

MEXICO'S LABOUR JUSTICE REFORM

FREQUENTLY ASKED QUESTIONS

In this document, the Mexico Committee of the Americas Group provides answers to common questions about Mexico's labour reform, which became law in May 2019. The questions come from exchanges and conversations with employers (national and international), civil society organizations and government representatives.

1. **With the new labour justice reform, can there be more than one collective bargaining agreement in a workplace?**

- The reform has not changed what was already established in the Federal Labour Law (Ley Federal del Trabajo – LFT) on this issue. The law allows for the possibility of there being more than one Collective Bargaining Agreement (CBA) in a workplace, with the condition that they cover different professional categories of workers. This remains the case under the reformed LFT.
- An employer can sign a CBA with the company-level union, and then a specific CBA with a different professional category of workers represented by a craft union, such as the welders' union. This is not a new provision in the reform and should not be a cause of concern.

2. **Can a workplace have more than one union? Will this increase inter-union conflicts?**

- The reform maintains the previous articles of the Federal Labour Law on this matter. More than one union was already permitted in the same workplace, but only one union, with majority representation, can hold title to the CBA.
- If there is more than one union vying for the title to a new CBA, the Certificate of Representativity to negotiate and sign the agreement will be awarded to the union that receives the majority of votes in a democratic election, through a free, direct and secret-ballot vote. Only those unions that can demonstrate that they represent at least 30% of the workers that will be covered by the CBA may participate in the election in order to obtain the Certificate of Representativity. In an initial stage of the reform, such votes will be supervised by the Conciliation and Arbitration Boards, later to be replaced by the Federal Centre for Conciliation and Labour Registration.
- In the case of a conflict for the title of an existing CBA, the reform guarantees authentic representation by holding a vote that is free, democratic and by secret ballot.
- In the case of challenges for the election of the leadership of a union, the reform improves the mechanisms to resolve the dispute, by requiring that union elections be held through a personal, free, secret-ballot and direct vote.

3. How will direct votes for CBA authentication process be organized in companies that have more than one workplace?

- The *Secretaría de Trabajo y Previsión Social* (STPS) has a special implementation process for CBA authentication votes that will take place in a company with more than one workplace in different parts of the country.
- There are national unions that already hold elections with direct votes in different workplaces, with supervision by the labour authorities.
- The law does not require that votes be held within the workplace, so they do not have to affect the productive process. Votes can also be organized in a tiered process to accommodate different workplaces and work shifts.

4. How often do workers need to vote on their CBA?

- There are two kinds of votes. One is the vote for the revision of the collective bargaining agreement and the other is for the authentication of the existing CBA.
- The vote for the authentication of the existing CBA takes place only once in the 4-year period following the publication of the labour justice reform law (by May 1, 2023).
- Votes on revisions to collective bargaining agreements take place every time there is a renegotiation of the CBA by the employer and the union; and this includes revisions to provisions of the CBA (every two years), and to the wage scale (every year).

For more information on the specific employer and union obligations under the Protocol for the Authentication of Collective Bargaining Agreements, see Resources section on page 5.

5. Does the reform violate International Labour Organization (ILO) conventions?

- No. To the contrary, the reform reinforces ILO conventions 87 and 98 on the right to freedom of association and collective bargaining.
- Enhancing internal union democracy through secret-ballot, free, personal and direct votes and mandating proportional gender representation in union executives does not violate ILO conventions on union democracy, but rather reinforces them.

6. Are wages going to increase due to the labour justice reform?

- Wages are not part of the labour justice reform. There is no direct correlation between the reform and wage levels.
- Minimum wages will continue to be determined under the existing process, by the tripartite National Minimum Wage Council (CONASAMI).
- Wage increases can take place when there is an authentic collective bargaining process between employers and workers.

7. Will there be a fall in productivity levels when there is authentic collective bargaining?

- Authentic collective bargaining can increase productivity levels. The most productive economies in the world have authentic collective bargaining. Germany and Japan are international examples of high levels of collective bargaining, while remaining among the most competitive economies in the world. In Mexico, the independent union at Volkswagen has a long history of authentic collective bargaining, while the company has maintained high productivity levels.

