

Two Years of USMCA: Challenges and Opportunities in Forging an Integrated North America, a two-day set of hearings sponsored by The Special Commission of the Senate of Mexico for the Monitoring of the United States-Mexico-Canada Agreement (USMCA or T-MEC in Spanish), September 21-22, 2022

Invited Statement on the Indispensable Elements for Strengthening Commerce in North America

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El T-MEC (Tratado entre Mexico, Estados Unidos y Canada; T-Mex), known as USMCA in the United States, created an updated legal framework within which the private sectors in Mexico, the United States and Canada as well as the three national governments, can address and manage a wider range of trade issues than were covered by NAFTA to continue generating prosperity and seek solutions to differences more expeditiously.

The agreement needs to be implemented well and creatively to keep up with a rapidly changing economic and commercial environment, including global competition from China and others, rapid technological change, and the threat of further disruption to trade, as experienced because of the pandemic and more recently Russia's invasion of Ukraine.

Overall, implementation of USMCA is progressing well after two plus years in operation, as is trade across North America.

Trade across North America has surpassed 2019 levels reaching over \$2.6 million dollars a minute.

Senior level dialogues have been regular and productive. Work has begun on many USMCA committees and topics. This includes work on challenging areas such as supporting labor democracy and countering forced labor as well as efforts to better involve Small and Medium Enterprises (SMEs), to discuss workforce development, and to pursue outreach to disadvantaged populations.

Similarly, the initial agenda and work under the US-Mexico High Level Economic Dialogue (HLED or DEAN in Spanish) is promising, as is the work plan under North American Leaders Summit (NALS) set in November 2021. These efforts are complimentary to USMCA and needed to take fuller advantage of opportunities in the current situation. They and USMCA still need to deliver clear, concrete results, however.

Serious challenges remain, including productive use of USMCA's consultation and dispute settlement processes to solve important differences, as is evident in the recent complaints

posed by the United States and Canada related to Mexican practices affecting companies working in the [energy sector](#).

Ongoing good implementation and [problem solving](#) will continue to be vital for the credibility of the USMCA agreement and to attract significant new investments into the massive cross-border trade network built in North America since the early 1990s.

It is equally important to see the USMCA agreement as opening the door for complementary steps outside current formal trade mechanisms that can make all three member countries more competitive by enhancing economic alignment and connectivity.

This complimentary work outside of the context of USMCA includes taking advantage of post-pandemic developments which favor nearshoring or “partner-shoring” to build shorter, more dependable supply chains and to undertake reinvestment at home to strengthen domestic production networks.

Significant new policy initiatives and investment by the United States in infrastructure and key technology and “green tech” sectors have opened doors for Mexico, and Canada, as trusted and physically close partners.

During the recent meeting of the US-México [High-Level Economic Dialogue](#), US officials highlighted how the new [US Chips and Science Act](#) provides important incentives for R&D, workforce development and investment tax credits in key technology sectors which can benefit all of North America. This legislation opens the door for Mexico (and Canada) to participate, especially in semiconductor assembly, testing and packaging, and perhaps in production.

The HLED discussions highlighted how the [US Inflation Reduction Act](#) also provides potential openings for Mexico (and Canada) in the Electric Vehicle and battery value chains, which includes production of critical minerals.

In addition, the US’ **Build Back Better** legislation has promised over \$3 billion of new investments in border infrastructure vital for trade flows, which prompted a commitment by Mexico to invest \$1.5 billion in complimentary border projects during President Lopez Obrador’s [July visit](#) to the White House.

The lessons from the pandemic underscore the importance of attention to health-related supply chains and the importance of much better government to government preparation to manage cross border emergencies. Serious economic repercussions in global markets caused by Russia’s invasion of Ukraine remind that we must prepare in North America to be even more resilient to potential disruptions.

If managed and led well, the current global situation offers great incentive and opportunity for all three members of USMCA to generate more economic prosperity, be more competitive in

the world marketplace against such competitors as China, and to boost resilience to future crises and disruptions.

However, success requires concerted action to build on USMCA's advantages and to take the complimentary steps needed to foster private sector investment in key sectors of our economies.

In response to this situation, Mexico should coordinate closely with its northern neighbors, commit substantial resources to improve its own human and physical infrastructure, and adapt policies and practices to create a more attractive investment environment to expand its role in key North American value chains.

Mexico should also consider offering its own incentives (federal and state) to attract companies in key sectors. It needs to make substantial long-term commitments to invest in the capacities of its workers and in the infrastructure essential for a future-oriented continental economy. Mexico also needs to seriously address concerns related to public security, energy supply, (and in certain areas water), as well as the respect for rule of law questions that have been raised by potential investors.

