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Diego Marroquín Bitar

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IS USMCA GOOD FOR MEXICAN LABOR? A PRELIMINARY ANALYSIS OF USMCA AND LABOR MARKET OUTCOMES IN MEXICO

*Diego Marroquín Bitar**

INTRODUCTION

Is USMCA good for Mexican Labor? Without additional policies and an enabling business and legal environment, the answer is no. The United States-Mexico-Canada Agreement (USMCA) is off to a strong start bolstering trade, investment, and jobs across North America; but is that success equally transferable to the labor realm? Unlike its predecessor, the North American Free Trade Agreement (NAFTA), can USMCA significantly impact Mexican wages and productivity? This paper delves into these critical questions.

In 2022, the total value of North American goods and services trade reached \$1.85 trillion, equivalent to \$3.5 million exchanged per minute and the result of double-digit growth since the new trade agreement replaced NAFTA in 2020.¹ Under USMCA, Mexico and Canada are now the United States' (US) top trading partners, with trade volumes 44 percent higher than US goods trade with China.² The three countries that make up

* The author is the inaugural Bersin-Foster Scholar for North America at the Woodrow Wilson International Center for Scholars. I dedicate this article to Dr. Carlos Manuel Urzúa Macías, a loving father, a caring mentor, and an intellectual fully committed to helping Mexico fulfill its potential. Your unwavering support and inspiration have been instrumental in shaping my academic journey. I would also like to express my deepest gratitude to Jeffrey Mayer, Ambassador Earl A. Wayne, Pedro Casas-Alatriste, Andrew Rudman, and Kimberly Nolan for their invaluable insights and contributions to this article. Their expertise and guidance have greatly enriched its content.

1. From 2020 to 2022, US exports of goods and services to Mexico and Canada increased by 45 percent, Canadian total exports to its North American partners have risen by 54 percent, and Mexican total exports to North America have grown by 43 percent. See Joshua P. Meltzer & Diego Marroquín Bitar, *USMCA at 3: Reflecting and charting the future*, BROOKINGS, (July 19, 2023), <https://www.brookings.edu/articles/usmca-at-3-reflecting-on-impact-and-charting-the-future/>; Brahim S. Coulibaly & Joshua P. Meltzer, *USMCA Forward 2024: Gearing Up for a Successful Review in 2026*, BROOKINGS (Feb. 2022), <https://www.brookings.edu/collection/usmca-forward-2024/>.

2. See Coulibaly & Meltzer, *supra* note 1.

North America now account for a third of global GDP, and total trade among these countries supports almost seventeen million North American jobs—an 32 percent increase since 2020.³

Since USMCA's implementation, intra-regional investment has also grown, with the US being the largest destination for Mexican and Canadian investment, and Mexico and Canada receiving 11 percent of US foreign direct investment (FDI) in 2022.⁴ In addition, since 2020, capital investment into the region has grown 134 percent, reaching \$219 billion in 2022.⁵ To illustrate, in the first three months of 2023, inward FDI in Mexico surged 48 percent compared to the same period in 2022.⁶ Notably, the manufacturing sector saw its share of the country's FDI double from 24 percent to 53 percent with five out of ten new dollars invested in Mexico during the first quarter of 2023 originating from Canada and the US.⁷ On the Canadian side, nearly half of all FDI in 2022 also came from its North American partners.⁸ Furthermore, FDI in Canada from Mexico and the US increased by 23 percent from 2020 to 2022, highlighting the strengthening economic ties within the region.⁹

3. *Id.*; see *USMCA Tracker*, BROOKINGS, <https://www.brookings.edu/articles/usmca-trade-tracker/#/goods> (last visited Jan. 31, 2024).

4. Joshua P. Meltzer & Diego Marroquín Bitar, *USMCA at 3: Reflecting and charting the future*, BROOKINGS (July 19, 2023), <https://www.brookings.edu/articles/usmca-at-3-reflecting-on-impact-and-charting-the-future/>.

