



USMCA and North America: Year One

By Earl Anthony Wayne

July 2021

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The United States – Mexico – Canada trade agreement (USMCA) went into effect on July 1, 2020, opening a wide range of direct and indirect opportunities for mutually beneficial cooperation across North America for at least the first 16 years on the agreement. It established rules to govern the massive commercial relationship between the three neighbors and established mechanisms and processes to solve the disputes that arise.

Over the past year, the Wilson Center held twenty public and private events on USMCA and related topics as well as publishing some twenty related articles to give special focus to the challenges and the potential of the agreement’s implementation. ([Please see complete list of activities here.](#)) USMCA and the successful management of the issues it covers are vital for the economic well-being of all three countries as well as for related North American cooperation.

The COVID-19 pandemic severely impacted the first year of USMCA’s implementation, however. It closed borders and workplaces. It shut down supply chains across North America. It raised new questions about the resilience and adaptability of continental and global value chains. Responding to the pandemic demanded great adaptability by companies, workers, and officials, including virtual meetings to begin USMCA’s [implementation](#). Workplaces and modes of work across the continent and the globe changed in ways that will have lasting effects after the pandemic recedes. Many lessons still need to be learned and institutionalized from these challenging months of recession and pandemic.

The political transition in the United States added complications and delays for USMCA’s implementation. The outgoing Trump administration’s ambitions were tempered in late 2020, and the new Biden administration has been limited by the slow process of appointing staff and putting policy proposals into action.

Nevertheless, officials and companies have moved forward with implementation of the agreement over the last year. They found ways for vital commerce to resume across borders and to work virtually to adapt USMCA’s implementation to the realities on the ground. Many companies introduced new technologies to maintain production and to assure effective cross-continent management from afar.

The lasting impacts of these changes are not yet clear, but throughout the last year, both private sector and government officials made clear that they see the great value of having the certainty provided by a clear set of rules and processes that will govern North America’s commerce until at least 2036. They also stressed the potential built into USMCA for improving collaboration and for working to further enhance mutually beneficial economic growth within the processes and committees embodied in USMCA.

The year ahead offers clear potential for more rapid progress in dealing with the challenges that arose in “year one,” as well as for seriously developing the many forward-looking portions of USMCA that can improve North America’s competitiveness and prosperity. The Biden administration’s focus on working with democratic partners to address China’s growing economic clout, for example, underscores the broader value of cooperating with Canada and Mexico to build back better, including from the pandemic. The three trade ministers met in May and signaled clear [commitment](#) to press ahead with USMCA’s implementation.

Problems, Challenges and Opportunities

A wide range of issues were raised as problems and opportunities (often as both) during the Wilson Center's events over the past year. Conversations touched on issues involving vehicle rules of origin (ROO), border management, supply chain reliability, Mexican labor reforms and practices, Mexico's proposed energy reforms, developing a new electric vehicle industry in North America, enhancing workforce development cooperation, and the best use of USMCA's new Competitiveness Committee, among others. Many topics remain to be further explored in the year ahead, but three cross-cutting themes stood out in Wilson Center events and exchanges.

Assurance that Rules-based Processes will be followed: A regular theme was the need for all three governments to make clear that USMCA's commitments and rules will be respected, and that companies, farmers, workers, and consumers will have the certainty that USMCA's mechanisms will work effectively to solve problems. Participants stressed their hope that talks could find solutions to problems that arise before the parties involved resort to dispute settlement and/or sanctions, whenever possible. They stressed, nevertheless, how important it is that norms for resolving differences be followed if the lack of progress warrants action.

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Stakeholder Involvement necessary: Another consistent cross-cutting theme was the need to fully involve stakeholders in dialogues about finding solutions to problems and in conversations about developing forward looking opportunities. Government to government discussions are vital, but stakeholders also need to be engaged regularly. While a good part of this engagement will be governments talking with their own private sector, NGOs and experts, our interlocutors repeatedly made clear that stakeholders should

also be involved in some of the trilateral conversations and, in the case of borders, in bilateral conversations about making improvements on the northern and southern borders. Our discussions highlighted that an effective stakeholder process could increase public understanding of the value of trade across North America and would surface valuable ideas for improvements and problem solving.

