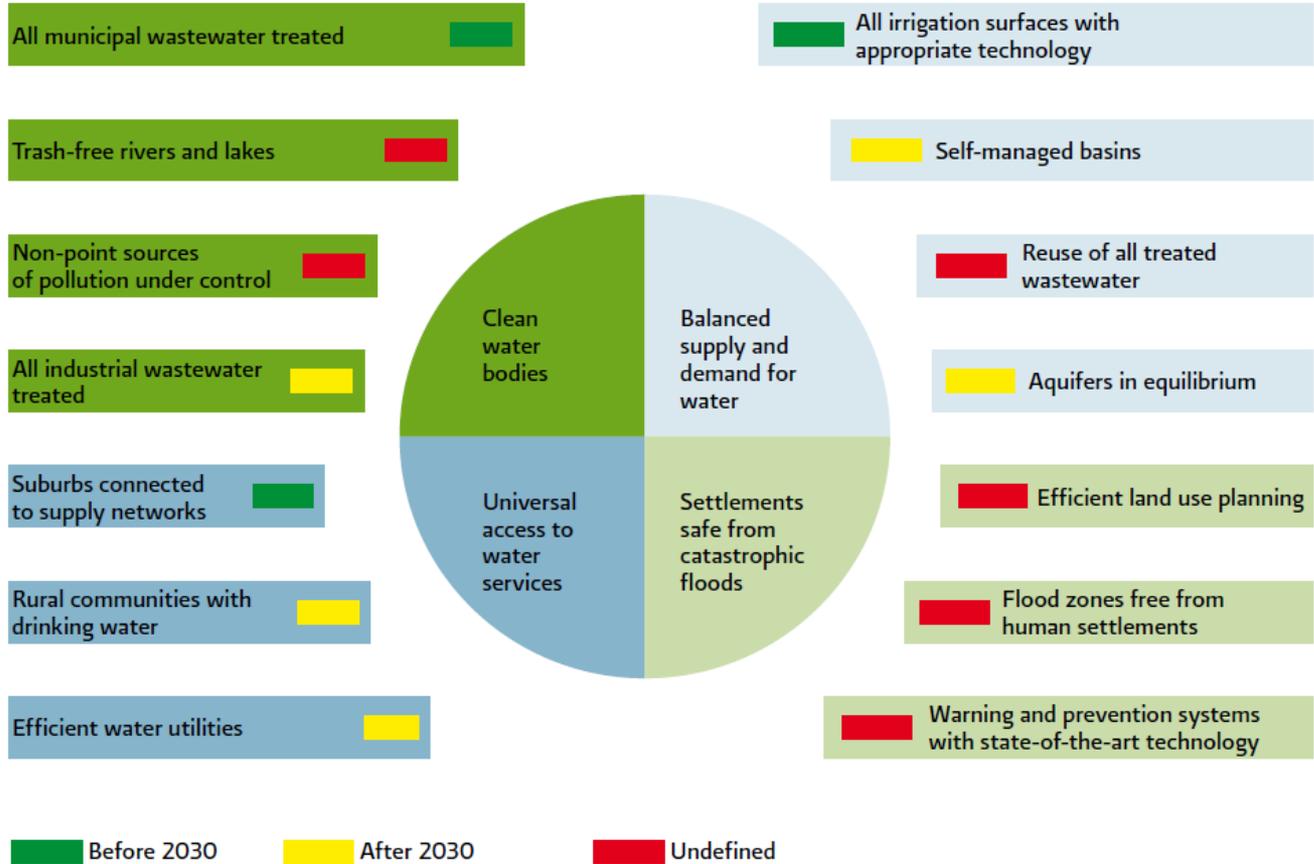
Making water reform happen in Mexico



- ❖ Mexico's water reform challenges
- ❖ The 2030 Water Agenda
- ❖ Assessment and Recommendations
 1. Improving multi-level governance
 2. Strengthening water governance at basin level
 3. Enhancing economic efficiency & financial sustainability
 4. Improving water supply and sanitation regulatory frameworks
- ❖ OECD overarching messages
- ❖ OECD key recommendations

