

MEXICO: Investor wariness will sap USMCA's potential to spur recovery

The United States-Mexico-Canada trade agreement (USMCA, or T-MEC as it is known in Mexico) came into effect on 1 July. Although President Andres Manuel Lopez Obrador (AMLO) sees the USMCA as a catalyst for a post-pandemic economic recovery, the agreement is unlikely to involve a dramatic upshift in investment into Mexico in the immediate term. In fact, there could be an initial period of snags and complications as companies in Mexico catch up with new rules and regulations. Beyond any teething issues over the coming months, the more pressing problem is the deteriorating business environment, which is increasingly marked by AMLO's anti-business rhetoric and action; regulatory unpredictability; and the growing importance of courts and judicial means to protect investment outcomes.

Take-off complications

The legislature on 29-30 June scrambled to pass secondary legislation required to harmonize local laws with the USMCA. However, it is not clear that firms in Mexico are prepared for the new USMCA rules, especially when it comes to labor issues, partly because the Covid-19 crisis has delayed preparations for the shift away from the old North American Free Trade Agreement (NAFTA). This matters because the USMCA includes new "rapid response" mechanisms to ensure that Mexico abides by new labor commitments; US Trade Representative Robert Lighthizer has also made it clear that the US "expects to bring cases" against Mexico to enforce new provisions contained in the USMCA.

Energy issues

Despite the USMCA's implementation, investment uncertainty remains heightened. This mostly reflects developments in the energy sector. On 30 June, AMLO revealed that legal cases are being prepared against private electricity generating companies that he says engaged in corruption in contracting with the state-run CFE electricity utility. It is difficult not to see this as a reprisal given that it came a day after the Supreme Court (SCJN) provisionally suspended new electricity regulations issued by the government in May that were widely seen as an attempt to edge out private sector players in renewables.

AMLO has also strongly criticized Spanish energy company Iberdrola. After AMLO on 17 June accused Iberdrola of orchestrating a media campaign against his government, the company apparently withdrew from plans to build a new USD 1.2bn combined cycle power plant in Veracruz. Consistent with the plan to recover the CFE's dominant position, the state-run company will take over the project. A similar process is likely underway in the downstream oil sector, where AMLO envisages a revived state oil company Pemex as pivotal. The American Petroleum Institute (API) highlighted the extent of discrimination against US companies in the downstream sector in a letter to US authorities earlier this month.

Beyond energy

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The energy sector is bearing the brunt of AMLO's rhetoric and arbitrary government action. This reflects the symbolic importance that AMLO attaches to energy. However, politicization and interference in investment decisions has already affected other sectors from brewing to infrastructure. AMLO's reaction to pushback is also telling; for example, the government has attempted (without success) to clip the wings of the independent body that filed the court challenge against the new electricity regulations – the Cofece anti-trust regulator. In this context, the USMCA's supranational legal protections will be critical to safeguarding against government encroachment.

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