Solutions must involve more than Trade Ministries: USMCA's management will be guided by the three trade ministers in a body called the USMCA Free Trade Commission. While acknowledging the central role of trade ministers and ministries, stakeholders and experts repeatedly stressed that other government agencies and ministries need to be involved in solving the problems. They are also essential to making the most of opportunities for increased competitiveness under USMCA. The issues to be addressed often go far beyond the scope of trade ministries, experts argued, and interagency working groups among the three countries should be used to help deal with problems and to make the adjustments needed, whether it be improving flows of cross border commerce, successfully upskilling workers, or more effectively engaging Small and Medium Enterprises (SME) in USMCA's trade, for example. In this context, many participants stressed the need for strong bilateral forums, such as the newly recreated US-Mexico High Level Economic Dialogue (HLED), to deal with important issues outside the focus of USMCA that are largely bilateral in nature. Many also argued for the resumption of North American Leaders' Summits (NALS) to help review progress and to set overall guidance and priorities for trilateral cooperation.

Below is a summary of key issues raised and arguments made in the meetings hosted by the Wilson Center.

Rules of Origin (ROO) for the vehicles sector: USMCA established a complex set of “rules of origin” to determine whether a vehicle qualifies for duty free treatment under the agreement. The rules have sparked consistent concerns from industry representatives of all three countries that the ROO will be difficult to apply and to accurately track. They are also worried about the costs involved. Many manufacturers have requested extensions to the three-year required timeframe for applying the new ROO. They have requested to extend the time frame to five years, and most, if not all, have been approved. However, [differences](#) apparently remain between the USG and others over the interpretation of parts of the Rules of Origin, which will need to be resolved. Stakeholders in Wilson Center conversations have noted that since vehicle industry trade accounts for about 25% of the value of continental trade, it is very important get the implementation of ROO right and to track their impact with an effective feedback loop.

Mexican Labor Reform and Practices: This set of issues reflects an important domestic priority for Mexico’s government and a top priority for U.S. unions and many democratic members of the U.S. Congress. Mexican government officials have been adamant that implementing labor reform and achieving union democracy is a top priority for Mexico. They note that the pandemic has hampered implementation but argue that they have made good progress. There is resistance to the reform in Mexico from some longstanding unions, some in the private sector, and some state-level officials. It is also a massive task to implement the ambitious reforms. The government of Mexico is planning on a four-year process, but it could take longer. The US is offering significant technical assistance, approved by Congress, to support Mexico’s labor reform, but few details about its use were available during our discussions.

The US has already filed two cases under USMCA’s special rapid response labor mechanism. These cases are about practices that are undermining the democratic selection of unions in U.S. and Canadian owned plants in Guanajuato and Tamaulipas. One of the cases was presented by the AFL-CIO. The Mexicans were already pursuing an investigation of the Guanajuato case and had previously engaged on issues surrounding the case in Tamaulipas.

During Vice President Harris’s June visit to Mexico, the U.S. [announced](#) significant additional technical assistance to support Mexico’s labor reforms over the next three years. USMCA’s labor provisions will remain a politically charged area on both sides of the border, but so far, the USMCA challenges seem based on real substance. They provide early tests for USMCA’s rapid action dispute settlement process.

Mexico’s Energy Reforms: Mexico’s President, Andres Manuel López Obrador or AMLO, seeks to expand the role of Mexico’s state-owned oil company, PEMEX, and its state-controlled electricity authority, CFE. This is a top priority in AMLO’s “Fourth Transformation” agenda and is part of his effort to achieve to “energy sovereignty.” However, private sector investors from all three countries are alarmed that Mexico appears to be violating the USMCA provisions as well as Mexico’s constitution. While the proposed legal changes are currently frozen in Mexico’s courts, private sector investors in the electricity and petroleum sectors fear that if AMLO’s effort are allowed to proceed, billions of dollars invested in the Mexican energy sector since Mexico’s 2014 constitutional changes, will be lost or greatly reduced in value.

Stakeholders participating in Wilson Center conversations argued that the Mexican government moves are undermining environmentally friendly investments in renewable energy in favor of “dirtier” oil and coal energy. They warned that energy costs would likely rise if the proposed reforms proceeded, harming manufacturing in Mexico as well as consumer prices. Experts argued that these moves are also scaring away

additional foreign-direct investment, as potential investors in other sectors worry that the rules of the game for any given sector might also be changed by the government. All of this, they argue, will stunt job creation in Mexico.

Stakeholders and trade experts contended (including in a [paper](#) the Wilson Center published) that the Mexican government's moves violate several portions of USMCA designed to protect investors, including sections that do not allow favoring state-owned enterprises over private enterprises. They added that the proposed Mexican laws also likely violate Mexico's commitments in the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership and the Mexico-EU trade agreement. However, investor-state provisions of NAFTA remain in place for the first three years of USMCA, so private investors who believe they are damaged by Mexican government policy changes could file cases under the NAFTA provisions.