Key Elements in USMCA's Implementation

Achieving the best outcomes from USMCA/TMEC requires:

- 1) Thorough implementation of the norms and commitments in the agreement.
- 2) Full development of the agreement's [digital trade chapter](#) is very important, as the digital economy is becoming more important for success across so many sectors in the modern economy.
- 3) Effective use of the consultation and dispute resolution provisions including the committees and cooperation outlined in the agreement.
- 4) Ample use of stakeholder consultations and incorporation of their feedback in USMCA's implementation.
- 5) Substantial progress in areas aimed at making North American trade more inclusive and beneficial to broader segments of the population, e.g., Small and Medium Enterprise (SME) participation and enhancing labor democracy and rights.
- 6) Transparency about USMCA's operation and public outreach to explain the agreement's value and progress are vital.
- 7) A serious effort to [measure](#) and evaluate the results of the agreement in preparation for the upcoming review of USMCA in years five-six.

Key Complimentary work outside USMCA

USMCA alone will not, repeat, not make Mexico, the United States or Canada more competitive globally or achieve significant additional prosperity. The three governments must work together outside of the agreement to enhance cooperation on key economic sectors in support

of vibrant private sector investment, and each government must improve its own investment environment with policy actions and improved infrastructure that will improve economic performance and enhance future-oriented sectors.

Key action areas include:

- Building more resilient and efficient supply chains with special attention to key sectors such as semi-conductors; electric vehicles; batteries; critical minerals; traditional vehicles; medical devices, supplies of pharmaceuticals, aerospace; and telecom and electronics.
- development and deployment of emerging technologies, including “green” technology, such as those associated with electric vehicle value chains, and assuring access to critical minerals needed for production of batteries, as well as assuring recycling of waste from these products and processes.
- creating stronger and more advanced information and communications technology (ICT) networks and enhancing their protection from cyber-attack.
- expanding regulatory cooperation among the three countries, starting with priority sectors.
- greatly improving cross-border management of transportation infrastructure, including processes and forward planning that reduce costly bottlenecks while enhancing security.
- Preparing for future cross border emergencies.
- Seriously pursuing [workforce development](#) and skills investments needed for new growth sectors.

Mexico, the US, and Canada need both good implementation of USMCA and additional bilateral and trilateral collaboration. Such collaboration is currently underway through the US-Mexico High-Level Economic Dialogue ([HLED](#) or DEAN in Spanish), the US-Canada [Roadmap](#), and in the action framework approved at the November 2021 North American Leaders Summit ([NALS](#)).

Importantly, Mexico, Canada, and the United States must continue to deploy their own incentives, initiatives, and programs that strengthen their economies and encourage private sector investment in key sectors for future oriented growth.

This should include government investment in physical infrastructure, in building workforce skills and capacities, as well as effective rule of law, providing good public security, and steps that help assure affordable and ample energy provision, along with policies to encourage modern, safe ICT networks. The certainty provided by USMCA’s commitments and reliable rule of law practices will be very important for attracting more new private sector investments.

Taken together, good domestic policies and investments, vigorous implementation of USMCA, and well-designed complimentary cooperation among Mexico, the United States and Canada can boost North American prosperity, strengthen resilience midst international disruption, and greatly enhance the continent’s ability to compete with China and others in global markets.

End of Opening Statement

Further Elaboration on USMCA and Bilateral and Trilateral Cooperation

Key areas for attention within USMCA/TMEC/CUSMA (Canada, US Mexico Agreement)

Full Use of and Respect for [Dispute Settlement Processes](#):

- USMCA's processes have been updated and are being put to the test by all three parties.
- The special process for labor issues has already produced five successful collaborations to address labor democracy issues.
- The US faces a major complaint from Mexico and Canada over rules of origin in the auto sector.
- The US and Canada have filed claims on dairy and softwood lumber issues.
- The US and Canada have filed complaints on Mexico's treatment of private investors in the energy sector. The last complaint is an acid test for USMCA – the complaint is tied to specific provisions agreed by all three countries in the agreement.
- How each of these and other cases are handled will send clear signals about the ability of the three countries to work out difficult issues according to the agreed rules, and in the case of the energy-related dispute, the outcome will be important for investors' view of the Mexico's investment environment.

Promoting [Digital Trade](#):

- This is a vital area for growth and competitiveness across the continent building on the most advanced chapter on digital trade in any trade agreement in the world.
- The Digital Economy is vital for future growth.
- Digital trade and commerce will likely touch every sector in one way or another and has great potential to help SMEs join North America's marketplace and to expand access to services that can greatly facilitate productivity in many sectors.
- The three countries, and Mexico in particular, need to meet USMCA obligations (e.g., data localization).
- The three governments should set up a mechanism/committee/council to help coordinate and direct progress given the ever-evolving nature of this sector. They should have regular dialogue with companies innovating and investing in this vital sector.
- This sector is closely related to progress that is needed outside of USMCA specifically related to assuring cyber security and in building stronger and more capable Information and Communications Technology (ICT) networks.
- The key players also need to develop ways to better quantify and measure digital trade, given its growing importance.