5. *Id.*

6. *Id.*; see also Joshua P. Meltzer & Diego Marroquín Bitar, *The Trade and Investment Trends to Watch*, BROOKINGS (July 19, 2023), <https://connect.brookings.edu/the-trade-and-investment-trends-to-watch>.

7. Meltzer & Bitar, *supra* note 6; Secretaría de Economía, *De enero a septiembre de 2023, México recibió 32 mil 926 millones de dólares de Inversión Extranjera Directa*, GOB.MX (last visited April 8, 2024), <http://www.gob.mx/se/prensa/de-enero-a-septiembre-de-2023-mexico-recibio-32mil-926-millones-de-dolares-de-inversion-extranjera-directa>; Fernanda Murillo Alza en IED confirma efecto de nearshoring en México: BASE, GRUPO MILENIO (May 22, 2023), <https://www.milenio.com/negocios/alzaied-confirma-efecto-nearshoring-mexico-base>.

8. Joshua P. Meltzer & Diego Marroquín Bitar, *The Trade and Investment Trends to Watch*, BROOKINGS (July 19, 2023), <https://connect.brookings.edu/the-trade-and-investment-trends-to-watch>.

9. *Id.*

Equally important, the successor of NAFTA was approved with overwhelming bipartisan support.¹⁰ In the middle of one the most polarized political environments in US history, over 90 percent of congressional Democrats and Republicans supported the Agreement, compared to a more contentious NAFTA process that passed with 53 percent support in 1993.¹¹ As part of a new bipartisan consensus on *manufacturing-focused* economic nationalism, USMCA is also the only trade agreement that has been supported by large labor union's such as the AFL-CIO.¹²

In an increasingly volatile global landscape, USMCA has provided the policy certainty and baseline for North America as a key platform for building complete supply chains in areas including electric vehicles (EVs), medical devices, semiconductors, and critical minerals. Put differently, USMCA has solidified economic ties within North America and emerged as a critical element in the US's broader geostrategic competition with China.

In fostering trade, investment, and job creation over the past three years, USMCA has solidified its position as a cornerstone of political support for further North American economic integration. But an important question remains: will USMCA's success also translate into improved worker outcomes, enhanced productivity, and higher wages? This question is particularly pertinent in the context of Mexico where—despite increased economic integration since the inception of NAFTA in 1994—the wage and productivity gap with its North American counterparts has widened. Therefore, it is reasonable to ask, in contrast to NAFTA's unfulfilled promise of wage convergence

10. Brahim S. Coulibaly & Joshua P. Meltzer, *USMCA Forward 2022 Introduction*, BROOKINGS (Feb. 2022), <https://www.brookings.edu/articles/usmca-forward-building-a-more-competitive-inclusive-and-sustainable-north-american-economy/>.

11. See James Gerstenzang & Michael Ross, *House Passes NAFTA, 234-200: Clinton Hails Vote as Decision 'Not to Retreat': Congress: Sometimes bitter debate over the trade pact reflects hard-fought battle among divided Democrats. Rapid approval is expected in the Senate.*, L.A. TIMES (Nov. 18, 1993, 12:00 AM), <https://www.latimes.com/archives/la-xpm-1993-11-18-mn-58150-story.html>.

12. See Liz Shuler, *Raising labor standards: A means towards a more competitive North America*, BROOKINGS (Feb. 28, 2023), <https://www.brookings.edu/articles/raising-labor-standards-a-means-towards-a-more-competitive-north-america/>.

and high productivity across North America, whether USMCA can deliver outcomes that benefit Mexican workers and broader societal groups. This Article aims to answer this question, delving into both the Agreement's key achievements and ongoing challenges in Mexico after three years of implementation.

