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NAFTA in the Time of AMLO

What does NAFTA 2.0 mean for Mexican president Andrés Manuel López Obrador's reform agenda?

“Mexico is making a fortune on NAFTA... With all of the money they make from the U.S., hopefully they will stop people from coming through their country and into ours,” President Donald Trump tweeted this past April. Since the beginning of his campaign and throughout his presidency, Trump has sought to channel the resentment that many U.S. workers feel toward the North American Free Trade Agreement (NAFTA), painting Mexicans as “bad hombres” that set the terms of the trade pact to benefit Mexico at the expense of the United States. He’s pledged to renegotiate or exit NAFTA since 2015, and has referred to it as “one of the WORST Trade Deals ever made. The U.S. lost thousands of businesses and millions of jobs.”

While it’s true that nearly a million U.S. jobs were certified as lost due to NAFTA, according to the Economic Policy Institute (EPI), the trade deal is not a story of U.S. versus Mexican workers, but of corporate interests versus working people in both countries, as well as in Canada, the third country bound by the agreement. In Mexico, NAFTA has failed to improve the country’s standard of living, decimated the agricultural sector, and contributed to a boom in migration.

NAFTA 2.0 (officially the United States, Mexico, and Canada Agreement, or USMCA) goes by many names. Trump has said, “It’s not NAFTA redone, it’s a brand new deal,” though in many ways the agreement is largely a rebranding of the original. Canada is referring to it as CUSMA, putting Canada’s name first, while Mexico is calling it the *Tratado entre México, Estados Unidos y Canadá* (Treaty Between

Mexico, the United States and Canada), or T-Mec. Whatever its name, it was signed on November 30, and, at the time of writing, is awaiting ratification in all three countries.

Version 2.0 largely includes the same terms as the original. But what is new is the recently-elected president of Mexico, Andrés Manuel López Obrador (frequently referred to as AMLO), who has previously spoken out strongly against NAFTA—though that criticism has softened in recent years—who continues to condemn a failed neoliberal economic model, and whose election holds the promise of a major break with the status quo in Mexico. AMLO took office with an ambitious reform agenda he’s calling the “fourth transformation” of Mexico. The question is whether, under NAFTA 2.0, he’ll be able to fulfill that promise, or if the latest agreement has locked in the same failed development model, compromising his plans before he starts.

NAFTA 1.0

When the original NAFTA went into effect 25 years ago, it came accompanied by grand promises. New jobs and rising wages would bring Mexico’s standard of living closer to that of its northern neighbors, and lead to a large decrease in migration, its proponents claimed. However, what it effectively did was lock in neoliberal policies that benefited corporations, without putting in place adequate safeguards or the mechanisms to effectively enforce regulations to protect workers, consumers, the environment, and the country’s development.

NAFTA contributed to the deepening of a vicious cycle whereby corporations looked to decrease their costs by

any means, going where wages were lower, and labor and environmental standards were less stringent, while Mexico's leaders chose to keep wages and standards low in an attempt to attract foreign investment. For example, in the area of labor rights, Mexico has remained reliant on the prevalence of so-called protection unions. These pro-employer unions, with the support of corrupt labor federations, sign protection contracts, generally without the workers' knowledge, and sometimes before any workers are even hired. The union leaders historically have close relationships with employers and federal and state governments and are notoriously corrupt. While giving the illusion of representation, these protection contracts in fact hold down wages and labor rights.

And NAFTA has not been beneficial to average Mexicans. A report by the Center for Economic and Policy Research (CEPR) shows that between 1994, the year NAFTA was implemented, and 2014 real (inflation-adjusted) wages have barely increased—up only 4.1 percent—and that poverty actually increased, resulting in 20.5 million more people living in poverty. Mexico's per capita GDP growth was just 1 percent annually between 1994 and 2016, lower than the rate of growth of 1.4 percent in the rest of Latin America. The authors of the report argue, "If NAFTA had been successful in restoring Mexico's pre-1980 growth rate—when developmentalist economic policies were the norm—Mexico today would be a high income country, with income per person significantly higher than that of Portugal or Greece."

