



Constitutional Reforms: Impact on USMCA

Since its inception, **AMERICAN CHAMBER OF COMMERCE OF MEXICO** has promoted investment, the rule of law, and job creation, facilitating trade relations between Mexico and the United States. To advance our shared goals, it is imperative to maintain strict adherence to the rule of law and uphold the commitments embedded in the United States-Mexico-Canada Agreement (USMCA), which is fundamental to fostering regional cooperation and prosperity.

While a core value of democracy is the continuous pursuit of institutional improvement, it is essential that these reforms align with USMCA commitments to avoid potential "irritants" during the 2026 review and maintain the stability that the Agreement offers to North America. Below, we outline some challenges that could arise if the reforms approved in committees do not adequately align with these commitments.

1. Reform on Organizational Simplification

The proposed integration of autonomous bodies, such as the Federal Economic Competition Commission (COFECE), the Federal Institute of Telecommunications (IFT), and the Energy Regulatory Commission (CRE), into the Executive Branch presents potential conflicts with key USMCA chapters:

- **Chapter 18 - Telecommunications:** Article 18.17 mandates that a regulatory body operates independently of the Executive Branch. Merging the IFT into the Executive could potentially contravene this mandate, hindering market openness and competitiveness.
 - Shifting IFT's responsibilities to the Secretariat of Infrastructure, Communications, and Transportation might stifle competition and reduce investment in telecommunications. Since its establishment in 2014, the IFT has been instrumental in enhancing market competition, increasing mobile penetration, and lowering service costs. Maintaining an autonomous regulator, as required by international agreements, is essential to ensure impartial regulation and attract investment.
- **Chapter 21 - Competition Policy:** Article 21.1 stipulates the necessity of an autonomous and independent national competition authority. The absence of such a body could lead to disputes with trade partners, affecting the principles of national treatment and competitive fairness.
 - COFECE plays a crucial role in conducting surprise inspections, securing information without court orders, ordering asset divestitures,

imposing significant fines, and regulating mergers and acquisitions. Any reform that incorporates COFECE into the Executive could compromise transparency, favor state-owned enterprises, and weaken competition and regional trade. To preserve market fairness and competitiveness, it is vital to ensure COFECE's continued independence.

- **Chapter 22 - State-Owned Enterprises:** Article 22.4.2 requires that regulators of state-owned enterprises operate with impartiality. Eliminating the independence of these regulators could breach the principles of impartiality and fair treatment, as established in the USMCA.

2. Reform on Strategic State Industries

The proposal to limit the Federal Electricity Commission's (CFE) ability to contract with private entities, prioritize the CFE over private companies, and dissolve the CRE poses significant challenges under the USMCA:

- **Chapter 14 - Investment:** Article 14.4.1 establishes national treatment and most-favored-nation treatment for foreign investors. Prioritizing the CFE and restricting private companies could violate this principle, creating a less favorable environment for foreign investment.
- **Chapter 22 - State-Owned Enterprises:** Article 22.4 mandates that state-owned enterprises operate with fairness and transparency. The dissolution of the CRE could compromise these standards, negatively impacting competition in the energy sector.

Additional Considerations:

- These proposed changes, combined with the **Judiciary Reform**, could significantly heighten investor uncertainty, adversely affecting the continuity of projects and the competitiveness of the energy sector in North America.

3. Water, Food, and Environmental Protection

The reform initiative includes provisions to declare Mexico free of genetically modified corn, prohibit its cultivation and consumption; protect domestic water consumption, limit concessions in areas with low water availability and ban fracking and open-pit mining. While these measures aim to safeguard natural resources and promote sustainable use, they could face significant risks and challenges:

- **Chapter 2 - National Treatment and Market Access:** Article 2.3 prohibits arbitrary restrictions on trade in goods. Banning genetically modified corn

without robust scientific evidence could be perceived as an unjustified trade barrier.

- **Chapter 9 - Sanitary and Phytosanitary Measures:** Article 9.6 requires that restrictions on agricultural imports be based on scientific evidence. A ban on genetically modified corn may not meet these criteria.
- **Chapter 14 - Investment:** Article 14.4 demands national treatment and most-favored-nation treatment for foreign investors. Limiting water concessions to public entities could negatively impact private investors and lead to disputes under the USMCA.

4. Judiciary Reform

The proposal to remove the entire judicial body en masse could severely delay the professionalization of specialized justice, impairing the Federal Judiciary's ability to apply technical-legal criteria and provide ongoing training for judges, particularly in labor matters. This reform would violate the USMCA, as:

- **Annex 23-A - Worker Representation in Collective Bargaining in Mexico:** Under the USMCA, Mexico is committed to maintaining independent labor courts for the resolution of labor disputes.
- **Chapter 31 - Dispute Settlement:** Alternative dispute resolution mechanisms are essential for efficiently resolving business conflicts and reducing the burden on the judicial system. A lack of professionalization among judges could significantly undermine the handling of commercial disputes.

As representatives of the binational business community and committed partners in Mexico's development, **AMCHAM** reaffirms its dedication to collaborate through working groups and sectoral dialogues to thoroughly review legislative initiatives in line with USMCA commitments. Our goal is to ensure these reforms strengthen economic and commercial integration in North America, attract greater investment, and contribute to building a prosperous country with shared opportunities for all.