I. USMCA AND LABOR AFTER THREE YEARS: TWO INITIAL SIGNS OF COMMITMENT AND SUCCESS

A. A Historic Reform and a Firm Commitment to Enforce Higher Labor Standards

As a prerequisite for all member countries to ratify USMCA, Mexico committed to implement substantial amendments to its federal labor law prior to the agreement's ratification.¹³ These modifications included the creation of the Federal Center for Conciliation and Labor Registry (Federal Center) along with over twenty decentralized courts tasked with overseeing labor disputes across the country.¹⁴

In parallel, the US deployed five attachés in its US embassy and consulates in Mexico to support the implementation of the labor reform.¹⁵ Additionally, the US provided \$180 million over four years to fund technical assistance projects related to labor justice reform in Mexico and \$30 million over four years to support USMCA monitoring and compliance efforts. Mexico's 2019 reform mandated a four-year transition to the full implementation of a new labor justice system by May 1, 2023.¹⁶ At the time of publication of this paper, all labor-reform related deadlines had been met, with both the reform and USMCA establishing additional avenues for Mexican workers to challenge violations of their rights.¹⁷ Thus far, the Mexican and

13. INDEP. MEX. LAB. EXPERT BD., REP. TO THE INTERAGENCY LAB. COMM. 3 (2023).

14. *See id.* at 6.

15. *Id.*

16. *Labor Rights and the United States-Mexico-Canada Agreement (USMCA)*, DEP'T OF LAB., <http://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca> (last visited Jan. 31, 2024).

17. *See What Are the Most Important Changes to the USMCA?*, LATIN AMERICA ADVISOR: THE DIALOGUE (Dec. 19, 2019),

US governments have devoted considerable financial and human resources to support the reform as well as demonstrated a firm commitment to employing new USMCA mechanisms, such as the Rapid Response Labor Mechanism (RRM) mandated by USMCA's Annexes 23-A and B, to enforce higher labor standards in Mexico.¹⁸

B. USMCA's Rapid Response Mechanism: An Effective Tool to Protect Labor Rights in Mexico?

USMCA retains many of NAFTA's core features, including zero tariffs and commitments in areas such as agriculture and services, while also introducing significant updates. One of the most notable updates is an innovative dispute settlement mechanism that allows for expedited enforcement of labor commitments in Mexican facilities that export to Canada and the US.¹⁹ Companies that fail to comply with USMCA's labor provisions face consequences such as the suspension of preferential tariffs and the denial of entry for goods or services produced by the noncompliant facility.²⁰

From 2021 to 2023, twenty labor complaints were filed under USMCA's Rapid Response Labor Mechanism (RRM), resulting in fourteen prompt and positive dispute resolutions that led to improved wages and better working conditions for Mexican workers and unions.²¹ It is noteworthy that 85 percent of RRM disputes have involved the automotive sector, and only one case has reached the panel stage, leaving important aspects of the

<https://www.thedialogue.org/analysis/what-are-the-most-important-changes-to-the-usmca/>.

18. The United States-Mexico-Canada Agreement, U.S.-Mex.-Can., art 23, 31, agreed to July 1, 2020, available at <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/23%20Labor.pdf>; Annexes 23-A and B.

19. *Id.*

20. *Id.*

21. See *USMCA Tracker*, BROOKINGS, https://www.brookings.edu/articles/usmca-trade-tracker/?utm_campaign=USMCA%20Insights&utm_source=hs_email&utm_medium=email#/disputes (last visited Jan. 31, 2024); see also Joshua P. Meltzer & Diego Marroquín Bitar, *Assessing the Rapid Response Labor Mechanism*, BROOKINGS, <https://connect.brookings.edu/assessing-the-rapid-response-labor-mechanism> (last visited Jan. 31, 2024).

mechanism untested.²² The following table provides a summary of the key elements of RRM cases filed from 2021 to 2023.²³

