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FEATURED Q&A

How Well Is the USMCA Protecting Workers' Rights?



U.S. Trade Representative Katherine Tai has asked Mexican officials to probe labor conditions at a Panasonic factory in the Mexican border city of Reynosa. // File Photo: Office of U.S. Trade Representative

Q U.S. Trade Representative (USTR) Katherine Tai in May asked Mexican counterparts to probe whether workers at a Panasonic auto parts factory in Reynosa were treated unfairly and denied labor rights. Panasonic denies any wrongdoing. Tai's letter is the third labor complaint sent to Mexico under the United States-Mexico-Canada Agreement, or USMCA. Why has the United States decided to defend the rights of Mexican workers now? How well are labor protection mechanisms under the USMCA, which was negotiated under the previous administration of U.S. President Donald Trump, working out? Has the USMCA created fairer labor terms and conditions for workers in the three signatory countries than existed under the previous NAFTA agreement?

A Esteban Moctezuma, Mexico's ambassador to the United States: "One of the main policies President López Obrador has wanted to carry out since his electoral campaign was to improve workers' conditions. Since December 2018, real minimum wage in Mexico has increased 67 percent. Moreover, a new labor law was approved to ensure all Mexican unions can hold democratic elections. Both Mexico and the United States are aware that strong and competitive global economies require strict labor standards. The new labor law reform in Mexico ensures that men and women can have productive work, developed in conditions of freedom, equity, security and human dignity. Mexico and the United States have worked closely to address labor matters quickly. Consequently, the Secretariat of Economy, with the support of the Mexican Labor Ministry, will conduct an internal

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TODAY'S NEWS

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Summit of the Americas to Open in Los Angeles

The Summit of the Americas opens today, with Cuba, Nicaragua and Venezuela reportedly uninvited.

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ECONOMIC

Analysts Expect 72 Percent Inflation Rate in Argentina

Analysts in a central bank survey said they expected Argentina's inflation rate to soar to 72.6 percent this year, 7.5 percentage points higher than the consensus estimate in a previous survey in April.

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POLITICAL

Mexico's Ruling Party, Allies Pick Up Four States in Elections

The party of Mexican President Andrés Manuel López Obrador and its allies won four governor's offices that they don't already control in Sunday's state elections, according to preliminary results.

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López Obrador // File Photo: Mexican Government.

POLITICAL NEWS

Summit Opens Today as Cuba, Nicaragua, Venezuela Excluded

The Summit of the Americas opens today in Los Angeles, marking the first time since 1994 that the United States has hosted the gathering of Western Hemisphere leaders. The summit's guest list threatens to overshadow discussions, however, as the United States reportedly has not invited Cuba, Nicaragua and Venezuela, a move that may lead other leaders in the region to skip the event. The administration of U.S. President Joe Biden has decided to exclude the three countries from the summit, people familiar with the matter told Reuters. Leaders including Mexican President Andrés Manuel López Obrador and Bolivian President have said they will skip the summit if the United States excludes any countries from the region. U.S. officials have said concerns over human rights and a lack of democracy in Cuba, Nicaragua and Venezuela led to the decision not to extend invitations to those countries, an unnamed source based in Washington told Reuters. U.S. officials had previously indicated that Venezuela and Nicaragua would be left off the guest list, though a final decision on whether to invite Cuba revolved around whether to invite a representative who is lower ranking than President Miguel Díaz-Canel, the wire service reported, citing U.S. officials. The possibility was discussed as a way to placate López Obrador, a source told Reuters. Last month, Díaz-Canel said he would skip the summit, even if invited. The United States has invited Cuban civil society activists to participate. Rather than inviting Venezuelan President Nicolás Maduro, the United States is considering a way that opposition Juan Guaidó might participate, the wire service reported. Guaidó has international recognition, including from the United States, as Venezuela's legitimate president. Nicaraguan President Daniel Ortega was left off the invitation list following his government's pursuit and imprisonment of several opposition leaders and his re-election last

November in a vote internationally seen as a sham. "While not inviting authoritarian regimes to a summit of hemispheric democracies is the right decision—especially given the backdrop of Russia's invasion of Ukraine—it puts even more pressure on the Los Angeles meeting to demonstrate the relevance of the summit process itself," Peter DeShazo, former U.S. deputy assistant secretary of state for Western Hemisphere affairs, told the Advisor in a [Q&A](#) published May 10. "That requires agreement on concrete steps to counter social and economic inequality, promote green energy, handle the issue of migration and improve democratic governance," he added.

Mexico's Ruling Party, Allies Win Governor's Offices

The Morena party of Mexican President Andrés Manuel López Obrador and party allies were projected to win four of the six governor's offices that they didn't already control in state elections on Sunday, Bloomberg News reported. Morena and allied parties appeared to have won the gubernatorial elections in the states of Oaxaca, Quintana Roo, Hidalgo and Tamaulipas, according to a rapid count by Mexico's electoral institute. Opposition parties including the National Action Party and the Institutional Revolutionary Party, were projected to win in Durango and Aguascalientes states.

