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Trump walls of China

North America's 'NAFTA 4.0' promotes workers' rights, environmental protection – and reduces China's regional influence

Read this article in German.

The 1994 North-American Free Trade Agreement (NAFTA) only entered into force after a fierce ideological battle. At the time, liberal economists cheered the world's largest free trade zone and presented investors images of blooming Mexican landscapes. Protectionist opponents of the agreement, however, believed it spelled the end of Mexican farmers and workers. In Mexico's southernmost state of Chiapas, indigenous 'Zapatista' rebels rose up against the agreement's neoliberal neo-capitalist exploitation. In the end, NAFTA's impact was mixed.

In early 2020, just before the new free trade agreement – known as 'T-MEC' in Mexico and 'USMCA' in the US and Canada – took effect, there was no hint of the agitation that accompanied NAFTA. When US President Donald Trump announced in 2017 that NAFTA was being renegotiated, Mexico was flabbergasted. The country's economy depends on freely trading with its neighbours. More than 80 per cent of Mexican merchandise is shipped north, creating continuous trade surpluses. During the negotiations, red herrings were thrown around, commentators penned apocalyptic scenarios and entrepreneurs loudly bemoaned their future prospects.

In 2019, two and a half years later, a record USD 614.5bn worth of goods crossed borders within the free trade zone. Free trade defied both Trump's protectionism and the landslide presidential victory of Mexico's left-wing nationalist, Andrés Manuel López Obrador. According to analysts, T-MEC's modernisations ensure its success: Call it NAFTA 4.0. The new agreement does in fact eliminate some of NAFTA's weaknesses, for example those regarding environmental protection and labour rights. But it also includes pitfalls, and like NAFTA, T-MEC alone can neither modernise Mexico nor drive it to rack and ruin. Mexico's future will ultimately be decided by Mexican political decisions.

Benefits for Mexican workers

Workers and the environment stand to benefit from T-MEC, which induced Mexican politicians to raise the minimum wage and implement long overdue labour law reform in 2019. It eliminated the corporate unions created after the Mexican Revolution more than 100 years ago, which were corrupt and opaque extensions of party politics and often exploited NAFTA for business interests.

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Mexico will now have modern trade union laws, which allows for repeated infractions of labour and environmental standards to be presented to a panel, with the burden of proof on the accused. States no longer have the power to block such panels. This provision was of major concern for US unions and the Democratic Party, whose approval was required to pass the trade agreement. The Democrats even demanded the right to send US inspectors into Mexican companies – which Mexico blocked. This remains the purview of envoys at the US Embassy in Mexico.

Mexico's industrial workers are also hoping for wage increases as a result of T-MEC's 'rules of origin' stipulating that in seven years, 40 per cent of a car's components will have to come from factories paying workers at least USD 16 per hour, eight times the current wage. Trump assumes that if carmakers have to pay higher wages in Mexico, they will repatriate production. But there's little evidence that will be happening.

Big businesses are less gung-ho about T-MEC than workers. The Centre for Economic Studies of the Private Sector (CEESP) criticises that it disadvantages Mexico and mainly serves the interests of certain US lobbies. Gustavo de Hoyos, president of the Mexican employers' confederation, Coparmex, acknowledges that his government had 'little negotiating skill'. Large firms had spread their production chains throughout the three countries, profiting from the various local advantages. Mexico's low wages and tax rates as well as lax environmental regulations stood out.

Subject to review

Under NAFTA, Chinese suppliers produced some car parts. But with USMCA raising the mandatory regional share to 75 per cent, the Chinese share is likely to drop. Trump intends to forcibly reduce China's

influence through Art. 32.10: 'Entry by a Party into a free trade agreement with a non-market country will allow the other Parties to terminate this Agreement on six months' notice and replace [it] with a [...] (bilateral agreement).'

US pressure obliges Mexico to get tougher on counterfeiting, which could deprive the Mafia of an important source of income but would also jeopardise many jobs in the informal sector. Farmers worry, too: While T-MEC allows a country to decide if it will allow genetically modified seeds, it simultaneously compels compliance with the UPOV Convention. Disparagingly called the 'Monsanto Law', the convention permits plants to be patented and grants breeders the right to charge farmers royalties for seeds (Art. 20).

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Other parts are also unfavourable for Mexico, for example, the 'sunset clause' that Trump managed to include: While the new agreement runs 16 years, it is subject to review every six. Trump even wanted a review every *two*.

T-MEC remains a mixed bag

The new trade agreement introduces mechanisms to promote small and middle-sized businesses, a chapter on cooperation in fighting corruption and another on e-commerce, which prohibits taxing digital products like books, music and streaming services. It hardly changes NAFTA provisions for investor dispute resolution, which critics term 'too investor friendly'. Trump's fierce resistance resulted in an agreement that does not mention either climate change or human rights, which Canada had wanted.

The 'Energy' chapter was cut under pressure from the Mexican government. Experts say that Mexico could have profited from the bankrupt state oil company PEMEX making strategic alliances with technologically skilled, well-financed private partners. However, López Obrador insisted Mexico must remain sovereign in terms of energy policy: Instead of importing cheap oil and gas produced through fracking from the US, Mexico should produce more of its own energy and build a refinery.

All in all, Mexico had little room for manoeuvre, writes university professor Gustavo Flores-Macías in 'El Financiero'. According to former Foreign Minister Jorge Castañeda, T-MEC reflects the politically

possible. Barclays' Chief Analyst for Latin America, Marco Oviedo, points out that Mexico steps out of the line of fire shortly before the US presidential electoral campaign. 'T-MEC creates legal certainty, but the Mexican government also has to ensure an investor-friendly atmosphere,' warns economic analyst Carlos González Tabares.

Experts describe T-MEC's terms as far from favourable for an economy in recession. While T-MEC has ended uncertainty about the future of the free trade zone and prevented a catastrophe, it does not necessarily bring Mexicans greater prosperity or a state of law.



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