Start date	Title	Complainant Parties	Status	End date	Days to resolve dispute
5/12/2021	General Motors facility in Silao, Guanajuato	U.S. government	Solved	9/22/2021	133
6/9/2021	Tridonex facility in Matamoros, Tamaulipas	U.S. government	Solved	8/10/2021	62
5/18/2022	Panasonic Automotive Systems facility in Reynosa, Tamaulipas	U.S. government	Solved	7/14/2022	57
6/6/2022	Teksid Hierro de Mexico facility in Frontera, Coahuila	U.S. government	Solved	8/16/2022	71
7/21/2022	Manufacturas VU facility in Piedras Negras, Coahuila (VU I)	U.S. government	Solved	9/14/2022	55
1/30/2023	Manufacturas VU facility in Piedras Negras, Coahuila (VU II)	U.S. government	Solved	Facility closed	Facility closed
9/27/2022	Saint Gobain facility in Cuautla, Morelos, Mexico (RRM)	U.S. government	Solved	10/27/2022	30
3/6/2023	Unique Fabricating facility in Santiago de Querétaro, Querétaro	U.S. government	Solved	4/27/2023	52
3/11/2023	Fraenkische Industrial Pipes facility in Silao, Guanajuato, Mexico	Canadian government	Solved	6/26/2023	107
5/22/2023	Goodyear SLP facility in San Luis Potosí, San Luis Potosí	U.S. government	Remediation	2/5/2024	259
5/31/2023	Draxton facility in Irapuato, Guanajuato	U.S. government	Remediation	7/31/2023	61
6/12/2023	Industrias del Interior (INISA) facility in Aguascalientes, Aguascalientes	U.S. government	Solved	12/11/2023	182
6/16/2023	Grupo Mexico Mine in San Martín, Zacatecas, Mexico	U.S. government	Panel established	-	-
8/7/2023	Grupo Yazaki Auto Factory in León, Guanajuato	U.S. government	Solved	10/4/2023	58
8/30/2023	Aerotransportes Mas de Carga (Mas Air) Airline, Mexico City	U.S. government	Solved	10/18/2023	49
9/25/2023	Teklas Automotive facility in Aguascalientes	U.S. government	Formal Complaint	-	-
10/23/2023	Asiaway Automotive Components facility in San Luis Potosí, San Luis Potosí	U.S. government	Formal Complaint	2/16/2024	116
10/26/2023	Tecnología Modificada S.A. de C.V. Caterpillar facility in Nuevo Laredo, Tamaulipas	U.S. government	Solved	12/22/2023	57
11/20/2023	Autoliv Steering Wheels facility in Querétaro, Querétaro	U.S. government	Formal Complaint	1/22/2024	63
12/14/2023	Fujikura Automotive facility in Piedras Negras, Coahuila	U.S. government	Solved	-	-

The table reveals a substantial number of cases resolved expeditiously, averaging eighty-eight days to resolution, and demonstrating the tangible impact of USMCA on labor conditions—mostly in the auto sector. Specifically, since the implementation of USMCA, over twenty thousand Mexican workers have exercised their right to vote on new collective bargaining agreements, resulting in significant wage and benefit improvements.²⁴ Furthermore, over two hundred workers have been reinstated following unlawful terminations, and millions of dollars have been invested in educating Mexican

22. See Brookings USCMA Tracker, *supra* note 21.

23. This table is based on the author's collection of data from the Brookings USMCA Tracker, *supra* note 21.

24. INDEP. MEX. LAB. EXPERT BD., REP. TO THE INTERAGENCY LAB. COMM. 3 (2023) [hereinafter INDEP. MEX. LAB. EXPERT BD.]; *FACT SHEET: The USMCA Rapid Response Mechanism Delivers for Workers*, OFF. OF THE US TRADE REP., (Feb. 9, 2024), <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/february/fact-sheet-usmca-rapid-response-mechanism-delivers-workers>.

businesses and workers about USMCA labor commitments and in fostering the development of independent unions.

