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Plan México

LEGAL RISKS (AND OPPORTUNITIES) OF MEXICO'S PUBLIC SECTOR-LED INDUSTRIAL STRATEGY

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ABSTRACT

Countries in the Global South have often faced obstacles to their industrial development policies in the form of multilateral and bilateral trade and investment commitments. In 2026, Mexico faces the dual challenge of implementing a comprehensive industrial development plan, Plan México, while also negotiating a Joint Review of the United States-Mexico-Canada Agreement (USMCA). This paper explores the extent to which Mexico's trade commitments, especially within the existing USMCA text, encourage or constrain the policies in Plan México as well as additional policies that will be needed to truly reach the goals of equitable and sustainable economic development. In so doing, it helps to identify important negotiating objectives for Mexico to pursue in order to expand and protect the policy space needed to pursue Plan México. This analysis of Plan México demonstrates that while many of the policies are perfectly permissible under the USMCA, there are key areas of vulnerability in the energy sector and many policies necessary to reach Mexico's overarching development goals and specific targets are likely to face challenges under its treaty commitments. Mexico has already carved out key aspects of Plan México, in public procurement and activity by state-owned enterprises (SOEs), in the existing USMCA. Any future agreement should not only preserve those carve-outs but also decrease legal risk by eliminating access to investor-state dispute settlement for United States investors in the electricity sector.

Keywords: Industrial policy; Plan México; USMCA; policy space; WTO; ISDS

INTRODUCTION

On July 1, 2026, the sixth anniversary of the entry into force of the United States-Mexico-Canada Agreement (USMCA), the Free Trade Commission, made up of trade ministers from each of the parties, is scheduled to meet to "conduct a joint review of the agreement" (USMCA 2019, art. 30.1, 34.7.2). In the 18 months leading up to the meeting, Mexico has engaged in a "delicate diplomatic dance" to ensure it does not jeopardize a successful outcome of that review (Messerly 2026). Mexican President Claudia Sheinbaum's administration has ramped up border security, cracked down on drug cartels and re-categorized oil exports to Cuba as "humanitarian aid"—all in an effort to dodge repeated tariff threats and remain in the good graces of the US's tumultuous leadership (Reuters 2025; Lopez Ley 2025; Associated Press 2026). Despite these difficulties, Mexico continues to prioritize its trading relationship with the US, not least because more than 88 percent of Mexico's manufacturing exports are US-bound. Failure to come to an agreement during the joint review could result in substantial disruption to trade between the three parties, especially because firms are worried about the lack of a stable trading relationship, and could ultimately lead to a dissolution of the USMCA and 32 years of regional trade integration beginning with the North American Free Trade Agreement in 1994 (Kitamura and Trachtenberg 2026).

At the same time, President Sheinbaum is at the helm of an economy-wide "strategy for economic and sustainable development for a shared prosperity" known as Plan México (Gobierno de Mexico 2025). The plan for productive development seeks to move Mexico into the world's top 10 economies through increased domestic production, investment and jobs in strategic, high value-added sectors. President Sheinbaum campaigned on a platform of prioritizing Mexico's economic growth and development. She has aimed to build on her predecessor's "first story" of improving labor incomes and alleviating poverty through raising minimum wages and construct a "second story" of economic transformation and industrial development (Polaski 2026; Bozmoski and Villareal 2025). Plan México will require an extraordinary amount of coordination between government ministries, across national and subnational government entities and between the public and private sectors, not to mention an enormous amount of public spending. Nevertheless, Plan México implementation is already underway, with many more policies to be adopted over the next four to five years.

The aforementioned USMCA review, however, may pose an additional challenge. Preferential trade agreements (PTAs) like the USMCA have long been criticized by development economists for the ways that they constrain regulatory space for countries that need to engage in industrial policy to move up the ladder of development (Chang 2002; Stiglitz 2003; Gallagher 2005; Rodrik 2012).[1] PTAs are often designed such that policy tools aimed at industrialization, building up new sectors or improving export competitiveness are either prohibited or likely to be challenged in dispute settlement fora (Thrasher and Gallagher 2010). The same challenges may face countries deploying public policies aimed at public health, climate mitigation as well as fiscal and financial stability (Working Group on Trade, Investment Treaties and Access to Medicines 2019; Bandara et al. 2025; Dutt and Gallagher 2020; Thrasher et al. 2021).

This particular negotiation is also fraught with geopolitical challenges. On the one hand, Mexico is facing the US's somewhat more erratic approach to foreign policy. The United States Trade Representative has explicitly defined its policy priorities around building up competitiveness and protecting national security. To reach those goals, the office has demanded, among other things, that Mexico help limit China's access to the US market (Lerman 2026). Indeed, the existing USMCA

[1] PTAs have also been criticized by pro-free trade advocates for causing trade diversion (thus increased costs to consumers) away from more efficient non-Parties to these agreements and generally undermining the (welfare-maximizing) goal of multilateral free trade (Bhagwati 2014; Bagwell et al. 2016). It is outside of the scope of this paper to resolve the argument between these two schools of economic thought. For the purposes of this paper, it is enough to acknowledge that the USMCA exists and is under review, at the same time that Mexico is attempting to adopt a comprehensive industrial policy plan.

tightened up rules of origin for vehicle manufacturing and specifically narrowed the possibility of parties engaging in PTA negotiations with China (Lester 2026). Moreover, Chinese manufacturing itself presents a competitive threat to Mexican firms attempting to produce low-carbon technology like solar panels, wind turbines and electric vehicles (EVs) (CICE 2025; Hart 2026).

Even if Mexico is able to design its policies to align strategically with the USMCA constraints, the country's trade and investment commitments with the rest of the world may pose additional obstacles. Mexico is a member of the World Trade Organization (WTO) and a recent signatory to the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) which allows participating WTO member states to effectively appeal panel decisions (replacing the "non-functional WTO Appellate Body") (Geneva Trade Platform 2021). As one of only 30 parties to the MPIA[2], Mexico has demonstrated the country's commitment to the multilateral trading system, including the enforcement of trade commitments. Moreover, Mexico is a party to 51 trade and/or investment agreements with 66 treaty partners worldwide, including China (see Annex Table A1).[3]

This paper explores the extent to which Mexico's trade commitments, especially within the existing USMCA text, encourage or constrain the policies in Plan México as well as additional policies that will be needed to truly reach the goals of equitable and sustainable economic development. In so doing, it helps to identify important negotiating objectives for Mexico to pursue in order to expand and protect the policy space needed to pursue Plan México. An analysis of Plan México demonstrates that while many of the policies are perfectly permissible under the USMCA, there are key areas of vulnerability in the energy sector and many of the policies that will be needed to reach Mexico's overarching development goals and specific targets are likely to face challenges under its treaty commitments. Mexico has carved out key aspects of domestic law, in public procurement and activity by state-owned enterprises (SOEs), that lay the groundwork for its Plan, and those carve-outs will need to be preserved in any future agreement.