The 2030 Water Agenda

Basic components of the 2030 Water Agenda



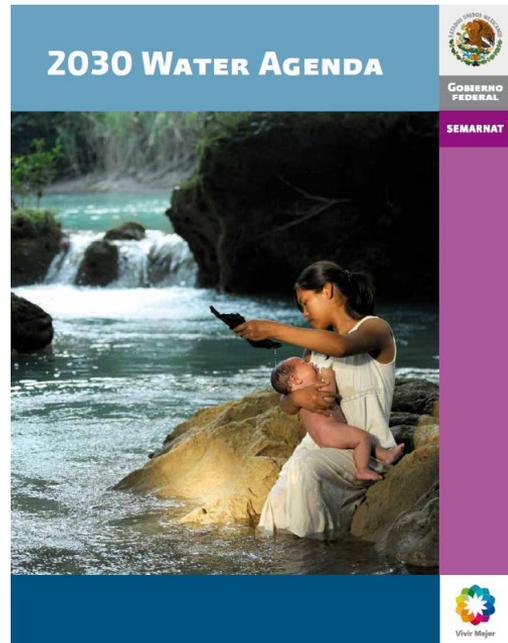
38 initiatives – 5 principles

Investment needed : 3 billion Euros / year

Technical study

Consultation process

Provisions for monitoring, evaluation and possible revision;



Main messages

Mexico's water institutional setting is highly fragmented as in many OECD countries. Decentralisation has not been completed for WRM & has generated significant gaps for WSS. The potential replication of sub-national good practices is not fully exploited.

Wide range of informal actors & community-based water management systems operate outside existing legal frameworks (20 million inhabitants) mainly in irrigation districts and rural/indigenous areas. Despite some success stories (Oaxaca), monitoring, oversight, funding, stakeholder engagement is complex.

Initiatives in water-related sectors work against water policy objectives, typically for agriculture (subsidies to farmers / exemptions in irrigation districts), energy (Tarif's impact on aquifers) and territorial development (zoning, land use, construction policies). Weak multi-lateral platforms for policy coherence and multi-level coordination

Many of the governance gaps experienced by Mexico are not water-specific but relate to broader features: centralist federalism, capacity of public administration, institutional quality, accountability etc. Water reform is likely to spill over other sectors & benefit from wider institutional reforms