In sum, the RRM has heightened awareness among the three governments and the export-oriented business community in Mexico regarding the new obligations for employers regarding the labor guarantees of the 2019 reform and USMCA commitments, particularly when it comes to collective bargaining and freedom of association. A fundamental question remains regarding whether the positive impacts observed on Mexico's exporting firms can translate into broader improvements in overall labor conditions across Mexico.

Accordingly, it is crucial to establish a clear understanding of the realistic outcomes that USMCA can deliver for Mexico. The subsequent section argues that while USMCA and Mexico's labor reforms have had a positive impact on exporting firms, both are likely to have a limited impact on enhancing overall market conditions in Mexico unless the underlying challenges stemming from the country's labor market dynamics and government staffing issues are effectively addressed beforehand.

II. THE CHALLENGES

A. Implementation of the Labor Reform: Gaps in Union Legitimation

The labor reform's successful implementation across all thirty-two Mexican states is replacing the old system of state juntas and establishing the Federal Center as the sole authority for union registration and collective bargaining agreement (CBA) legitimation (confirmation of worker support by secret ballot). Yet, significant delays in CBA validation and staffing shortages across the country pose a threat to the potential long-term benefits of USMCA and the 2019 labor reform.

Data from the Independent Mexico Labor Expert Board (IMLEB) established under Section 731 of the US's USMCA Implementation Act, reveals that thirty-one thousand CBAs were legitimated by the May 2023 deadline, while 139,000 CBAs were invalidated for failing to meet the 2019 reform's requirement for worker support.²⁵ This gap in legitimation has created de-facto a hybrid regime. On one hand, thousands of

25. See INDEP. MEX. LAB. EXPERT BD., *supra* note 24, at 10.

unions in Mexico that acquired ownership of their contracts under the old regime maintain ownership and collect dues without adhering to the new 30 percent worker support threshold and government oversight established by the reform and USMCA. On the other hand, new unions must adhere to the labor reform support threshold to gain ownership of their workers contracts and collect union dues.

As a result, despite employers being obligated to maintain contract benefits under the hybrid system, nearly eight out of ten Mexican workers remain without collective bargaining coverage or union office space under the new system, limiting the development of effective union democracy. It is worth noting that this gap in legitimation can also be attributed to the absence of active unions in numerous plants, hindering their ability to conduct the necessary votes.

B. Important Staffing Issues at the Federal Center

Severe personnel shortages at the Federal Center are directly related to the low level of legitimated CBAs in Mexico. Data from IMLEB reveals that Mexico's Federal Center hired 153 officials to supervise over 140,000 union votes nationwide (ninety-six officials in Mexico City and fifty-seven for the rest of the country).²⁶ In other words, each government verifier from the Federal Center is responsible for overseeing an average of 915 union legitimation votes, further contributing to the low number of legitimated CBAs in the country. This severe staffing shortage threatens to undermine both the 2019 labor reform and Mexico's commitments under USMCA.

To address this issue, the Mexican government began authorizing unions to hire public notaries to verify union votes in lieu of government officials.²⁷ While this new arrangement helped alleviate the Federal Center staffing shortcomings, it came with its own drawback. Currently, incumbent unions exert greater influence over the CBA legitimation process by being allowed to hire and pay notaries of their choice instead of going through government inspectors.²⁸ This measure conflicts with Article 23.10 of USMCA, which states that only government

26. *Id.* at 36.

27. *Id.* at 37.

28. *Id.* at 12.

officials are responsible for conducting and overseeing labor procedures, such as union legitimation votes, to guarantee fairness and impartiality.²⁹ In short, an insufficiently organized and under-resourced Federal Center is failing to manage the reform process on its own and, as a result, is handing over control to incumbent unions and their economic interests, creating a potential conflict of interest and risking Mexico's compliance with USMCA.