The following section provides a brief history of Mexico's development trajectory and a description of the current development levels. Section III provides a detailed description of the strong public sector-led Plan, demonstrating its heavy reliance on public procurement and SOEs. It also highlights some of the additional policy action that will be needed to achieve Plan México targets. Section IV identifies key chapters and provisions in the USMCA. This section also highlights what additional, enforceable obstacles may appear as Mexico introduces new policies for productive development. Finally, section V draws from the findings in sections III and IV to identify policy recommendations for Mexico—both in terms of the USMCA review and its own policy toolkit.

BACKGROUND CONTEXT: A BRIEF HISTORY OF MEXICAN DEVELOPMENT AND CURRENT STATUS

Mexico has a mixed history and experience with industrial policies. Like many Latin American countries in the 1960s and 1970s, it was committed to import substitution industrialization policies and the building up of SOEs. Under President José López Portillo (1976-82), Mexico experienced the last gasp of 1970s industrialization efforts, with a particular focus on shoring up the state-owned oil company, Petróleos Mexicanos (PEMEX). PEMEX discovered new oil reserves which kicked off rapid growth in the short term but, as with other commodity booms, resulted in a bust when international oil prices fell. Mexico defaulted on its sovereign debt in 1982, the same year that Miguel de la Madrid won the presidency on a platform of neoliberal economics including austerity measures.

[2] This number treats the European Union as one party—if EU member states are added individually, the full number of parties increases to 57.

[3] This number treats the EU as a single treaty partner, as above. Six of Mexico's treaties govern only trade in goods—those with Israel, Argentina, Cuba, Ecuador, Bolivia and Brazil.

From 1982 to 2018, Mexican leadership largely remained committed to neoliberal policies and observed the Washington Consensus of trade liberalization, privatization and deregulation (Serra and Stiglitz 2008). Despite promises that neoliberalism would solve Mexico's financial woes, the country's industrial development and income levels have not greatly improved. Instead of diversifying its export basket, for example, recent analysis shows that it has become increasingly re-specialized towards exporting low-technology and low-domestic value-added manufacturing products (Bandara 2024). Moreover, average annual wages have not grown since the mid-1990s and labor in Mexico receives a much lower share of income (as a percent of GDP) than its nearby neighbors and trading partners (Polaski 2026).

Former President Andrés Manuel López Obrador (AMLO) responded to these realities by making a renewed commitment to Mexico's development, primarily as an outside critic of the recent neoliberal approach of the two dominant political parties—the National Action Party (PAN) and the Institutional Revolutionary Party (PRI). Obrador emphasized increasing social spending and raising the minimum wage. He also began to promote public investment in strategic sectors, with a particular focus on renewing support for PEMEX.

President Claudia Sheinbaum, a climate scientist by training, campaigned on a promise of building the "second story" to AMLO's progress in industrialization, with a climate lens. She has launched what is called "Plan México" for this purpose. The Plan is intended as an overall "strategy for equitable and sustainable development for a shared prosperity" which will simultaneously strive for economic growth and transitioning to a low-emissions and climate-resilient economy (SEMARNAT 2025).

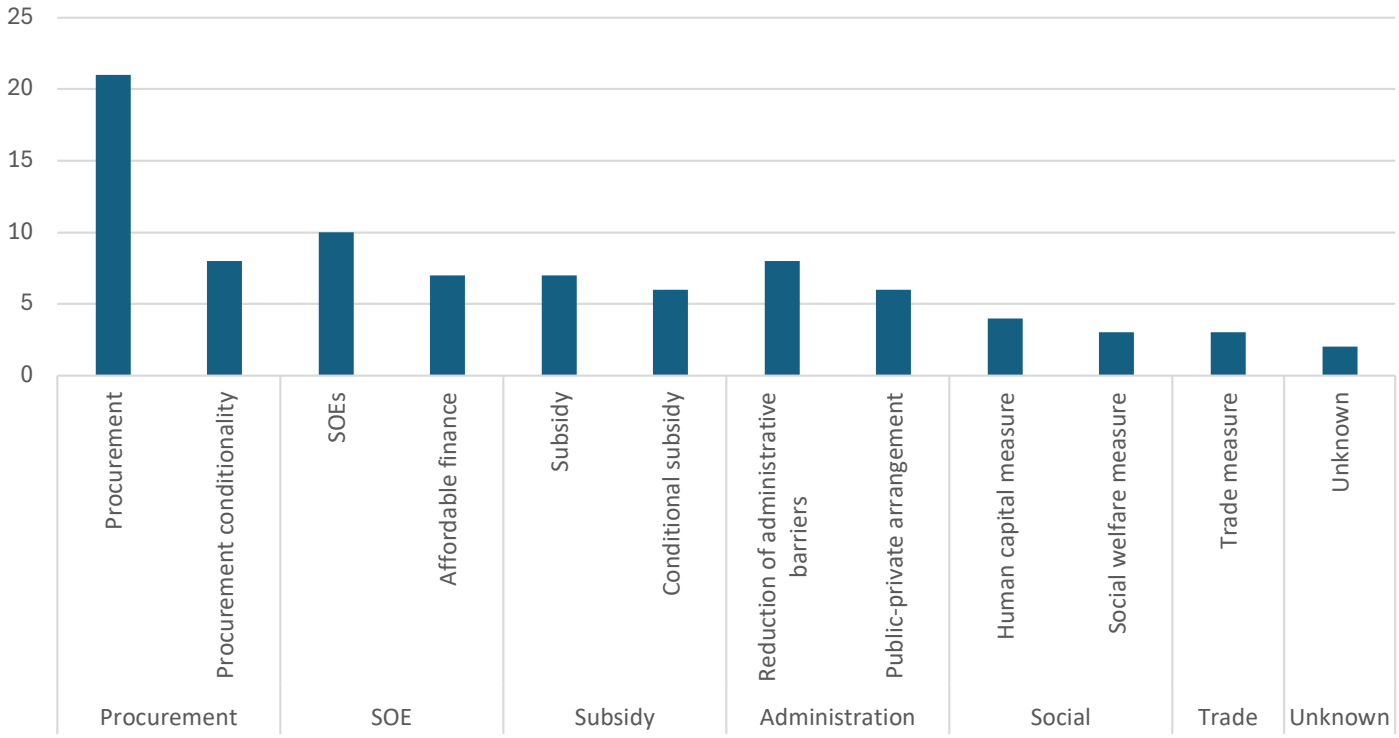
Recent research suggests that well-designed, thoughtful policies could make this goal a reality. Mexico's existing industrial capacity provides opportunities to plug in more directly to new global supply chains, especially those related to the energy transition. Mexico has manufacturing capacity in electrolyzers, batteries and components, all of which will help to decarbonize the transportation and heavy industry sectors (CICE 2025). It also recently kicked off a national electric vehicle project called Olinia™ (Vejares et al. 2025). Nevertheless, sustained domestic private investment remains a critical challenge. The need for growth combined with the potential of Mexico's existing capacity has set the stage for President Sheinbaum's ambitious productive development strategy Plan México.

