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FEATURED Q&A

Will Auto Content Rules Lead to a Revised USMCA?



Mexico has taken issue with auto-parts content rules in the USMCA trade agreement. // File Photo: Mexican Government.

Q Mexico's government on Aug. 20 requested formal consultations with the United States related to how content rules for auto parts are interpreted and applied under the USMCA trade deal. The request followed talks last May about the USMCA, in which Mexico voiced disagreement over the issue in a meeting with U.S. and Canadian representatives. What is at the root of Mexico's disagreement over the auto content rules, and what does it mean in practice for auto manufacturers in the three countries? How is the dispute likely to be resolved? Will the issue require modifications to the USMCA?

A Luz María de la Mora, Mexico's undersecretary for foreign trade: "Mexico is concerned about the correct interpretation and implementation of USMCA rules of origin in the auto sector. After many conversations at all levels, it is clear that the Mexican and the U.S. government do not share the same interpretation on the methodology for calculating the regional value content for vehicles. This is a key issue as this disagreement may have a severe impact on the industry's competitiveness, investments and jobs in North America. It is undeniable that the USMCA automotive regime provides more complex and restrictive rules of origin for the automotive sector than NAFTA. However, the USMCA includes flexibilities to allow industries to maintain their competitiveness. The U.S. government should respect those flexibilities as was agreed by the three USMCA parties. Such flexibilities reflect the right balance reached during the negotiation. Mexico considers that U.S. interpretation undermines the competitiveness of the Mexican

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TODAY'S NEWS

POLITICAL

Guatemala's Giammattei Faces Bribery Probe

Guatemalan prosecutors have opened a bribery investigation into claims that Russian businessmen paid bribes to President Alejandro Giammattei, the attorney general's office announced.

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BUSINESS

Chile Approves Sinovac's Vaccine for Children Over Age 6

Chile's health regulator approved the CoronaVac vaccine against Covid-19 for children ages 6 and older.

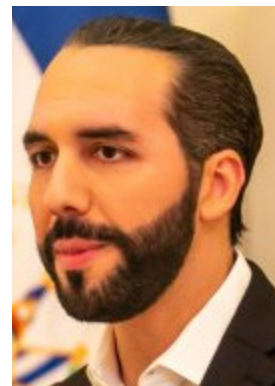
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POLITICAL

El Salvador's Supreme Court OKs Consecutive Presidential Terms

El Salvador's Supreme Court ruled that the country's president can run for immediate re-election, a move that would allow President Nayib Bukele to seek another term in 2024.

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Bukele // File Photo: Salvadoran Government.

POLITICAL NEWS

Salvadoran Justices Allow Consecutive Presidential Terms

El Salvador's Supreme Court ruled late Friday night that the country's president can seek immediate re-election, a move that opposition politicians, human rights organizations and the U.S. government criticized as contrary to El Salvador's constitution, CNN reported. The decision was delivered by justices whom the ruling party-dominated Legislative Assembly appointed in May, after the assembly removed the Supreme Court's constitutional chamber magistrates and dismissed the attorney general. The Supreme Court's decision to allow presidential re-election would let President

Democracy in El Salvador is on the edge of the abyss.

— José Miguel Vivanco

Nayib Bukele run for re-election in 2024, CNN reported. Óscar Ortiz, general secretary of the Farabundo Martí Front for National Liberation and a former Salvadoran vice president, blasted the decision. "The dictatorship is consummated," he wrote in a posting on Twitter. Jean Manes, the U.S. chargé d'affaires in El Salvador, told reporters Saturday that allowing consecutive presidential terms was "clearly contrary to the Salvadoran constitution." In a brief statement on Saturday, El Salvador's electoral tribunal said it would follow the Supreme Court's instructions, Reuters reported. Bukele has faced criticism over what opponents say is increasing authoritarianism. Last year, he sent troops into the Legislative Assembly to pressure lawmakers into approving legislation he was pushing to secure a loan of \$109 million to fight gang violence, CNN reported. He has also withdrawn from anti-corruption accords that the United States had backed. "Democracy in

El Salvador is on the edge of the abyss," José Miguel Vivanco, the executive director of the Americas division of Human Rights Watch, said Sunday in a tweet. Bukele has rejected such criticism, saying he is cleaning up El Salvador, Reuters reported. Bukele's government is also pushing for constitutional changes that include extending the president's term from five years to six. "It is no coincidence that the constitution is being changed in favor of the interests of the president after ruptures of the basic protections of democratic institutions such as separation of powers," Celia Medrano, a San Salvador-based journalist specialized in human rights, told the Advisor in a [Q&A](#) published Sept. 1.