C. Mexico's Internal Labor Market Dynamics as an Inhibitor of Wage and Productivity Growth

In a recently published article, *The New American Way of Trade How the USMCA Does What NAFTA Couldn't*, former US Trade Representative Robert E. Lighthizer described Mexico's labor laws in the pre-USMCA era as acting against the interest of workers in Mexico and the US.³⁰ In the article, the former USMCA negotiator established a direct and causal relationship between what he called "anti-worker" labor laws in Mexico and low wages, arguing that Mexico's labor laws intentionally kept wages low to give Mexico an unfair competitive advantage over its North American partners.³¹ But a review of the relevant literature and regulations shows that Lighthizer's assertion is inaccurate and based on a shallow understanding of Mexico's internal market dynamics.³²

According to Brookings Senior Fellow Santiago Levy, Mexican labor institutions are very different from those of Canada and the US.³³ In particular, Mexico's current labor and social

29. The United States-Mexico-Canada Agreement, U.S.-Mex.-Can., art. 23, agreed to July 1, 2020, available at <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/23%20Labor.pdf>.

30. Robert E. Lighthizer, *The New American Way of Trade: How the USMCA Does What NAFTA Couldn't*, FOREIGN AFFAIRS (Sept. 27, 2023), <https://www.foreignaffairs.com/north-america/robert-lighthizer-new-american-way-trade>.

31. *Id.*

32. *Id.*

33. See Santiago Levy & Luis Felipe López-Calva, *¿Qué falló? ¿Qué sigue? México 1990-2023 Versión extendida*, *Revista Nexos* (Aug. 1, 2023), <https://www.nexos.com.mx/?p=74046>; see also Nora Lustig & Santiago Levy, *Good Intentions, Bad Outcomes: Social Policy, Informality, and Economic Growth in Mexico*, ECONOMIC DEVELOPMENT AND CULTURAL CHANGE 820 (July

security laws make a clear distinction between the formal and informal sectors of the economy. “Formal workers” are covered by minimum wage laws, can form unions, and are obligated to contribute to social security programs which, in contrast to Canada and the US, grant workers access to a series of benefits including daycare, health insurance and housing.³⁴ Formal workers tend to work for larger, more productive, and capital-intensive firms that pay higher wages on average. In contrast, “informal workers” work outside formal labor laws and regulations.³⁵ Although they do not directly contribute to social security, informal workers have access to some social benefits granted to formal workers, although to a lesser degree. Informal workers often lack job security, work in smaller firms that are family-run, or are self-employed, usually earning lower wages compared to their formalized counterparts. According to Mexico’s **Instituto Nacional de Estadística y Geografía (INEGI)**, only 55 percent of Mexican workers are formal.³⁶

Further, Mexico’s formal-informal dichotomy is not evenly distributed across the country. According to census data, the most productive firms tend to be formal and located in Mexico’s northern states (closer to the US-Mexico border).³⁷ Those firms have been more successful in integrating into the North American supply chain through NAFTA, thus becoming export-oriented and specializing in manufacturing.³⁸ As calculated by Levy, they are also on average fifty times larger.³⁹ Informal

2010), <https://doi.org/10.1086/652482>; Interview with Santiago Levy, Ph.D. Non-Resident Sr. Fellow, The Brookings Institution, (May 10, 2023).

34. Levy & López-Calva, *supra* note 33; *see also* Lustig & Levy, *supra* note 33.

35. *See* Levy & López-Calva, *supra* note 33; *see also* Lustig & Levy, *supra* note 33.

36. *See* Levy & López-Calva, *supra* note 33; *see also* Darinka Rodriguez, *El trabajo informal crece en México y supera el 55%*, EL PAÍS MÉXICO (June 30, 2023), <https://elpais.com/mexico/2023-06-30/el-trabajo-informal-crece-en-mexico-y-supera-el-55.html>.