PLAN MÉXICO, A PUBLIC SECTOR-LED DEVELOPMENT STRATEGY

The policy framework embodied in Plan México aims to significantly scale up public works investment in areas of energy, water, transportation, professional and technical education and housing. It also seeks to attract new investment and scale up national production in strategic industries, increasing national content in production along supply chains and supporting micro, small and medium enterprises (MSMEs). Strategic industries include agroindustry, textiles and shoes, automobiles and electric vehicles, chemicals and petrochemicals, pharmaceuticals, aerospace, semiconductors and consumer goods. Mexican leadership selected these sectors for three reasons: (1) they contribute to key objectives (such as increasing jobs, combatting climate change and diversifying the economy), (2) there is existing technical capacity, infrastructure and natural resources to supply these goods and (3) there is existing demand for these goods either domestically or internationally (Gobierno de Mexico 2025).

Under Plan México, Mexico has already deployed a diverse combination of specific policies including introducing new public procurement actions and conditionalities, implementing new guidance for SOEs, providing affordable finance through development banks, reducing administrative barriers and many more (see Figure 1). As demonstrated below in Section IV, many (though not all) of these policies are permissible under Mexico's trade commitments.

Figure 1: Plan México Policies, by Category



Source: Gobierno de Mexico 2025; Author's calculation.

Public procurement policies occur most often. They include policies which involve the government directly purchasing goods or services for a public purpose. They also include policies where the government conditions its direct purchase of goods or services on some factor other than the price of the goods such as nationality of the production, nationality of firm ownership or environmental impact of production and consumption. The second most common policy category is activity by SOEs. There is a particular emphasis on the Federal Electricity Commission (CFE) and PEMEX as a part of the energy sovereignty program and the Strategic Plan for PEMEX. There is also a strong emphasis on the role of national development banks (NDBs) like the National Financial Institution (NAFIN) and the National Bank of Public Works and Services (BANOBRAS) in providing financing for Mexican firms (especially MSMEs).

One notable feature of this landscape is how different it is from that of other similar middle-income countries. Juhász et al., for example, have found that middle-income countries (like Mexico), on average, rely heavily on trade policies to achieve their industrialization goals (Juhász et al. 2025). Mexico, by contrast, is deploying a public sector-led industrial strategy which uses procurement measures and procurement restrictions and ramping up activity by SOEs, with trade measures only rarely deployed.

Public procurement and state-owned enterprises are Plan México's main drivers

As noted above, Plan México is driven by two main engines: public procurement and SOEs. Public procurement involves direct government purchasing of goods or services, which countries frequently use to favor domestic industries and reach public welfare and environmental goals (Thrasher and

Gallagher 2014). Plan México's procurement policies include efforts to ramp up public works across the country with new train lines and roads and significant improvements to water and irrigation districts (Alarcón 2025).

The Revised Procurement Act (policy included in Plan México) seeks to create domestic economic linkages by introducing a 65 percent local content requirement for all government purchasing (Vizcarra-Mendez et al. 2025). The energy sovereignty program (also a Plan México policy) likewise requires a certain percentage of national content in procurement contracts for electricity generation. National content conditions in procurement can be found in amendments to the Public Works Law, PEMEX's Strategic Plan 2025-2035 and in the framework for public tender for special Circular Economy Economic Zones (PODECIBI)—all aspects of Plan México. In the Tula-Atitalaquia Circular Economy Park, Mexico will leverage procurement to draw contractors to develop and run a large recycling plant that turns organic residue into carbon pellets for energy and reuses old construction materials to make new ones. The firms that participate will receive tax deductions for building up the circular economy and more for developing workplace training programs and new innovation.

State-owned enterprises (SOEs) are the other main drivers of development under Plan México by providing the required energy and financial infrastructure to support growth in other sectors. Policies directed at SOEs focus on two distinct sectors—energy and electricity and financial services.

The fossil fuel and electricity sectors have been a major focus of domestic policy sovereignty over the past two presidential administrations. Under policies preceding Plan México, the CFE has been charged with overseeing 100 percent of electricity transmission and distribution, as well as 54 percent of electricity generation. Moreover, President Sheinbaum has put PEMEX's solvency and resilience at the center of a plan to increase energy sovereignty by increasing production of fossil fuels and decreasing reliance on imported natural gas. The Plan includes debt restructuring, expanding exploitation and production of fossil fuels, as well as constructing new gas lines. At the same time, PEMEX has published a sustainability plan involving emissions reduction commitments, a net-zero goal for Scope 1 and 2 emissions by 2050 and specific concrete targets for reducing methane and sulfur oxide emissions, among others (SEMARNAT 2025). The Plan also will rely on PEMEX to be an energy supplier for the new energy transition by expanding exploitation of lithium resources in five newly nationalized lithium fields.

Recently, both the CFE and PEMEX were granted a change of status under Mexican law—moving from "productive state companies" to "public state companies." This subtle change signifies that their priority is "to fulfil a social function rather than merely profit-making" while also foreshadowing ongoing challenges with solvency (Dougherty and Clouet 2025). Nevertheless, these two SOEs are key actors in Mexico's public sector-led industrial strategy—both for energy sovereignty and for the transition to renewable energy.