Stakeholders expressed hope that the US government will forcefully pursue concerns about USMCA violations with the Mexican government. The USG has raised concerns privately with the Mexican government, but the extent of the discussions is not clear. Mexico's potential violations will likely be a problematic area going forward, as strengthening the Mexican State's role in energy is a priority for AMLO in the final three years of his presidential term.

To offset energy policy differences, some participants suggested that the U.S. and Canada seek to revitalize a positive trilateral energy dialogue that could look at such issues as renewable energy development, energy efficiency, sustainable development, and emissions reductions. Cooperation in these areas could give Mexico more incentive to find more attractive options for U.S. and Canadian energy investors.

Border Management Issues regarding commerce, health, and travel: The pandemic brought home clearly that cross border trade includes far more than the trade provisions in USMCA. As borders and workplaces were closed and restricted for health reasons, suppliers and governments quickly discovered that there was much that was not known or frequently discussed about the supply chains that were vital for maintaining production of "essential" products. While many challenges for essential supply chains were worked through relatively quickly, stakeholders stress that it is far from clear that governments have a deep enough understanding of existing supply chains, nor have they established mechanisms needed to work through emergency situations that could arise in the future.

Participants stressed the need to revive and maintain regular public health dialogues like those that had been developed in earlier cross border health crises. These could help ease any future health-connected bottlenecks at the border.

Another set of issues that needs to be addressed include border management at ports of entry and the development of modern border infrastructure. These issues go beyond USMCA parameters, participants noted, and have been on the table for years, involving several USG and Mexican agencies, but they cannot and should not be left aside as they are vital to the smooth and improved functioning of commerce across both the northern and southern borders under USMCA. Participants raised a long list of issues related to functionality at the borders including eliminating bottlenecks, reducing wasted "wait time," extending hours of operation and the need for more digitalized procedures. These issues need to be addressed in parallel with USMCA implementation and given the high-level attention and funding required to boost the good competitiveness effects sought with USMCA.

In a related area, representatives of the travel and tourism industry reported a dire need for more coordination among governments and the private sector to facilitate a smooth recovery from the pandemic

and to “build back better” to move people between and in and out of the three countries in more harmonized and technologically advanced ways. As one interlocutor argued, North America could be a model for the world with a serious and representative dialogue on these travel issues, but it seems to be yielding leadership to others, such as the EU.

The Wilson Center [published](#) separately [papers](#) on [these topics](#) and hosted [events](#) looking at US-Canada and US-Mexico border issues and launch a task force to look at public health issues and the [US-Canada border](#).

Resilient Supply Chains: Many of our participants saw great opportunities for building stronger, resilient, and adaptable supply chains with Canada and Mexico under USMCA. Having an agreed set of rules and sharing many values and norms, participants argued, gives the US and its neighbors the opportunity to accelerate the economic recovery and to compete more effectively with China and other economic powerhouses. Participants argued for a special initiative or mechanisms designed to enhance what some call “[ally shoring](#)” or “partner shoring” across North America, which involve more use of supply chains among countries with shared norms, values and a history of working together well. Participants argued that USMCA embodies well the notion of “partner shoring.” Wilson held a public [event](#) exploring these issues in cooperation with the U.S.-Mexico Foundation.

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New Industries - Electric Vehicles (EV): Given the attention to “greener” investment in both Canada and the U.S., including in the auto sector, Wilson organized a session to explore the challenges of developing a sustainable electric vehicle industry in North America. This discussion explored the complicated supply chains needed to provide critical minerals for batteries, the time and investment needed to build facilities for battery production and to adequately train workers, the investments needed for recharging infrastructure, and the need to address end of use recycling. The bottom line was that arriving at a cost-competitive and sustainable EV industry in North America will be complex, take time and require good collaboration among private and public sectors, as well as between the three countries.

Workforce Development: Several sessions discussed the increasing importance of developing better practices to enhance and invest in the skills of workers in all three countries. The pandemic has increased the pace of technological change in many industries and more workers are likely to need new or upgraded skills, as will young people entering the workforce. Best practices need to be identified, developed, and widely shared to make reskilling, upskilling, and credentialing more available, less expensive, and more transparent for the working population. Investment in workers is essential to help the three economies remain competitive in the global marketplace. Good practices and models exist across North America, but they are not widely shared, and governments are not collaborating with the private sector as they should. Attention is being given by the Biden and Trudeau administrations to workforce development, and there is great potential if a way can be found to get more leaders to put these issues on their agenda and strive to build effective public-private partnerships. Proposals for doing this included using USMCA’s Competitiveness Committee and its labor cooperation provisions, as well as holding a North American Leaders’ Summit. Wilson published a [paper](#) on this topic.