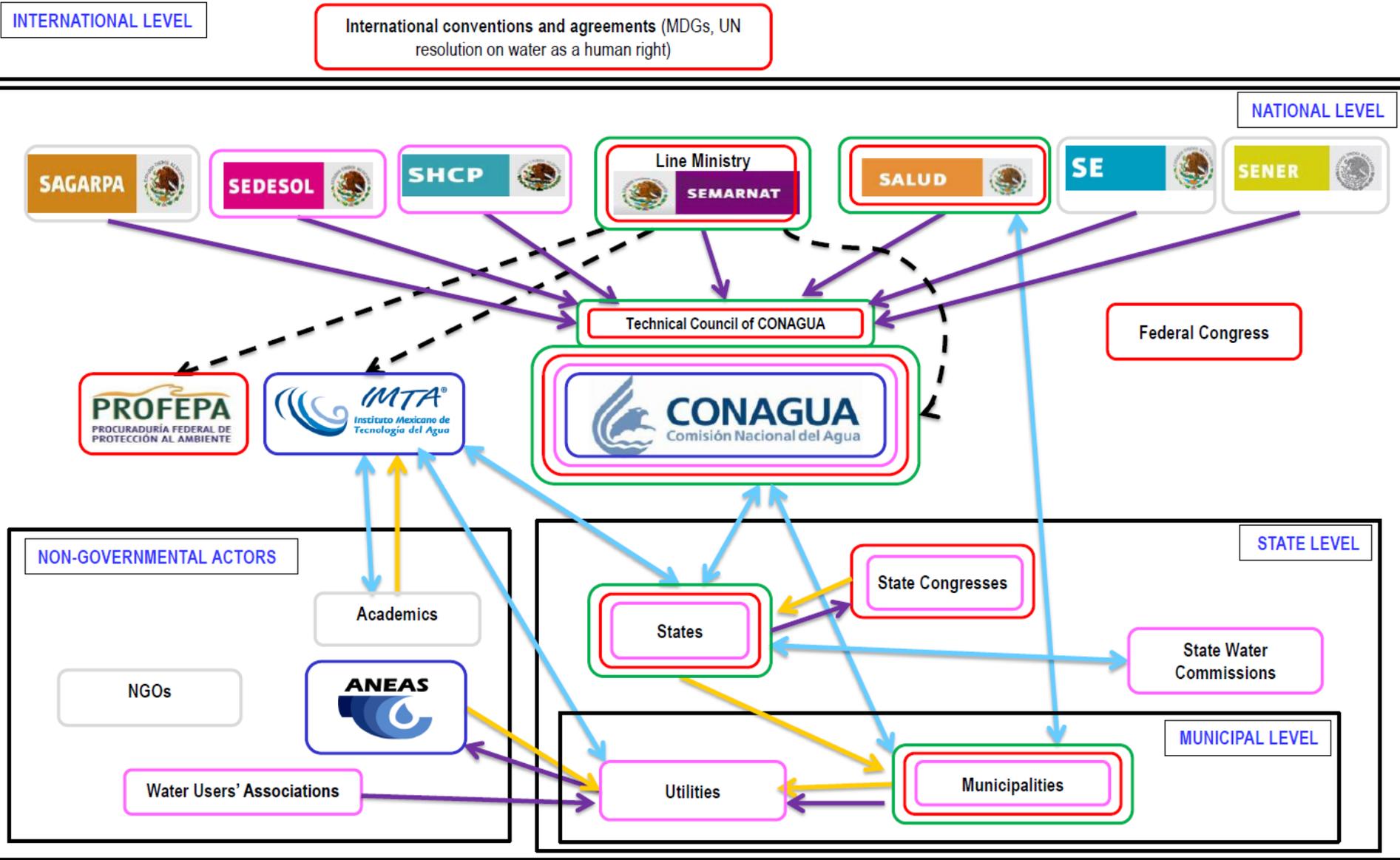
Improving WSS regulatory frameworks

1. Diagnosis of WSS institutions & regulatory functions
 - A. Mapping of regulatory functions and actors, articulated around key functions
 - B. Identification of gaps and bottlenecks
2. Options for reforms – 4 pillars
 - A. Supporting autonomous, efficient and financially sustainable utilities
 - B. Clarifying regulatory responsibilities for WSS and improving regulatory policies & practices
 - C. Establishing a regulatory agency for WSS
 - D. Strengthening States regulatory role

Diagnosis of the key WSS issues

- Absence of an overarching regulatory framework for WSS at federal level and scattered regulatory responsibilities for WSS across levels of government and legal instruments.
- WSS is the primary responsibility of municipalities with various levels of capacity and resources: heterogeneity across the territory and limited platforms for exchange.
- High turnover of local officials and managers, discouraging long term planning and impeding the building of capacity.
- Local political interferences (in particular in tariff setting) affecting the performance of service providers.
- Water service providers characterised by weak financial structures and high dependency on government resources.

Mapping of Roles and Responsibilities



- Owner of water resources
- Policy maker
- Legislator
- Regulator (standard setting)
- Infrastructure planning
- Financing