NDBs in Mexico are also well positioned to help reach the country's broader industrialization goals by providing new or cheaper financing for targeted economic groups and activities. Mexico has several such institutions including NAFIN, INFONAVIT and BANOBRAS. Under Plan México, NAFIN is directed to provide affordable financing for MSMEs that manufacture consumer goods where new jobs are likely to be generated. The goal of this financing strategy is to allow 30 percent of these small domestic firms to have affordable access to credit by 2030. Furthermore, the INFONAVIT, Mexico's national housing fund, is tasked with both loan forgiveness (for those with home loans that they cannot pay back) and the issuing of 577,000 new home loans. These policies are identified primarily as job-creating (500,000 new jobs in public works, 400,000 jobs in housing construction and 50,000 jobs recovered in SMEs), but they may also aim to increase the percentage of national content in large-scale infrastructure and consumer goods.

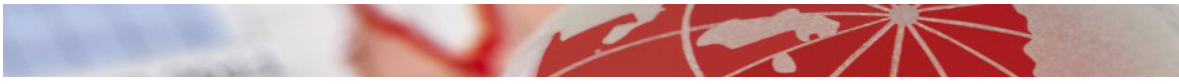
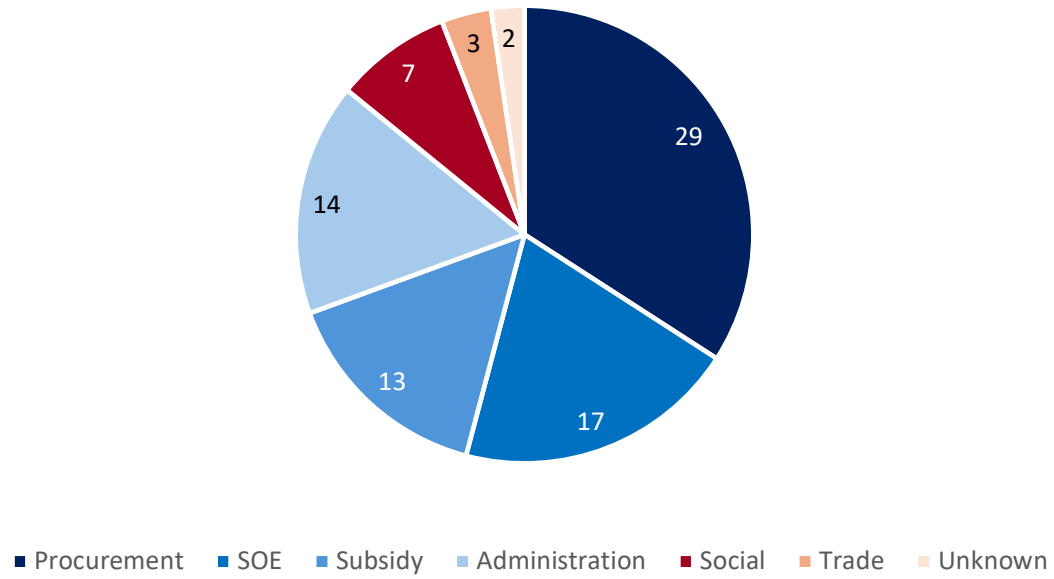


Figure 2: Policy Tools in Plan México



Source: Gobierno de Mexico 2025; Author's calculation.

These two policy categories (public procurement and SOEs) make up more than half of all Plan México policies (see Figure 2).

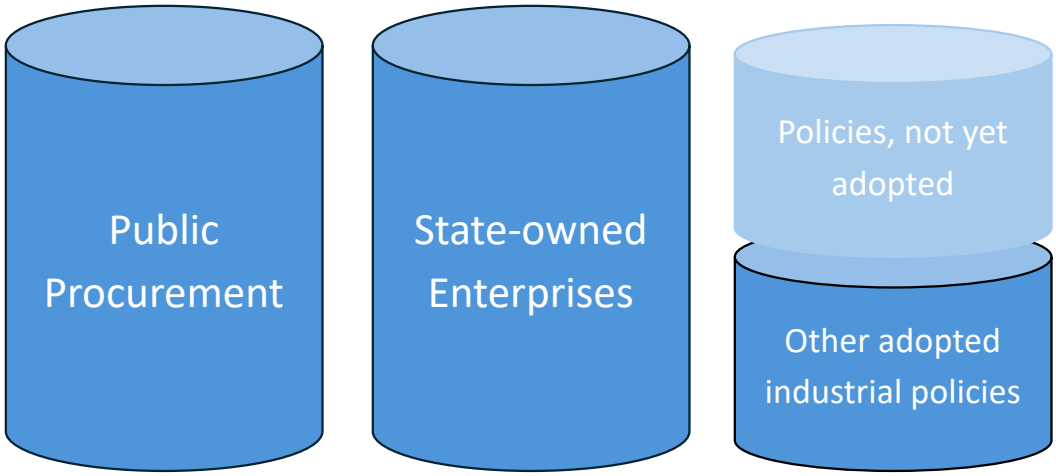
There are other existing policies as well, however, which will contribute to Mexico's productive development. Public-private arrangements, for example, have already begun to play an important role in Plan México's implementation. One key example is the government's public-private partnership with Olinia to launch the first Mexican EV in three different sizes—production of these vehicles is to start in 2027 (Vilela 2025). The Mexican government has also entered into a voluntary agreement with 22 groups (28 companies) in self-service, department stores and retail (Riviera Maya News 2025). Under this agreement, these private firms agreed to increase the percentage of Mexican-made products that they sell over the next three years.

Although NDBs can contribute to Mexico's ambitious growth goals, on their own they are not sufficiently capitalized to fund the entirety of Plan México. In addition to direct financing, the banks are focusing on their role in providing loan guarantees and derisking other banks to crowd in private finance. For example, Mexico has initiated seven mixed-investment large infrastructure projects where financing is provided in part by BANOBRAS, together with the subnational state government and a private investor PINFRA. While these efforts will need to scale up significantly to achieve the desired productive growth, they are indicative of a willingness by NDBs to work with the private sector towards mutually beneficial goals.