NAFTA had a particularly devastating effect on Mexico's agricultural sector. When the deal was signed, more than 27 percent of the workforce was employed in the agricultural sector—compared to three percent in the U.S. and four percent in Canada—and Mexico only imported corn and staple foods when domestic production did not meet the country's needs. But in a disastrous combination of policies, NAFTA eliminated tariffs on corn and other products, while also ending programs that provided support to small farmers. U.S.-subsidized corn, priced below the cost of production, flooded the market in a practice known as "dumping." The Institute for Agriculture and Trade Policy has documented that, under NAFTA, dumping rates have ranged as high as 33 percent for corn, 44 percent for wheat, and 34 percent for rice. This forced many to abandon farming; between 1991 and 2007, almost five million Mexican family farmers lost their livelihoods. While the number of short-term, seasonal jobs grew in Mexico, a net of almost two million agricultural jobs were lost.

Many displaced farmers moved to cities or to the U.S. in search of work. Instead of decreasing migration as promised, NAFTA contributed to a surge in emigration to the United States. The annual number of Mexicans emigrating to the United States increased 79 percent between 1994 and 2000. But the same year NAFTA was implemented, the U.S. also implemented "Operation Gatekeeper," which involved constructing fences and further militarizing the U.S.-Mexico border. This highlights one of the central hypocrisies of NAFTA, which encouraged the movement of goods, but not of people. The increase in immigration, combined with an increasingly militarized border led to a change in the historic dynamic of largely circular migration, with more individuals staying in the U.S. as opposed to moving more frequently between the two countries as crossing became increasingly difficult.

NEGOTIATING NAFTA 2.0

Renegotiating NAFTA under different political circumstances could have been an opportunity to alter the terms of the agreement to increase worker and environmental protections. Labor, farming, and environmental groups in all three countries have offered suggestions of what that might look like over the years. Of course, the process of renegotiation under Trump was largely a political show, based on blatant falsehoods and nationalist race-baiting, with Trump promising to exhibit his supposed bargaining skills and outgoing Mexican president Enrique Peña Nieto looking to salvage his legacy, considering his dismal approval rating.

Third-time presidential candidate López Obrador became a potential twist in the plot when it grew obvious he was leading the polls for the 2018 election. As a left-wing candidate who had denounced the neoliberal economic model and previously spoken out against NAFTA, AMLO incited both fear in financial markets and the national and international business community and hope among grassroots groups advocating for change that he might challenge the ongoing trade talks. Peña Nieto hoped to conclude the negotiations before they became an election issue for his party or—worse yet for NAFTA backers—AMLO was elected and had a chance to derail them.

On July 1, 2018, AMLO won the elections in a landslide, a rebuke to Mexico's traditional political system under the Institutional Revolutionary Party (PRI), which led the country for 71-uninterrupted years, and the National



Then-president Enrique Peña Nieto meets with current president Andrés Manuel López Obrador to discuss the political transition between administrations, in August 2018. (PRESIDENCIA DE LA REPÚBLICA MEXICANA)

Action Party (PAN), in power from 2000 until 2012. López Obrador's win with his new Movement for National Regeneration party (MORENA) represented a significant shift in Mexico, and perhaps a change in the political order in terms of its relationship with the United States.

As his presidency became a reality after two other attempts, AMLO's team faced a series of strategic questions. Despite earlier pronouncements against neoliberalism and NAFTA, during his 2018 campaign he shifted gears from his more radical roots—attempting to assuage the concerns of the business sector and the international community—and didn't make NAFTA a major campaign issue. Whereas AMLO had previously said Peña Nieto shouldn't be the one renegotiating NAFTA and it would be better if he did so himself once elected, Jesús Seade, AMLO's designated chief NAFTA negotiator, actively participated in the negotiations with the outgoing administration, and AMLO even encouraged President Trump to try to swiftly conclude the negotiations. AMLO, for years the ultimate political outsider, chose the safer approach: to go along with the status quo of the negotiations, and push for reforms once in the presidency and with the deal concluded. This approach, rather than advocating for a revolutionary departure from the neoliberal trade model, would avoid alienating business

elites, risking instability in the financial markets, and picking a fight with Mexico's northern neighbors.

Presumably there was an understanding between the outgoing and incoming administrations to finish negotiations before Peña Nieto left office, which would afford AMLO some political cover to begin his presidency focusing on other priorities if NAFTA was seen as a done deal. Despite calls from grassroots coalitions like México Mejor Sin TLCs (Mexico Better Without Free Trade Agreements) to radically re-imagine what a trade agreement could look like and include affected organizations and sectors of the population in the process, Peña Nieto, Trump, and Canadian President Justin Trudeau signed

NAFTA 2.0 on November 30, 2018, Peña Nieto's last day in office.

REFORM UNDER AMLO?