State
 State governments
 Water Commissions
 State congresses

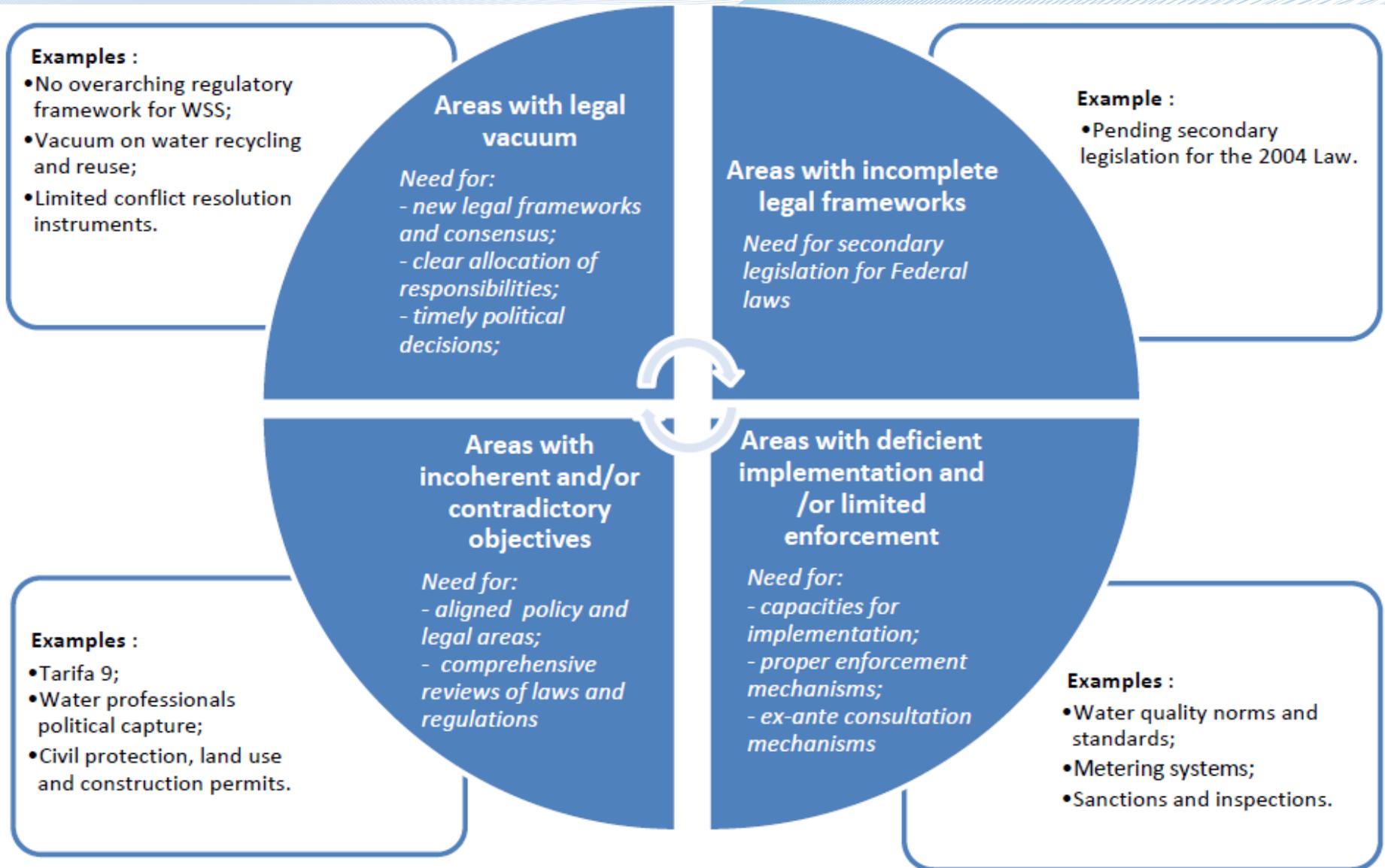
- WSS provision (possibility to subcontract or revert to State)
- Regulatory functions (monitoring and tariff setting)