Additional industrial policies needed to achieve Plan México goals

The current set of policies will not be enough, however, for Mexico to reach its productive development goals (see Figure 3). First, Mexico's public sector-led approach is limited by the fiscal squeeze that the country is already experiencing and thus Mexico will need to increase coordination with private firms and crowd in more private sector investment, while also increasing fiscal revenue (Rubio 2025). Second, to reach its identified development goals using private sector investment, Mexico

Figure 3: Pillars of Mexican Productive Development Policies



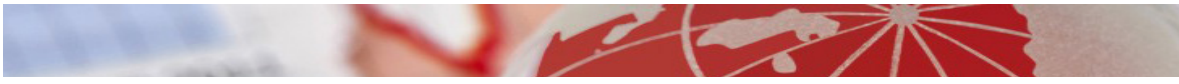
Source: Author's concept.

will need to introduce policies that require and incentivize economic activity in particular high-productivity sectors, such as semiconductors, batteries, solar panels and creative industries. Those policies are likely to be modeled after historical policy toolkits that other countries have used to climb the development ladder (Chang 2002). Moreover, as discussed in more detail below, these are the policies that are more likely to face challenges under Mexico's trade and investment commitments (see Section IV).

Today's industrialized nations deployed all kinds of targeted support measures and protective policies to support the development of new industries and create backward and forward linkages within their growing economies. These policies included specific subsidies to strategic firms and sectors, local content incentives and requirements (to create linkages between upstream and downstream producers within domestic value chains), strategic trade restrictions (to temporarily protect new or strategic industries from international competition) and export promotion through performance requirements (to create opportunities for national firms to participate in global markets) (Juhász 2015; Nikièma 2014; Rodrik 1993).

Mexico has already identified concrete goals which will need this kind of policy treatment. Within Plan México, Mexico has identified two broad targets that are likely to require more policy support: increasing local content in production and decreasing reliance on imports. The specific targets to increase local content cover a diverse set of products and sectors. For example, the Plan aims to increase national content in the consumer goods sector, including textiles, footwear, clothing and toys among others, to 15 percent, and calls for 10 percent of the sector to have national value chains. It also aims to increase national content to 15 percent across the automotive supply chain (See Table 1, below).

Mexico's targets aimed at decreasing reliance on imports or import substitution are effectively the opposite side of the same coin. Some examples include: (1) increase food sovereignty through domestic food production in corn, beans, milk and rice, (2) increase production of gasoline, diesel and jet fuel by 30 percent, (3) reduce imports of natural gas, (4) replace imports (with domestic products) in consumer goods sectors and (5) increase Mexican domestic vehicle production for domestic consumption by 10 percent. Policies implemented to reach these goals are often those that face more frequent (and more successful) legal complaints from trading partners and foreign investors.



USMCA: A POTENTIAL OBSTACLE TO PLAN MÉXICO'S CURRENT AND FUTURE IMPLEMENTATION

As hinted above, Mexico's ongoing review of the USMCA with the United States and Canada poses additional challenges to its national development strategy. The USMCA entered into force in 2020, during the first Trump administration, ostensibly in order to recalibrate the nearly 25-year-old regional free trade agreement for a more modern era. At the time, the United States' priorities were centered around rebalancing trade, increasing labor protection enforcement and ensuring stricter regional rules of origin for the auto sector (Vinopal 2019). Built into the agreement was a review period, six years after entry into force (USMCA 2019, art. 30.1, 34.7.2).

Despite the rhetoric around the agreement and the geopolitical realities that complicate it, the treaty itself is not especially unique. As with many bilateral and regional PTAs involving the United States, it contains commitments to maintain tariffs between the parties at or near zero. It contains chapters with commitments on rules of origin (to establish which tariffs apply to a given product), trade in services, investment flows, intellectual property, fair competition and many more (USMCA 2019).

Mexico has negotiated some special carve-outs for its domestic law that seem tailored for some of its Plan México policies. However, as the Plan continues to be fleshed out and implemented in new legislation and regulations, it will experience increasing tension with the commitments of the original USMCA.

USMCA, a typical modern free trade agreement with investment commitments

The current USMCA, like many PTAs, contains many features of what some experts have called a "deep integration agreement" (Mattoo et al. 2020). These "deep" PTAs are agreements that go beyond trade liberalization and include commitments that affect flows of investment, protection of labor and environment, the upward harmonization of intellectual property standards and guardrails on public procurement, subsidies and competition policies, as well as SOEs (Mattoo et al. 2020). The USMCA embodies all of those characteristics. Importantly for purposes of Plan México, the investment chapter prohibits export performance requirements and local content requirements placed on foreign investors operating on Mexican soil.

One area where the USMCA does stand out is in its investor-state dispute settlement (ISDS) mechanism. While its predecessor, the North American Free Trade Agreement (NAFTA) included broad rights for foreign investors to bring claims, the USMCA tightly reined in those rights. Under the USMCA, foreign investors generally may only bring legacy claims (claims based on alleged violations that occurred before 2020) or general claims for direct nationalization or national treatment violations (USMCA 2019, annexes 14-C, 14-D).[4] The only set of investors with access to the full arsenal of investment claims[5] are those with government contracts in specific sectors, including oil and gas, power generation, telecommunications, transportation services and ownership or management of transportation infrastructure (annex 14-E). The specific details of the ISDS mechanism in the USMCA could turn out to have a big impact on some of the Plan México policies, as described in more detail below.

[4] Canada has completely withdrawn from the ISDS mechanism in the USMCA, beyond the possibility of legacy claims. However, as between Canada and Mexico, their investors have full access to ISDS through the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP).

[5] Under the NAFTA ISDS mechanism, and indeed under most ISDS mechanisms, in addition to direct expropriation and national treatment violations, investors could bring claims for *indirect* expropriation or nationalization, unfair or inequitable treatment or any other violation of the text of the investment treaty.

Special aspects of the USMCA: Mexico's carve-outs

While the USMCA is a fairly typical agreement, the text has some language that seems to preserve key policy space for Plan México. Indeed, Chapter 8 sets the scene by explicitly restating Mexico's right to regulate and reform its constitution, and affirming its ownership of all Mexican hydrocarbons. In order to operationalize the policy space, there are three key exceptions or carve-outs that play a role.