Competitiveness Committee: In our conversations, participants highlighted potential importance of the new North American Competitiveness Committee created in Chapter 26 of USMCA. The mission of the

committee is to provide to ministers “advice and recommendations ... to further enhance the competitiveness of the North American economy.” The Committee has a broad [mandate](#) to “develop cooperative activities in support of a strong economic environment that incentivizes production in North America, facilitates regional trade and investment, enhances a predictable and transparent regulatory environment, encourages the swift movement of goods and the provision of services throughout the region, and responds to market developments and emerging technologies.” Many participants see this as an opportunity for considering broader issues as well, but this can greatly help keep the three economies globally competitive in the years ahead. While acknowledging some opposition to this broader mission within the trade bureaucracy, Wilson’s discussions agreed that using this committee creatively is an opportunity that should not be missed.

Issues discussed but not thoroughly explored in “year one”:

Canadian Dairy: The United States has requested a dispute settlement panel to review Canada’s implementation of its dairy rate quotas. The Trump administration made the complaint, and the Biden Administration moved ahead with it in May. This dispute, which was contentious at the end of the USMCA’s negotiations, was the first filed under USMCA.

U.S.-Mexico Agriculture Issues: Mexico and the United States benefit from a growing and mutually beneficial agricultural trade relationship which is important to US and Mexican farmers and consumers. However, a series of disputes, including over Mexico’s treatment of biotech and GMO products as well as a reported campaign “disparaging” US corn sweetener, led a coalition of US agricultural groups to complain to US authorities in a [March 22](#) letter. On a positive note, a recent decision by Mexico’s supreme court came down in favor of allowing US potatoes into Mexico’s market. The Mexican side also has complaints. For example, authorities argue that their tomato exports are being unfairly targeted in complaints from Florida growers. Stakeholders flagged that these problems need to be addressed in the months ahead, ideally through their consultative mechanisms established by USMCA. We have designated agriculture as a priority for an upcoming private event in Wilson’s USMCA series.

Digital Economy: This sector was flagged as an area for significant trade growth by the [International Trade Commission](#) when it reviewed NAFTA. Participants in our conversations agreed that the sector holds great potential, and that the potential has grown as the pandemic shifted more economic activity to electronic commerce and to providing services as well as management virtually. We see this as a priority area for an upcoming private event in Wilson’s USMCA series.

Small and Medium Enterprises (SME): New in USMCA, the SME chapter holds great promise for involving new swaths of businesses in continental trade and to incorporate many new “stakeholders” who directly benefit from that trade. The new SME committee thus has a very important potential role, which was enhanced by the expansion of digital trade during the pandemic, and which can help to further facilitate and grow trade under USMCA.

Good Regulatory Practices: Regulatory cooperation is consistently cited by a wide range of businesses as an important way to reduce costs while maintaining high health and safety standards. NGOs, on the other hand, express concerns that the private sector might exert undue influence on public health and safety concerns. It is evident from past experiences that this will not be an easy process. Ideally, U.S., Canadian and Mexican authorities will agree on priority areas where progress is possible as North America emerges from the pandemic.

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Environment: While this is a priority area for the U.S. and Canada, it is less so for Mexico. The USMCA chapter on the environment was not as ambitious as it could have been in part because of the Trump Administration’s priorities. It does not incorporate climate change, for example. It remains to be seen how the Biden Administration might try to incorporate climate change and greener energy and technologies in USMCA work going forward. Some participants see potential for engaging the Mexicans on environmental topics moving forward.

North America Leaders Summits (NALS): USMCA is a trade agreement overseen directly by the three Trade Ministers through USMCA’s “Free Trade Commission.” However, many of the issues raised in USMCA are led by other parts of the three governments. Growing commerce and improving competitiveness will require the active participation of other agencies and support of heads of government from the three countries. For that reason, participants in the Wilson Center conversations proposed the reestablishment of North American Leaders Summits (NALS) to address the broader agenda associated with improving the competitiveness of North America. The last NALS was held in [2016](#).

The Wilson Center’s conversations with stakeholders and officials over the last 12 months have highlighted the importance of USMCA. The year ahead is vital for implementing USMCA well and for realizing the potential in that agreement to foster economic growth, job creation, and cooperation across North America.