ECONOMIC NEWS

Analysts Expect 72% Inflation Rate This Year in Argentina

In a central bank survey released Friday, analysts estimated that Argentina's level of inflation will rise this year to 72.6 percent, 7.5 percentage points higher than April's estimate, Reuters reported. The group of analysts also estimated that last month's inflation stood

NEWS BRIEFS

Colombian Authorities Arrest Five in Paraguayan Prosecutor's Killing

Colombian authorities have arrested five people in connection with last month's killing of a Paraguayan prosecutor who pursued organized crime cases, Colombian President Iván Duque said Friday, Reuters reported. The prosecutor, Marcelo Pecci, was fatally shot May 10 on a beach on the island of Baru as he honeymooned with his new wife. The five suspects were arrested in Medellín, said Attorney General Francisco Barbosa.

At Least Nine Killed in Colombia Coal Mine Blast, Six Still Missing

Nine people were killed following an explosion in a coal mine in the northeastern Colombian town of El Zulia, the National Mining Agency said Saturday, Agence France-Presse reported. The explosion happened a week ago, and six coal miners are still unaccounted for. Approximately 70 rescuers are trying to find and save the victims. Almost 90 percent of the coal mine collapsed following the explosion, which was reportedly caused by a buildup of gases that led to a fire.

Brazil's Lula, Wife Test Positive for Covid-19, Report No Symptoms

Former Brazilian President Luiz Inácio Lula da Silva said on his Twitter account that he and his new wife, Rosângela da Silva, on Sunday tested positive for Covid-19, Reuters reported. Lula, who is leading in the polls ahead of Brazil's October presidential election, said he has no symptoms and will remain in isolation with his wife for the next few days. Polls are showing that his lead over incumbent President Jair Bolsonaro is increasing, and that he has 48 percent of voters supporting him, according to a Datafolha poll.

at 5.2 percent, and they cut their economic growth projection for this year to 3.3 percent. In the survey, analysts also said they expected Argentina's average nominal exchange rate to reach 157.97 pesos per dollar by December. The poll, which was conducted over several days, surveyed 41 analysts.

BUSINESS NEWS

U.S. Will Allow Eni, Repsol to Ship Venezuelan Oil

The U.S. State Department is allowing Italian-owned Eni and Spanish Repsol, two oil companies with joint ventures with Venezuelan state oil company PDVSA, to resume their shipments of Venezuelan oil to Europe as soon as next month, according to five unnamed individuals familiar with the matter, Reuters reported today. The Biden administration's objective for the decision is to aid Europe in cutting its dependence on Russian crude, as well as redirecting some Venezuelan cargo away from China. Eni and Repsol will be able to count the crude cargoes toward late dividends and unpaid debts, and a key U.S. condition is that the oil received "has to go to Europe. It cannot be resold elsewhere," according to one of Reuters' sources. Last month, the Biden administration renewed oil major Chevron's license to operate in Venezuela through the end of November under the same terms that the company has had there since 2020. The license allows the company to conduct "transactions and activities necessary for safety or the preservation of assets in Venezuela," the wire service reported. In a Q&A published May 27, U.S. Senator Marco Rubio (R-Fla.), told the Advisor that the Biden administration should not relax sanctions on Venezuela. "Time after time, the narco-regime has exploited the use of negotiations to maintain its illegitimate grip on power as well as to divide and further damage the opposition—all while perpetuating the Venezuelan people's agony and without providing any guarantees to hold free and fair elections," said Rubio.

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review to determine whether employees at the Panasonic auto parts facility in Reynosa are being denied the right of freedom of association and collective bargaining under the USMCA. If applicable, Mexico will negotiate a remediation plan with the United States. Mexico and the United States are aware that they need to guarantee that all workers' rights are safeguarded, as enforcing the USMCA labor standards is a core pillar of the bilateral worker-centered trade policy and a priority for the Mexican government. The USMCA contains the strongest and most far-reaching and progressive labor provisions of any trade agreement. USMCA's labor obligations are fully enforceable. Likewise, the Rapid Response Labor Mechanism allows Mexico, Canada and the United States to take enforcement actions on a case-by-case basis against companies in case they fail to comply with domestic freedom of association and collective bargaining laws. The USMCA sets unparalleled goals and binding commitments to respect international instruments of labor rights and to not lower labor standards to attract trade and investments."

