

House Passes Bill to Ratify Trade Agreement with Canada and Mexico, With Monitoring of Mexico's Labor Reform

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December 23, 2019

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The U.S. House of Representatives has passed legislation to ratify the United States-Mexico-Canada Trade Agreement (USMCA) and create an unprecedented level of oversight over another country's labor relations. If the bill becomes law, it could prompt even greater reforms to Mexico's labor laws.

Unions in Mexico

For at least 50 years, a company in Mexico could recognize a union and sign a contract with a union with little input or approval from workers. These agreements, referred to as "Protection Agreements," often set employer-friendly contract terms before the company even hires workers at its worksite. With limited accountability, transparency, and no democratic elections, most unions in Mexico were accommodating to the needs of the companies. In this climate, foreign direct investment in Mexico skyrocketed, but employee wages remained relatively low. Unions were present in workplaces, but sometimes in name only. (For more, see our article, [Mexico's Overhaul of Federal Labor Laws: Updates, Timelines for Employers.](#))

Reform under USMCA

As part of the USMCA, Mexico agreed to reform its labor laws. Under the terms of the USMCA, Mexico must implement new laws to protect workers' rights to collectively bargain and democratically elect a union, among other major changes. The reforms were fully supported by Mexico's president, Andrés Manuel López Obrador, and the Morena Party, which controls Mexico's congress. The expected changes likely will spur greater — and more confrontational — independent unionization than Mexico has experienced in decades.

Mexico quickly ratified the USMCA and, on May 1, 2019, passed legislation to overhaul its federal labor laws that address the reforms required by 2023. The United States still has not ratified the USMCA. The U.S. House of Representatives, controlled by Democrats, sought ways to ensure Mexico would fully implement its promised labor law reform, and enforcement of Mexico's labor reforms became the critical priority (and the cause of delay) to ratification.

House's Proposed Legislation

Under the House bill, the United States will create an interagency labor committee chaired by the U.S. Trade Representative and the Secretary of Labor to monitor Mexico's implementation of its labor reforms. Newly created "labor attachés" from the Department of Labor will be assigned to U.S. Embassies or U.S. Consulate offices across Mexico to assess Mexico's implementation of its labor reforms.

The bill also establishes a hotline where any individual (from the U.S. or Mexico) can report a violation of Mexican workers' right to collectively bargain or freely elect a union to the

United States.

In addition, it creates certain benchmarks the United States will assess to determine whether Mexico has made sufficient efforts to implement labor reforms. Those benchmarks include:

1. The amount of money Mexico provides for the creation of new labor courts and agencies tasked with enforcing the law;
2. U.S. review of Mexico's legal decisions addressing Mexico's federal labor laws; and
3. Whether Mexico has met its self-imposed deadlines for fully enacting labor reforms by May 1, 2023.

While Mexico's law provides for the prospect of more aggressive and independent unions, for the first time, it also could provide employees the choice to become union-free. Companies seeking to maintain the flexibility necessary to respond to a changing global marketplace should evaluate their labor relations strategy and seek legal counsel on how to comply with Mexico's new labor laws.

If the committee determines that Mexico has not complied with its promised labor reforms, the U.S. Trade Representative could file a complaint with an independent international labor arbitration panel established under the USMCA to address Mexico's labor compliance and temporarily increase duties on specific Mexican imports or permanently restrict certain Mexican imports until the violation is corrected.

Jackson Lewis is collaborating with its Mexican counterpart in its international alliance of labor and employment firms, L&E Global, to assist clients in navigating this major change in the law. We will continue to provide updates as the legislation develops.

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