AMLO took office on December 1, 2018, marking the beginning of his so-called "fourth transformation" of Mexico. (The first three transformations are Independence from Spain, the Reforms period, and the Mexican Revolution). He deemed that this transformation would be "peaceful and orderly, while also profound and radical." The beginning of his inauguration speech before Congress denounced the "failure" of the neoliberal economic model over the last 36 years since economic restructuring in the wake of the 1982 Mexican peso crisis. He spoke of combating corruption, reducing inequality, reviving the agricultural and energy sectors, and protecting the environment, among other topics. He also said that he hoped his policies would "go beyond NAFTA" through investing in development in Mexico and Central America.

NAFTA 2.0, however, could come into conflict with these promises. For example, AMLO has pledged to revitalize the agricultural sector. Before he was elected, he signed the Plan de Ayala Siglo XXI 2.0, which focuses on achieving food sovereignty, with the endorsement of more than 100

Mexican farm organizations. (Interestingly enough, it includes a line calling for NAFTA to be substituted with a Trilateral Cooperation Agreement for Development). In his inaugural remarks, AMLO again called for specific economic support and programs for farmers. But under NAFTA 2.0, Mexico must maintain zero tariffs on corn and other products, meaning Mexican corn will remain uncompetitive as cheap goods continue to flood the market. The assistance he's promised to farmers may also face challenges, since additional language in the deal states that support for the domestic agricultural sector should "have minimal or no trade distorting or production effects." Mexico will also be required to adopt a more updated version of the International Union for the Protection of New Varieties of Plants (UPOV-91), which could allow corporations to patent certain agricultural varieties, including Mexico's Indigenous corn. While the majority of farmers currently follow the traditional practice of saving their own seeds to plant, this would require them instead to buy them. While AMLO has reaffirmed that Mexico will not permit the use of genetically modified seeds—a stance campesino groups celebrate—the agreement includes industry-friendly language and encourages deregulation, which could be a red flag for possible future changes.

AMLO has pledged that he will not allow any economic, productive, commercial, or touristic projects that harm the environment. While NAFTA 2.0 dismantles much of the investor-state dispute settlement (ISDS) system—which allows corporations to sue governments when their profits (or potential profits) are affected—there is an exception for oil and gas corporations that have or may procure government contracts in Mexico. That means, for example, that Chevron and ExxonMobil, corporate climate polluters with a history of using ISDS, would still be able to challenge new environmental protections in Mexico. At the same time, AMLO's own plans to build a new refinery and Mayan train may bring their own environmental concerns.

AMLO also promised to make the right to health a reality, focusing on access to healthcare and medicine. Yet NAFTA 2.0 grants various monopoly rights for medications that could undermine these goals. The most egregious is a requirement that companies will have monopoly rights on cutting-edge biologic treatments, such as new cancer treatments, for at least 10 years, whereas Mexico does not currently have an exclusivity period for these drugs. This will keep prices high and delay similar generic versions

from becoming available on the Mexican market, blocking Mexicans from accessing health treatment.

While NAFTA 2.0 in many cases restricts AMLO's ability to implement his bold reform agenda, he could have more luck making meaningful improvements in labor law and workers' rights. NAFTA 2.0 includes an annex with clear, specific provisions that Mexico shall adopt in order to encourage the formation of independent unions and eliminate protection unions and contracts, with the expectation that legislation be adopted by January 1, 2019. Mexico missed the deadline, though key members of the administration with ties to the independent labor movement have said it will still happen. Mexico's independent labor movement has been pushing for these changes, though it is also in the U.S.' interest, insofar as limiting protection union's abilities to suppress wages could decrease the incentive to outsource jobs.

There are also some modest but meaningful improvements in the language regarding labor in the main text of the agreement, though they will need enforcement mechanisms to give them teeth. These include the right to strike, to receive wage-related benefits as part of minimum wage requirements, and for migrant workers to be protected under labor law. The text also states that intimidating workers through violence violates trade agreements. The last point is especially relevant, given that during negotiations, three workers pushing for an independent union at a Canadian-owned mine in Mexico were assassinated, and the U.S. has previously deemed violence as not a trade issue.

With the exception of the possible opportunities in labor reform, NAFTA 2.0 will undoubtedly complicate or even contradict AMLO's proposed "fourth transformation." Will his strategy of acquiescing to NAFTA 2.0 pay off, or sabotage his plans to enact reforms from the get-go? AMLO's election raises a profound question: what happens when the anti-establishment candidate becomes the establishment? **n**

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