First, Mexico has carved out certain services from government procurement commitments which are integral to Plan México (USMCA 2019, annex 13-A "Schedule of Mexico"). Carved-out services include but are not limited to (1) research and development, (2) health and social services, (3) space vehicles and aircraft-related services, (4) financial services and (5) utilities. This means that the aspect of the energy sovereignty program that requires national content in procurement contracts of electricity generation (see above, Section III.A.) could be permitted as a provision of utility services. Furthermore, the procurement chapter includes exceptions for "build-operate-transfer projects" and set-asides (for domestic firms) in up to 10 percent of all contracts. It also explicitly permits local content requirements of up to 40 percent in labor-intensive turnkey projects (25 percent for capital-intensive projects). These government procurement exceptions specifically make regulatory space for projects like the mixed investment scheme between BANOBRAS and the private firm PINFRA to provide financing for Mexican individuals and firms.

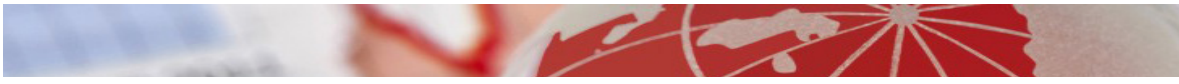
Second, reinforcing this allowance for local content in procurement, Annex I sets out that only Mexican nationals or firms may receive contracts to build roads, bridges, airports and other key public works. This carve-out allows the benefits from Plan México's big push for public works projects to accrue largely to Mexican contractors, thus increasing job opportunities for Mexican workers and garnering more public support for the projects.

Finally, Annex IV (Non-Conforming Activities, Schedule of Mexico) allows NDBs to provide preferential terms to Mexican borrowers in their sale of financial services (USMCA 2019, annex IV). The treaty's chapter on SOEs and designated monopolies contains rules to keep the activities of SOEs (1) largely in line with commercial considerations (Art. 22.4.1(a)), (2) from discriminating against or among foreign firms or investors (Art. 22.4.1(b)) and (3) from providing non-commercial assistance (loans, in-kind contributions and cheaper credit) to other state entities that are uncreditworthy or insolvent (Art. 22.6.1). Mexico's schedule shields the activities of five of its development banks—including BANOBRAS and NAFIN—from these obligations. The carve-outs for specific NDBs from commitments on SOEs mean that Mexico is free to rely on those banks' loans and policies as drivers of its own policy priorities—supporting Mexican enterprises, providing preferential treatment to Mexican nationals or enterprises and other benefits.

Challenges despite Mexico's carve-outs

While these carve-outs seem to be working well to protect some aspects of the Plan México policy landscape, they may not always work as designed. First, despite the inclusion of Chapter 8, which appears to indicate a priority for Mexican sovereignty over its hydrocarbons, other commitments within, and even external to, the USMCA, undermine that appearance. Second, although NDBs are carved out of the rules governing SOEs, the CFE and PEMEX continue to be bound. Finally, the following section identifies how some of the typical "deep" PTA treaty features continue to present obstacles to future Plan México policies.

Chapter 8 of the USMCA plays an interesting role. While it appears to favor Mexico's policy space, especially in its control over its fossil fuel resources, it adds little, and possibly even distracts from other aspects of the agreement that squeeze that space (Garcia Sanchez 2022). In the first place,



the chapter explicitly recognizes only what is already implicitly recognized as a matter of course. The language that Mexico retains "direct, inalienable, and imprescriptible ownership of all hydrocarbons in the subsoil of the national territory" (USMCA 2019, art. 8.1(2)(b)) is at the heart of Mexican constitutional law and has been since the country nationalized all oil companies in the 1940s (Cossio Diaz and Cossio Barragan 2017, 6-7).

Second, an obscure article near the end of the agreement acts to limit Mexico's right to specifically regulate the energy sector by reference to its "parallel obligations in [its] other trade and investment agreements" (USMCA 2019, art. 32.11). This directs attention to the agreement that Mexico ratified just before renegotiating the USMCA—the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP). Under the CPTPP, Mexico made commitments in the hydrocarbon and energy sectors according to its existing law at the time, including reforms made in 2013 by the predecessor to AMLO, President Enrique Peña Nieto (Cossio Diaz and Cossio Barragan 2017, 9-10; CPTPP 2018). Among other changes, President Peña Nieto increased access for foreign investors in Mexico's energy and electricity sectors. CPTPP Annexes I, II and IV make reference to those changes, indirectly solidifying the 2013 reforms (CPTPP 2019, annex I, Mexico 20-24; annex II, Mexico 3-4; annex IV, Mexico 1-7). Moreover, as indicated above, Mexico declined to carve out the CFE and PEMEX as covered entities in its commitments related to SOEs (whereas it did so for its NDBs) so that they are still bound by rules to operate primarily as commercial operators (despite any recent legal changes to the contrary).

The main consequence of these commitments in the CPTPP and the USMCA is that Mexico may be subject to challenges if it changes its constitution and laws regulating hydrocarbons as well as the energy and electricity sector. As it turns out, Canada and the United States have brought a state-state claim against Mexico for just this feature. Both the United States and Canada claim that changes to the Mexican Electricity Sector Law, which prioritizes the CFE over private renewable electricity generators in terms of grid access as well as "delayed and denied permits," make it harder for their firms to operate (Woodford 2023; MBN Staff 2025). Although the initial consultations in this case have not resulted in arbitration, the dispute is unresolved and is likely to play a controversial role in the upcoming USMCA review.

In addition to the threat of a state-state dispute, the structure of Mexico's electricity market exposes the country to the risk of investor-state disputes as well. As mentioned above, the USMCA only allows a subset of investors access to the full arsenal of investment claims: those with government contracts in specific sectors, importantly including oil and gas and power generation (USMCA 2019, annex 14-E). The current energy sector reforms require that the CFE controls 54 percent of all electricity generation and 100 percent of transmission and distribution (Bierzwinsky et al. 2025). Together, this means that all United States investors engaged in electricity generation in Mexico will enjoy full ISDS access because they must necessarily have a contract with CFE for transmission and distribution. This option has already been recommended to investors by some legal experts (Jones Day 2024).[6]

There are also other existing Plan México policies (those not addressed by carve-outs) that are at risk of legal challenges under the USMCA in its current form and perhaps outside of the USMCA context, at the WTO or through domestic trade remedies. Conditional subsidies such as those that provide tax incentives conditional on export volume or purchasing fixed capital assets in Mexico could be considered prohibited subsidies under WTO rules or prohibited performance requirements under the USMCA. The voluntary arrangement under which Mexican firms agreed to increase local

[6] It should also be noted that a Canadian firm has brought an investor-state claim under the CPTPP for Mexico's decision to revoke gold and silver mining titles previously granted to the firm (Brouwer 2024). Although this is not a case involving the energy sector, it demonstrates that Canadian firms retain the ability to bring claims against Mexico by way of the CPTPP and illustrates that Mexican legal risk from trade and investment commitments do not stop with the USMCA.

content in their retail goods is reminiscent of Canada's "voluntary undertakings" negotiated with firms to ensure integration with the local economy. That policy was struck down as a violation of the national treatment standard by a General Agreement on Tariffs and Trade (GATT) panel because it changed the conditions of competition for competitive imports (*Canada – FIRA* 1983). Although the targeted firms in this case are domestic rather than foreign, the resulting discriminatory impact of preferring local over imported content is similar.