Federal
 CONAGUA
 SEMARNAT
 Ministry of Health
 Ministry of Finance
 FONADIN

- Infrastructure development planning
- Economic regulation of water services

Municipal
 Municipalities
 Water service providers
 ANEAS

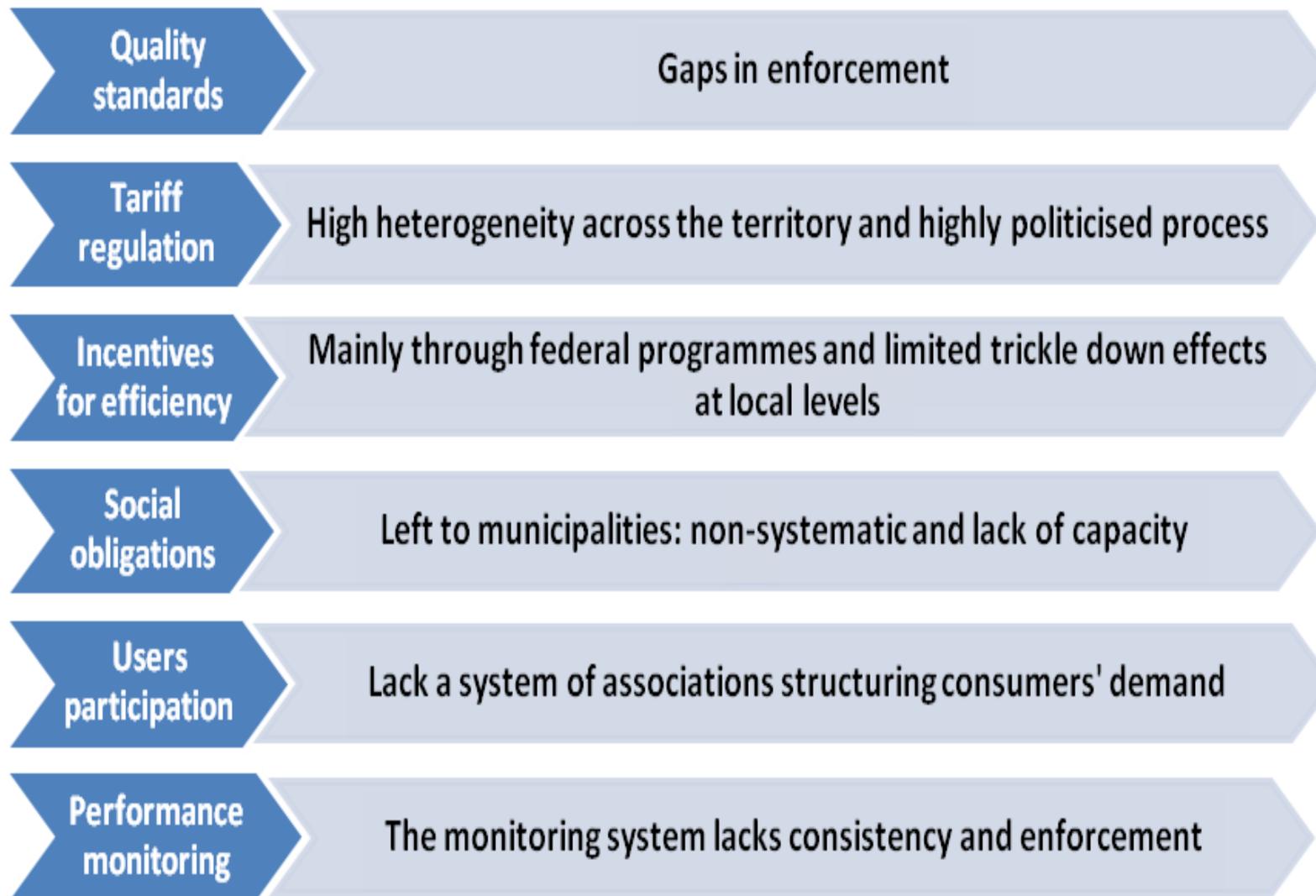
Grey areas in Mexico's legal



Allocation of regulatory functions

Regulatory function	Responsible authority
Tariff regulation	States and municipalities
Quality standards (drinking water)	Ministry of Health (SSA)
Quality standards (wastewater treatment and discharges)	SEMARNAT
Information and data gathering	Service providers, States and CONAGUA
Monitoring of service delivery	States, CONAGUA
Incentives for efficient use of water and investment	CONAGUA
Supervision of contracts with the private sector	Regulation by contracts (municipalities are usually the contracting authorities).
Social regulation: access to services	CONAGUA
Customers engagement	Basin Councils, board of utilities
Consumer dispute resolution	Service providers

Key gaps



What is needed?

- Support corporatisation/autonomy of providers: separation of accounts, functions & responsibilities between water providers and municipalities
- Ground tariffs in technical considerations and support the financial sustainability of providers
- Consolidate the monitoring framework for WSS (performance indicators, information requests)
- Support capacity building & professionalisation of staff in providers and municipalities
- Review federal mechanisms to improve their effectiveness

CONAGUA (1989)

- Strengthen the autonomy of utilities and their administrative capacities, and provide them with legal and financial autonomy;
- Increase citizen's participation in the administrative councils of utilities;
- Ensure reinvestment of fees in the service;
- Promote the decision and approval on tariffs by the directive counsels of utilities, and not by the State congress;
- Promote the corporatisation of utilities and professionalisation of staff.