37. *See* Levy & López-Calva, *supra* note 33; *see also* Santiago Levy & Oscar Fontanes, *NAFTA-USMCA and Wages in Mexico. USMCA Forward: Building a More Competitive, Inclusive, and Sustainable North American Economy*, BROOKINGS (Feb. 2022), <https://www.brookings.edu/articles/usmca-forward-building-a-more-competitive-inclusive-and-sustainable-north-american-economy-labor/>.

38. Levy & López-Calva, *supra* note 33.

39. *See id.*

firms tend to be in Mexico's southern and central states and pay wages that are, on average, 40 percent lower than wages at formal, export-oriented firms. For example, the informality rate in the Texas bordering state of Nuevo Leon is 35 percent and one of five jobs are in exporting firms.⁴⁰ In contrast, Chiapas, located on Mexico's southern border with Guatemala, has an informality rate of 75 percent and only one in twenty-five jobs are in exporting firms.⁴¹

This formal-informal divide is a central feature of Mexico's economy and research shows that this feature has been resilient to endogenous changes like increases in the level of education of Mexico's labor force and external shocks such as the implementation of trade agreements like NAFTA.⁴² In other words, research indicates that low wages and productivity in Mexico are not the result of poorly designed laws, lack of investment in human capital, or insufficient integration to the global economy. Rather, they are explained by the country's long existing labor market structure that keeps productivity and wage levels stagnant.⁴³

In sum, evidence has shown that over the past thirty years low productivity and lack of formal employment contracts and social security coverage are typically associated with low wages. It is important to note that these two factors are outside the scope of USMCA. Contrary to Lighthizer's argument, Mexico's labor laws allow for significant wage increases, such as the 84 percent rise in Mexico's minimum wage over the first five years of the Andrés Manuel López Obrador presidency after adjusting for inflation.⁴⁴ While it is true that USMCA sets higher labor standards for all signatories, the agreement alone is not capable of altering the internal market dynamics of each country, particularly those of Mexico.

40. *See id.*

41. *See id.*

42. Levy & Fontanes, *supra* note 37.

43. *Id.*; SANTIAGO LEVY, UNDER-REWARDED EFFORTS: THE ELUSIVE QUEST FOR PROSPERITY IN MEX. 261 (2018).

44. *Incremento Del Salario Mínimo*, MEX., ¿CÓMO VAMOS? (Dec. 14, 2023), <https://mexicocomovamos.mx/infografias/2023/12/incremento-del-salario-minimo/>.

CONCLUSION – IS USMCA GOOD FOR LABOR? YES, BUT ITS IMPACT WILL LIKELY BE LIMITED

Unlike NAFTA, USMCA included binding provisions on labor, which led to the creation of additional avenues to protect labor rights and promote union democracy. Through mechanisms like the RRM, USMCA improves on its predecessor by strengthening the bargaining power of USMCA-related firms and their workers across North America. These provisions, however, will most likely be insufficient to improve labor conditions in Mexico, as they primarily impact export-oriented firms, which represent a small fraction—approximately 15 percent—of Mexico’s economically active population.⁴⁵ Put differently, the potential benefits of USMCA are likely to be confined to Mexico’s relatively small islands of export-oriented, highly productive formal firms, leaving a vast ocean of economic informality and low productivity largely untouched.

In fact, some experts argue that USMCA’s labor provisions, among these the agreement’s new wage requirements make formal employment more expensive for formal firms.⁴⁶ For example, to access USMCA’s preferential tariff treatment under the agreement, 40 percent of a vehicle’s content must be manufactured in high-wage factories where workers earn at least \$16 per hour.⁴⁷ To put this requirement in perspective, even after an 84 percent increase in real terms between 2019 and 2024, Mexico’s minimum wage currently stands at \$14 per day, falling significantly short of USMCA’s high-wage requirement of \$128 for an eight-hour workday in the automotive sector.⁴⁸ In fact, this minimum wage increase only brings Mexico on par with the minimum wage level in Bolivia, a country with significantly lower living costs and Gross Domestic

45. According to Mexico’s INEGI, the economically active population is the segment of the population that is either employed or unemployed and actively seeking employment.