As new policies are introduced, additional obstacles may appear

Perhaps more importantly, many of the most central goals articulated in Plan México—like re-shoring manufacturing, import substitution and increasing national content in various sectors—require policies (not yet explicitly fleshed out) that may face legal challenges within the USMCA state-state dispute resolution mechanism, in investor-state disputes or even at the WTO (See Table 1).

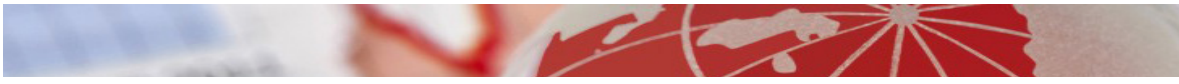
First, Mexico's policies aimed at re-shoring manufacturing such that the country is less reliant on imports could require introducing new trade barriers. Indeed, some increased tariffs have been planned for textiles and shoes, as well as chemicals and petrochemicals under Plan México. While Mexico does have flexibility under the WTO to increase tariffs in strategic sectors—their bound tariffs are on average much higher than their applied tariffs[7]—a major source of market competition in most goods comes from the United States where effective tariff rates are zero. Thus, temporary,

Table 1: Local Content and Import Substitution Targets in Plan México

Policy Target	Policy Mechanism	Potential trade commitment barriers
Increase value-added in exports by 10%	Export performance requirements for domestic manufacturing	• Prohibited performance requirements
Relaunch "Made in Mexico" Brand – 50% of domestic supply and consumption is "Made in Mexico"	Local content incentives for consumer goods producers	• National treatment standards • Prohibited performance requirements
Increasing to 15% national content in global value chains	Local content incentives across sectors	
Increase domestic content of vehicles by 15%	Local content incentives for autos and EVs	
Increase local and regional content of industry exports by 10%	Local content incentives for aerospace	
Increase by 15% domestic manufacturing of pharmaceuticals, medical supplies and devices	Local content incentives for pharmaceuticals	
Increase domestic production capacity for ethane derivatives	Specific industrial subsidy	• WTO subsidies challenge • US trade remedy challenge
Reduce dependence on imports by 10% of sensors, actuators, smart controllers and systems and components for EVs, including batteries	Trade barriers with specific industrial subsidies	• WTO bound tariffs • WTO subsidies challenge • US trade remedy challenge
Replace 14 billion in imports in strategic products, e.g., advanced polymers, lightweight composites, refining materials, metalworking, packaging materials and structural components	Trade barriers with specific industrial subsidies	• WTO bound tariffs • WTO subsidies challenge • US trade remedy challenge

Source: Gobierno de México 2025.

[7] Mexico's simple average bound tariff is 36.2 percent while its simple average most-favored nation (MFN) applied tariff is 8.4 percent (WTO 2025).



strategic tariffs that apply to everyone except the United States and Canada are unlikely to be effective in protecting nascent or struggling industries. Moreover, directly supporting domestic production in high-tech sectors like EVs, semiconductors and medicines will likely require high levels of domestic production subsidization. There are no subsidies commitments in the USMCA, but the United States has domestic trade remedy tools—countervailing duties—that could be used to counteract any increased competitiveness that Mexico demonstrates in these sectors (USITC n.d.).

Second, to ensure that firms build up domestic supply chains such that they contribute to 15 percent of global value chains in EVs, aerospace, electronics and semiconductors, and increase domestic inputs in consumer goods by 20 percent, Mexico will likely need to put in place some local content requirements or strong local content incentives for those sectors. Policies like these have been challenged before the WTO for decades, especially in the automobile, renewable energy and (more recently) the EV sectors (Wang 2026). And despite their ubiquitous nature, they clearly violate the terms of the USMCA's prohibition on performance requirements as well as rules on national treatment.

PLAN (AND ACCIÓN) MÉXICO: THE USMCA REVIEW AND MEXICO'S NEXT POLICY STEPS

As Mexico enters this review of the USMCA, it faces a very challenging and unpredictable negotiating context. On the one hand, President Sheinbaum has laid out a comprehensive productive development plan which could, if implemented carefully, increase consumer welfare and productivity across many sectors of the economy. On the other hand, the USMCA represents an agreement from which Mexico cannot simply walk away. To ensure the agreement preserves the policy space to fulfill the goals of Plan México, the country must preserve existing carve-outs and exceptions for procurement and SOEs, as well as push towards eliminating ISDS as a remedy for foreign investors.

Despite the challenges facing Mexico's energy law reform under AMLO, many of the policies already adopted under Plan México are perfectly permissible under the USMCA as well as Mexico's other trade commitments. Policies that strengthen and incentivize workforce training, reduce administrative and bureaucratic barriers to investment and fortify higher education in strategic sectors are not only allowed but essential to a country seeking to integrate into downstream segments of global supply chains. Existing carve-outs that allow preferences for Mexican citizens and firms in electricity procurement, public works projects and NDBs are also critical to linking Mexican growth in jobs and productivity to economic growth more broadly. Although preserving those carve-outs may be particularly challenging in the context of the unresolved consultations brought by the US and Canada and the US' ongoing interest in Mexico's energy market, Mexico should make that a major priority in these negotiations.

The second major priority that will help to preserve Mexican policy autonomy would be to have ISDS completely removed from any future agreement, as it already is between Canada and the United States. This second goal may be more closely aligned to US priorities than it has been historically. As the United States initiates discussions around the USMCA review, its goals are centered around (1) the relocation of manufacturing employment to the United States, (2) keeping Chinese firms and products from accessing the market through Mexico and (3) retaining access to key sectors and products like lithium, corn and, of course, energy (USTR 2026). And although access to the energy market could be tied directly to access to ISDS for United States investors, the United States Trade Representative has not been emphasizing that mechanism in the months leading up to these talks.