8. Is the budget for the implementation of the reform sufficient?

- The budget approved on November 14, 2019 includes more than 1.4 billion pesos for the labour reform for the year 2020.
- The government has so far fulfilled all the budgetary requirements of the reform. The 2020 budget exceeds the funding promised for the first year at the time of approval of the reform.
- The health and economic impacts of the COVID-19 pandemic on tax revenues and social expenditures could result in the labour reform process being seen as less of a priority for the rest of 2020.

For more detail, see *Mexico Budgets for the Transition*, [here](#).

9. Will the reform affect the rule of law?

- The reform guarantees more transparency in labour relations and in collective bargaining. This in turn will give investors more security and offer more predictability for those negotiating with representative trade unions.
- The elimination of protection contracts is an historic demand that was also supported by employers, in order to eliminate constant extortion by corrupt unions.
- The labour justice reform fulfills a central commitment of the US-Canada-Mexico Trade Agreement (USMCA), reinforcing the rule of law promoted under the framework of this agreement.
- The CTM (Mexico's largest trade union central) filed appeals for injunctions in the courts based on this argument, but these have been rejected by the judiciary.

10. Will there be a decline in foreign investment?

- Because the principles of this reform are enshrined in the free trade agreement between the United States, Canada and Mexico, the reform will contribute to increasing foreign investment from those countries.
- Foreign investment is also attracted by increasing productivity and enhanced technical capacity of the workforce, not just by the state of labour relations.

11. Could the scenario that took place in Matamoros in February 2019 be repeated all over the country?

- The incidents in Matamoros were not related to the labour justice reform and took place before it was passed.
- Despite the strike wave, employment during 2019 in Matamoros maintained a similar trend as in the rest of the country, with low levels of growth.
- Authentic collective bargaining, as promoted by the reform, can contribute to avoiding the wildcat strikes that took place along the border.

12. How can a company support the CBA authentication process while maintaining neutrality?

- A company can collaborate with the voting process without taking a side for or against any of the options or parties on the ballot.
- A company can provide information and training on the reform and the voting process, as long as it is objective.
- A company may not express or show a preference regarding the vote through any communications or actions.

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13. What happens if the union does not call a CBA authentication vote in the required four-year period?

- The union has four years to convene the vote (until May 2023).
- If there is no vote called before the deadline, the CBA is declared null and void.
- Workers retain the rights under the CBA that are higher than those established by law.
- The union can negotiate a new CBA with the company, but first it has to obtain a Certificate of Representativity.
- Another union can enter negotiations for a new CBA.

14. What are the consequences if an employer does not fulfill its obligations?

- Employers that do not fulfill their obligations are subject to fines by the authorities.
- The USMCA includes the possibility of investigations taking place of cases of violations of the labour law, including the imposition of commercial sanctions against companies.

15. What is the procedure if a worker does not want the withholding of union dues by the employer?

- Union dues are mandatory, unless a worker expresses in writing to the employer that they do not want union dues deducted from their pay by the employer.
- Employers are prohibited from pressuring workers, directly or indirectly, to make any decisions regarding their union or group in which they are a member. Any intervention could be interpreted as employer interference in the internal affairs of the union, and therefore sanctioned.

Resources

The Mexico Committee of the Americas Group has published three tools to support employers in fulfilling their obligations under the new regulations and procedures that are part of the labor justice reform. The set consists of:

- Employer Guidance tool on Freedom of Association and Collective Bargaining;
- Summary of Employer and Union Obligations under the Protocol for Authentication of Collective Bargaining Agreements; and
- Backgrounder listing Mexican Laws and International Conventions relevant to FOA and the right to bargain collectively that reinforce the terms of the new legislation.

These materials are available in English, [here](#) and in Spanish, [here](#).

Mexican government

- The STPS has an active webpage with information, resources and updates on the reform and its procedures: <https://reformalaboral.stps.gob.mx>
- The Dirección General de Capacitación, Adiestramiento y Productividad Laboral (Central Office of Capacity Building, Training and Labour Productivity) of the STPS has a training program for workers and employers: <https://productividadlaboral.stps.gob.mx>