Improving Regulatory Cooperation and Alignment

- The three countries should give more attention to energizing the Good Regulatory Practices committee established by USMCA.
- Regulatory cooperation and alignment are hard to achieve, but essential if North America is to meet the shared goals of protecting consumers and enhancing efficiency and competitiveness in key sectors, e.g., health-related sectors, traditional and electric vehicles, batteries, recycling, semiconductor manufacturing, agricultural and food trade including agricultural biotechnology.
- Some issues are specifically addressed in USMCA and already the subject of government-to-government dialogue, such as treatment of GMOs. For other areas, the governments need to set priorities and work plans to enhance regulatory alignment. Sectors where the three governments are trying to build more resilient supply and value chains would seem to be a good place to start, but stakeholder input should help set priorities.
- This work is vital for attracting investment and enhancing growth in key sectors, including those getting much attention recently like semi-conductors and EVs.

Areas where work in USMCA/TMEC needs to be accompanied by serious bilateral and/or trilateral collaboration or led primarily through bilateral and trilateral cooperation

Investing in human capital:

In the framework of the USMCA's Competitiveness Committee, the three governments have begun to host initial meetings to discuss best practices in workforce development. Next steps must include identifying priorities for pilot efforts to build up skills for key sectors and specific regions. Progress here will be vital for attracting investment in key technology sectors from semiconductors and Electric vehicles to medical devices and pharmaceuticals. Significant progress will depend on the creation of solid public-private partnerships, including academic institutions and regional/local authorities.

Emergency planning:

The USMCA's Competitiveness Committee has also been instructed to set up a mechanism to help maintain trade flows in emergency situations. This is a very good first step since we have had borders closed for health emergencies, truckers strikes and political responses to migration flows in recent years. But a good plan and response will require close involvement of government ministries beyond trade and commerce, to include DHS in the US for example, as well as specific other authorities depending on the emergency.

Expanding access to continental trade

It is important to mention that USMCA and the complimentary work to develop stronger and more efficient supply chains offers significant opportunities to incorporate SMEs in value chains both as suppliers in broader networks and directly through the many channels opened by expanded and more accessible digital trade.

Improving Investment Environments and Building Stronger Supply Chains

Mexico clearly has great nearshoring potential in this and other areas, as identified in the recent study by the Inter-American Development Bank, but it needs to support that potential with government policies at the federal and state levels that improves attractiveness for investment. (Mexico has already has some success in testing, packaging, and assembly of chips. It might also be able to move into some manufacturing of chips.)

This needs to include addressing investors' concerns about public security, the suitability of infrastructure, rule of law, energy supply, costs, and "greenness" and in some areas of the country the availability of sufficient water for certain industries (see further discussion following).

As for the larger task of developing innovation driven, competitive economies, a recent [study](#) comparing all the states and provinces across North America details how much more work even the most competitive Mexican states need to do to move up in that area. If Mexico can attract more cutting-edge companies, that will can help develop the capacities, skills and knowledge needed to foster more innovation driven economic clusters.

Semiconductor Manufacturing and supply chains:

As highlighted by US comments during the September HLED, Mexico has significant opportunities to attract investment in semi-conductor value chains. To do so, it needs to identify areas with the good worker skill sets and educational institutions, promising investors advantages such as strong industrial, energy, transportation, and communications infrastructure, (including the energy mix and costs), as well as possible other incentives for investors.

Electric Vehicle manufacturing and supply chains, including Critical Minerals, Battery development and production, charging infrastructure, and Recycling:

- Mexico has a great opportunity to contribute to the supply chains for Electric Vehicles, including batteries, as it is at present fully integrated into the value-added production of combustion vehicles. But it must adjust to the different requirements of EVs.
- First, it is important that there is a broad meeting of the minds about the concept of a North American EV which is now recognized in principle in US legislation.
- This should include not only similar approaches to norms and standards for vehicles but also for batteries, charging equipment and facilities, and recycling programs (green processes).
- Compatible approaches to incentives for investment and purchases of EVs would also support a stronger Mexican role as would participation in R&D.
- Complimentary approaches to Critical Minerals would also be a big boost for Mexico. Canada and the United States have been working on common approaches for several years. Mexico has decided to nationalize lithium the critical mineral for battery production, but it is not clear how well Mexico can produce its resources.
- It would make great sense to develop a trilateral common approach to exploring, processing, and refining of critical minerals (including a multi-year roadmap) as well as

permitting and regulating these processes. But it is not clear that Mexico is ready to join in this wider strategic cooperation.