Obstacles to future policies are still likely to arise. Additional policies like local content requirements and export incentives that Mexico will need to develop higher value-added domestic production and

greater participation in global value chains, are, as mentioned above, generally challengeable under global trade rules, both under the USMCA and before the WTO Dispute Settlement Body ("TRIMs Agreement" 1994; "SCM Agreement" 1994). Although these kinds of industrial policy instruments have been criticized, there is wide and successful precedent for them, as much in the Global North as in the Global South (Margarida and Reed 2026; IRS 2022; Dahl et al. 2026; SIA 2025). Thus, if Mexico is to pursue the realization of Plan México, it will need to take some risks, following the lead of Global North countries in their actions, if not their words.

Mexico's industrial policy is well-designed to make noticeable changes for Mexican citizens in terms of their consumption, health and general welfare. Preserving and expanding the policy space in the USMCA for additional policy action will allow Mexico to make the development jump that it wants, while also restructuring the economy toward low-carbon industry and renewable energies.

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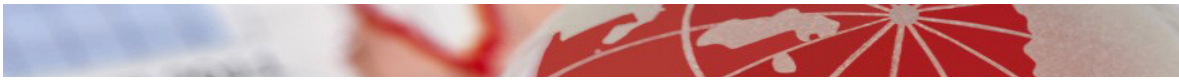

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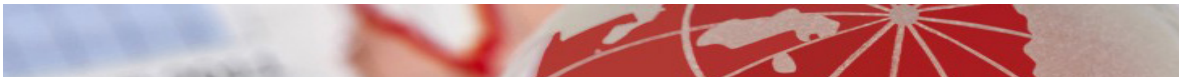
ANNEX

Table A1: Mexico's Trade and Investment Treaties

Treaty Name	Coverage	Parties	Year
Ecuador-Mexico ECA	Goods	Ecuador, Mexico	1983
Mexico-Paraguay ECA	Goods	Paraguay, Mexico	1984
Argentina-Mexico	Goods	Argentina, Mexico	1987
Colombia-Mexico	Goods, Services, Investment	Colombia, Mexico	1995
Mexico - Switzerland BIT (1995)	Investment	Switzerland, Mexico	1996
Argentina - Mexico BIT (1996)	Investment	Argentina, Mexico	1998
Chile-Mexico	Goods, Services, Investment	Chile, Mexico	1999
Mexico-Netherlands BIT	Investment	Netherlands, Mexico	1999
EU-Mexico	Goods, Services, Investment	EU, Mexico	2000
Israel-Mexico	Goods	Israel, Mexico	2000
Denmark - Mexico BIT	Investment	Denmark, Mexico	2000
Finland - Mexico BIT	Investment	Finland, Mexico	2000
France - Mexico BIT (1998)	Investment	France, Mexico	2000
Mexico - Portugal BIT (1999)	Investment	Portugal, Mexico	2000
Mexico-Cuba ECA	Goods	Cuba, Mexico	2001
EFTA-Mexico	Goods, Services, Investment	Iceland, Liechtenstein, Norway, Switzerland, Mexico	2001
Austria-Mexico BIT	Investment	Austria, Mexico	2001
Germany - Mexico BIT (1998)	Investment	Germany, Mexico	2001
Mexico - Sweden BIT (2000)	Investment	Sweden, Mexico	2001
Italy-Mexico BIT	Investment	Italy, Mexico	2002
Republic of Korea-Mexico BIT	Investment	Korea, Mexico	2002
Cuba - Mexico BIT	Investment	Cuba, Mexico	2002
Greece - Mexico BIT (2000)	Investment	Greece, Mexico	2002
Mexico - Uruguay BIT (1999)	Investment	Uruguay, Mexico	2002
Brazil-Mexico ECA	Goods	Brazil, Mexico	2003
BLEU (Belgium-Luxembourg Economic Union) - Mexico BIT (1998)	Investment	Belgium, Luxembourg, Mexico	2003
Mexico-Uruguay	Goods, Services, Investment	Uruguay, Mexico	2004
Czech Republic - Mexico BIT	Investment	Czech Republic, Mexico	2004
Japan-Mexico	Goods, Services, Investment	Japan, Mexico	2005
Iceland - Mexico BIT (2005)	Investment	Iceland, Mexico	2006
Mexico - Trinidad and Tobago BIT (2006)	Investment	Trinidad and Tobago, Mexico	2007
Mexico - United Kingdom BIT (2006)	Investment	UK, Mexico	2007
Mexico - Spain BIT (2006)	Investment	Spain, Mexico	2008

Treaty Name	Coverage	Parties	Year
Belarus - Mexico BIT (2008)	Investment	Belarus, Mexico	2009
China - Mexico BIT	Investment	China, Mexico	2009
Mexico - Slovakia BIT (2007)	Investment	Slovakia, Mexico	2009
Mexico-Bolivia ECA	Goods	Bolivia, Mexico	2010
Mexico - Singapore BIT (2009)	Investment	Singapore, Mexico	2011
Mexico-Central America	Goods, Services, Investment	Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Mexico	2012
Peru-Mexico	Goods, Services, Investment	Peru, Mexico	2012
Bahrain - Mexico BIT (2012)	Investment	Bahrain, Mexico	2014
Pacific Alliance Additional Protocol	Goods, Services, Investment	Chile, Colombia, Peru, Mexico	2014
Mexico-Panama FTA	Goods, Services, Investment	Panama, Mexico	2015
Kuwait - Mexico BIT (2013)	Investment	Kuwait, Mexico	2016
CPTPP	Goods, Services, Investment	Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore, United Kingdom, Viet Nam	2018
Brazil-Mexico BIT	Investment	Brazil, Mexico	2018
Mexico-UAE	Investment	UAE, Mexico	2018
USMCA	Goods, Services, Investment	United States, Canada, Mexico	2020
UK- Mexico Trade Continuity Agreement	Goods, Services, Investment	UK, Mexico	2021
Hong Kong-Mexico BIT	Investment	Hong Kong, Mexico	2021

Source: UNCTAD 2026; WTO 2026.



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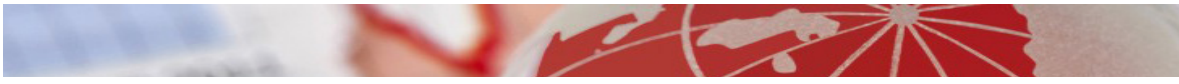
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