How to get there?

- How to remove the bottlenecks to implementation?
 - How to establish incentives that trigger action, especially at municipal and State levels that have the key responsibilities for WSS?
 - What are the levers for change at all levels (federal, State, municipalities, civil society)?
- => Will require targeted actions to build awareness, capacity and influence at sub-national level, and mechanisms to improve transparency
- => What are the opportunities provided by more systemic reforms ?

The development of a federal WSS law

An opportunity:

- To clarify the allocation of responsibilities (who does what at what level, with which instruments)
- To provide an overarching framework that supports consistency (monitoring, social obligations, quality standards of service provision, tariff setting, long term planning) and promotes exchange of practices
- To fill the gaps (social participation, efficiency incentives, establishment of regulator)
- Foster good regulatory policy principles in the water sector (consultation, RIA, ex post evaluation,...)

... if it is implemented and accounts for sub-national competences & innovation

Establishing an independent regulator

Can help depoliticise & professionalise WSS

- Works at arm's length from the executive power
- Support benchmarking of performance, efficiency and performance improvement, transparency & responsiveness to users

However, this will be achieved only if

- It enjoys some independence:
 - Clear procedures for appointment & dismissal of the head and management board
 - Staffing is based on competences & avoids conflicts of interest
 - Financed through own, stable resources

- It is accountable:
 - Performance assessment,
 - System of appeals,
 - Reporting to Congress,
 - Transparency & consultation on decisions
- It clarifies & simplifies allocation of responsibilities:
 - State regulators (piloted in a few states) vs. one regulator accountable to both federal & state level
 - It has clear attributions and lines of responsibility (tariff setting, performance monitoring, efficiency targets, consumer protection - see OFWAT)

Who does what?

- **Municipal level:** focus on corporatisation of utilities and creating capacities for proper **provision** of WSS
- **State (government & Water Commissions?):** **strengthen their regulatory roles and functions** in channelling concerns of users and consumers, harmonising information gathering at municipal level, technical studies for municipalities lacking capacity, capacity building activities & water tariff setting.
- **Federal level: refocus its core functions & activities** on:
 - developing national policy plans, broad targets for the sector, managing federal programmes
 - providing platform for exchange of practices, establishing norms and broad principles

Main messages

- The inclusion of the water right in the Constitution provides an **opportunity to improve the legislative framework**. The law under consideration may help clarify WSS responsibilities, fill gaps, support consistency across the territory (monitoring, principles of tariff setting).
- The law by itself will not ensure long term improvement in water service provision. **Accompanying measures are needed** to support autonomous, efficient and financially sustainable water providers.
 - Separate service regulation from service provision, policy making.
 - Support corporatisation of providers through capacity building & professionalisation of staff
 - Consolidate monitoring framework for WSS: perf. indicators, information collect
 - Strengthen users' participation in the consultative bodies of water utilities and in water decision making
 - Ground tariff regulation in technical considerations
 - Federal programmes should better support efficiency and quality

Recommendations

- **Clarify who is in charge of regulatory functions for WSS.**
Separation between regulation, policy making & service provision may be achieved through different models accounting for the specificity of State situations, incl. through the setting of separate regulators (e.g. State of Mexico). All functions do not need to be assigned to a single authority.
- **Foster transparency on service performance and regulatory processes** => putting in place the mechanism to collect information (metering, reporting of water providers) & consolidating a system of key performance indicators. Regulatory authorities should rely on transparent regulatory processes such as clear tariff regulation, systematic publication of decisions, public consultation on regulatory proposals, and disclosure on use of revenues.
- **Establish a platform to share the good regulatory practices that are developing at state and municipal levels.** States, municipality practices could be collected, reviewed and shared. The N^{al} Governors' Conference (CONAGO) and the N^{al} Association of Water and Sanitation Companies (ANEAS) could play a greater role as platforms for exchange.

Thank you

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www.oecd.org/gov/regulatory-policy