Medical Devices, Supplies, Medicines, and Related Supply Chains:

Mexico is heavily invested in medical supply chains to the US and is a significant supplier of medical devices, for example. Mexico, the US, and Canada need to learn from very poor performances during the COVID pandemic. This will require regular dialogue among health and related regulatory officials and effective crisis planning among health officials and others. They should prepare and launch a collaborative trilateral framework for responding to any new international health crisis, such as we experienced with COVID.

The US, Mexico and Canada should also consider agreeing on new MOUs among regulators in this sector to improve and expedite review processes and to enhance collaboration and capacity building processes among those regulators. These would add to the resilience of supply chains.

Creating modern borders including infrastructure around them:

As mentioned above, under the USMCA, the three governments are working on improving response mechanisms to emergencies, including health and supply chains, that threaten to disrupt trade.

The US, Mexico and Canada are each currently having bilateral dialogues about improving border processes that seek to improve speed and efficiency at the border while addressing security concerns well. However, the progress has fallen short when it comes to deploying new technology, agreeing on improved processes, building new infrastructure, and having sufficient staff.

The US, Mexico and Canada have a new opportunity to coordinate closely on new cross border infrastructure and technology deployment. The US Build Back Better Act includes \$3.6 billion for border modernization, a significant chunk of which will be available for border facilities. In July, during his visit to Washington, President Lopez Obrador pledged that Mexico would invest \$1.5 billion in border improvements.

It is important that each country overcomes their own bureaucratic inefficiencies to carry out a rapid, transparent, decision-making process on border improvements that incorporates stakeholders from all sides of the border.

The US and Mexico, as well as all three countries, should agree to undertake longer term planning for transportation routes and infrastructure connecting border regions to key economic hubs and across north America.

In this context, the three countries should reenergize work on common practices and processes that can improve cross border trade and travel across the continent as the North American

Leaders Summits called for in 2014 and 2016. Such steps can greatly improve the speed and efficiency of trade, with significant cost savings if done well.

Public Security, Energy and Water

It is important to underscore that investors will pay a good deal of attention to:

- The state of public security in the region. Mexico needs to make significant improvements in several potential geographic areas for investment. Outbreaks of violence in border regions and regular crime on key transportation routes are major disincentives, especially for large new investments.
- Energy costs, sufficient supply, and “greenness” will be important for investment. Many have concerns about Mexico’s regulatory approach, its investment to meet future energy demand and at what cost, and the source of the energy, especially for those companies whose investors are concerned about “green” energy sourcing.
- In certain areas of Mexico (and the United States) it is likely that we will face significant water scarcity. This will significantly affect investments that require a good deal of water for production which include some of the key product sectors described above.

Mexico should take specific steps to address concerns in each of these areas.

Transparency, Stakeholder Dialogues, Outreach and Measuring Success

One of the key problems that haunted NAFTA was the lack of public and even stakeholder understanding of the important role that NAFTA played for jobs and prosperity.

USMCA/TMEC/CUSMA has a built-in five-year review to consider and measure its successes and shortcomings.

It is important that all three governments be as transparent as possible to make visible the good work being done to implement the agreement. It is important to include as many stakeholders as possible in the processes of implementing the accord and in gathering and incorporating feedback.

The governments also need to be better in explaining to key public audiences why the agreement is so important for jobs and opportunity in all three countries. One needs to [“Win hearts, minds and wallets.”](#)

In [measuring successes](#) and shortcomings of USMCA and the complimentary efforts among the three countries, oversight bodies like the legislative bodies and outside analysts, as well as executive branches, need to be clear on the metrics worth considering. These metrics could include:

- Trade and job growth, including digital trade, attributable to USMCA.
- Additional SMEs and disadvantaged groups now participating.
- Improvements in cross border efficiency (processes, infrastructure, and emergency plans).

- Advances in regulatory cooperation.
- Improvements in labor democracy, forced labor, environmental practices.
- Workforce development progress.
- Concrete Developments in supply chain resilience e.g., emergency plans, new investments, and increased capacities in key sectors.
- Improved cooperation in areas such as access to critical minerals, expanded EV and battery production and deployment, improved ICT network efficiency and security.
- Stakeholder and public attitudes toward USMCA and other cooperation.

The initial two years of USMCA's implementation and the last year of bilateral and trilateral cooperation that build out from USMCA's framework are promising and have already achieved much progress. However, much work needs to continue to realize the potential for boosting the prosperity, well-being, and global competitiveness of all three North American partner countries.