46. See Levy & Fontanes, *supra* note 37.

47. *UNITED STATES–MEXICO–CANADA TRADE FACT SHEET Rebalancing Trade to Support Manufacturing*, OFF. OF THE UNITED STATES TRADE REPRESENTATIVE (last visited Apr. 8, 2024), <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/fact-sheets/rebalancing>.

48. *Id.*

Product (GDP) per capita.⁴⁹ As Levy and Fontanes argue, by raising production costs in Mexico's most productive firms—the only firms that can pay USMCA's high wage requirements—these provisions could lower aggregate productivity in the country.⁵⁰ These combined measures, including approved legislation for increased vacation days and proposals to reduce the Mexican workweek from forty-eight to forty hours, will likely increase formal labor costs.⁵¹ Moreover, this suggests that only a few auto factories in Mexico will be able to access USMCA tariff benefits, and as a result, this measure could potentially make Mexican auto workers less competitive compared to their US and Canadian counterparts.

When NAFTA was signed, the assumption was that Mexico's wage and productivity levels would automatically converge with those of its North American partners, but available data shows that the gap in the region has widened since 1994. In fact, in the last thirty years, the country's wage and productivity woes have been resistant to changes such as increased educational attainment and trade liberalization. At the heart of the problem stands Mexico's formal-informal divide and, without addressing it, USMCA will have a limited impact in closing the wage and productivity gap.

Beyond implementation issues in Mexico's labor reform, the formal-informal divide in the country's labor market is a deeply entrenched issue that USMCA cannot fix on its own. While USMCA represents a significant step towards improving labor rights in Mexico, it falls short of being a solution to the complex challenges posed by the informal economy. As a policy tool, USMCA's scope is insufficient to address the root causes of informality or to assure systematic improvement of labor rights and wages across Mexico's formal sector. Because USMCA

49. Decreto Supremo [Supreme Decree] No. 4928, Art. 7 (Bol.); *Bolivia Gazettes Decree Setting 2023 Minimum Wage*, BLOOMBERG TAX (May 5, 2023), <https://news.bloombergtax.com/daily-tax-report-international/bolivia-gazettes-decree-setting-2023-minimum-wage>; *World Bank Open Data*, THE WORLD BANK (last visited Apr. 7, 2024), <https://data.worldbank.org>.

50. Levy & Fontanes, *supra* note 37.

51. Mexico News Daily Staff, *Proposal to Reduce Workweek to 40 Hours Advances in Congress*, MEX. NEWS DAILY (Apr. 27, 2023), <https://mexiconewsdaily.com/news/proposal-to-reduce-workweek-to-40-hours-advances-in-congress/>.

cannot and will not single-handedly eliminate the formal-informal divide, we must manage our expectations regarding the agreement's achievable outcomes in terms of labor.

USMCA presents significant opportunities for the Mexican labor market, with Mexican goods and services exports to the United States and Canada supporting over nine million jobs, equivalent to 14 percent of Mexico's economically active population. Even if USMCA were to generate an additional 10 percent of formal, well-paying jobs, it would still leave out approximately 80 percent of that population.

In conclusion, as long as the current incentives and labor reform implementation gaps remain unchanged, USMCA is unlikely to lead to widespread wage increases and productivity gains in Mexico. Without first addressing the formal-informal divide, USMCA's impact will likely be confined to a small subset of high-productivity, capital-intensive exporting firms, whose share of employment continues to shrink despite rising exports. To maximize the potential gains of USMCA, Mexico needs a comprehensive structural reform approach that extends far beyond the scope of the trade agreement. Such an approach requires the creation of an enabling environment that fosters growth in the formal sector, strengthens labor regulations for a much larger percentage of businesses, and promotes active participation from society, academia, industries, and government. That supportive environment will not be easily achieved.