A Lucinda Vargas, research fellow at the Center for Border Economic Development at New Mexico State University: "While the stated aim of agreements such as the USMCA and NAFTA is trade and investment liberalization, they both still address labor rights. NAFTA did it through a side agreement on labor cooperation. By contrast, the USMCA has a specific labor chapter within the agreement, which includes an annex on 'Worker Representation in Collective Bargaining in Mexico.' This provision, absent from the NAFTA labor side agreement, binds Mexico to ensure that companies in Mexico engaged in trade follow the same labor principles on freedom of association and collective bargaining followed by U.S. and Canadian companies. Moreover, a layer of enforcement is added via the Rapid

Response Labor Mechanism (RRLM), but the test is in its application. USTR Tai has demonstrated the RRLM works as successfully applied in two cases. Rather than face sanctions of fees and potential export restrictions, the companies in both cases succumbed and took action to ensure their workers' rights of freedom of association and collective bargaining. The Panasonic case may be headed for the same result. These are victories for the Mexican worker employed by companies that export to the United States and Canada. They are also victories for U.S. labor unions wanting a tougher stance on U.S.-trade-related companies in Mexico. What about Mexican workers outside trade-related businesses? While Mexico's 2019 labor reform aims to guarantee the same rights to all workers in the country, absent international oversight, and no direct RRLM-equivalent measure to secure enforcement of such rights, it is to be seen if Mexican labor authorities will follow the example of USTR Tai."

A Tequila Brooks, attorney and former labor law advisor to the North American Commission on Labor Cooperation Secretariat:

"USTR Katherine Tai's enforcement of Mexican labor rights under the USMCA's Rapid Response Labor Mechanism (RRLM) reflects the current administration's commitment to a worker-centered trade policy. The goal of this policy is to ensure 'worker representation in trade policy in the United States and in multilateral organizations'—including the World Trade Organization—and enforcement of all U.S. trade rules, especially labor rules. Ambassador Tai's predecessor, Robert Lighthizer, consulted extensively with U.S. labor groups when he negotiated the USMCA. The trade accord would not have received congressional approval without strong labor provisions after the House flipped Democratic in 2018. House Democrats and U.S. labor groups pushed hard for strong labor provisions in the USMCA that required fast action

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and corporate accountability for failures to comply with Mexican labor law. So far, the USMCA is the only U.S. trade agreement with this type of labor provision. A confluence of factors makes this the right time for strong enforcement of the USMCA's labor provisions. For the first time in 30 years, the U.S. and Mexican governments are aligned on the goals of protecting workers' union rights and eliminating the protection labor contract system in Mexico. This contrasts with several decades of working at odds during the NAFTA era. 'Decent work' is now Sustainable Development Goal Number 8. Fundamental labor rights are now accepted by governments, international organizations and even some corporate leaders as necessary to global development and human progress. The fact that North American unions continue to file complaints indicates that they think the process is working. Ambassador Tai's commitment to enforcing USMCA labor provisions is critical to ensuring that the process works—and that inclusive trade policy can lead to benefits for workers."

A **Frank Samolis, partner and co-chair of the international trade group at Squire Patton Boggs in Washington:** "The most recent, and third, invocation of the USMCA's rapid response mechanism reflects the Biden administration's 'worker-centric' trade policy, and it is likely to be invoked more frequently in the future. The most recent request, involving alleged labor abuses at Panasonic's auto parts plant in Reynosa, was accepted by Mexico's Economy Ministry, which now has 45 days to report the findings of its review to the United States. If Mexico agrees with the United States, the countries could then begin talks on remediation. So far, the rapid response mechanism has proved effective, most notably in a previous request involving a General Motors facility in Silao that resulted in a collective bargaining agreement raising wages for affected workers. The USTR has already gone on record, stating that the rapid response tool is key to future

trade policy and that more cases are imminent. The mechanism is tangible evidence of the USTR's worker-centric trade policy in action, and it is likely to be expanded in future trade agreements in the hemisphere. To that end, I would expect the Summit of the Americas to be the perfect platform for the United States to make an announcement to that effect."

A **Joyce Sadka, professor and researcher in the Economics and Law Departments at the Instituto Tecnológico Autónomo de México:** "The motivation behind defending the rights of Mexican workers is trade-related, but it is also related to human and social rights. The USMCA recognizes that each trading partner has comparative advantages in terms of the costs of producing goods and services in different industries and sectors. What is not acceptable, under the agreement, is that for the comparative advantage of any of the partners to be derived from or a result of not enforcing labor rights. This is a trend worldwide, approximately half of the free trade agreements signed after 2010 have labor provisions in the treaties themselves, and not as side agreements. The USMCA has a rollout scheme, and as yet the rollout is not complete. There are positive signs that labor protections are working better in the procedures and in the states in which the transition has already happened. In terms of labor justice, more than 10 states have yet to transition to the new model, but they represent far more than a third of the labor conflicts countrywide, because the states include the largest metropolitan areas in Mexico and also contain a large proportion of the northern industrial and maquiladora states. Second, we have to account for strong resistance from the beneficiaries of the previous arrangement. This is why having provisions in the treaty that facilitate effective international commitment is a good idea—to help counteract inertia and resistance, which is to be expected when such a profound change is undertaken."

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