Guatemala's Giammattei Faces Bribery Investigation

Prosecutors in Guatemala have launched a probe into allegations that Russian businessmen paid a bribe to President Alejandro Giammattei in exchange for a dock in one of the Central American nation's main ports, the attorney general's office said on Friday, Reuters reported. Juan Luis Pantaleón, a spokesman for the office, said anti-graft prosecutors had begun the investigation, highlighting that Giammattei himself was not currently being probed because no impeachment proceedings had been started. Patricia Letona, a spokeswoman for Giammattei, said the president's office had no immediate comment on the matter. The accusations were first raised publicly by Juan Francisco Sandoval, the former head of the Guatemalan Special Prosecutor's Office Against Impunity. Attorney General María Porras in July removed Sandoval from his post. The move prompted strong criticism, including from the U.S. State Department, which subsequently announced it was suspending some cooperation with the attorney general's office and questioned Guatemala's commitment to the rule of law and independent judicial processes. Sandoval has said his firing was meant to prevent him from investigating graft cases with links to Giammattei, who has denied involve-

NEWS BRIEFS

Maduro Gov't, Opposition Vow in Talks to Address Venezuelans' Needs

Representatives of Venezuelan President Nicolás Maduro and the opposition agreed on Monday to address the pressing needs of Venezuelans, with an emphasis on fighting the Covid-19 pandemic, the Associated Press reported. In a joint statement following the first round of dialogue in Mexico City over the weekend, the two parties said they had agreed to "establish mechanisms for the restoration and achievement of resources to meet the social needs of the population with special emphasis on the effects of the Covid-19 pandemic," without mentioning any details, the AP reported.

Bolsonaro Supporters Break Through Roadblocks in Brasília

Supporters of Brazilian President Jair Bolsonaro tore down police roadblocks Monday night that sought to block access to the capital's central mall, the Esplanade of Ministries, on the eve before of a scheduled pro-Bolsonaro demonstration is scheduled, the Associated Press reported. The march was set up to coincide with Brazil's Independence Day. The Federal District's security secretariat said officers had been deployed in an effort to control the situation. Some analysts have warned that the demonstration could resemble the Jan. 6 riot at the U.S. Capitol, the AP reported.

Salvadoran Gov't Buys \$21 Million of Bitcoin

El Salvador's government on Monday bought \$20.9 million worth of Bitcoin on the eve of the country's formal adoption today of the digital currency as legal tender, CNBC reported. El Salvador's Legislative Assembly in June passed a measure pushed by President Nayib Bukele to adopt Bitcoin as legal tender, alongside the U.S. dollar.

ment in corruption, Reuters reported. The new inquiry into the allegations comes amid media reports of cash payments, The New York Times reported. The newspaper last month cited a witness who said he had personally delivered a rolled-up carpet filled with cash to Giammattei's home. [Editor's note: See related [Q&A](#) in the Aug. 5 issue of the Advisor.]

BUSINESS NEWS

Chile Approves Sinovac's Vaccine for Children Over Age 6

Chile's health regulator on Monday approved Chinese pharmaceutical Sinovac Biotech's Covid-19 vaccine for children older than 6, expanding the Andean country's rapid vaccination campaign, Reuters reported. Chile has also approved the use of the Pfizer/BioNTech vaccine for children older than 12, with more than 654,000 youths receiving at least one dose since May. Sinovac's CoronaVac has been at the center of Chile's vaccination strategy. About 13 million of the country's 19 million residents are fully inoculated. In total, about 19.49 million CoronaVac doses have been issued in Chile. "This is great news for school-age children and those that were not included in previous vaccination plans," said Health Minister Enrique Paris, the wire service reported. Meanwhile, Cuba on Monday became the first country in the world to begin vaccinating children from the age of two against the novel coronavirus, Agence France-Presse reported. The Caribbean nation is using home-grown vaccines, which the World Health Organization has not recognized and have not undergone international, scientific peer review. Cuba is seeking to inoculate all of the country's children before reopening schools, most of which have remained closed since March 2020. Cuba's school year began this Monday, but classes are broadcast via television programs, as most Cuban households do not have Internet access, according to the report.

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auto industry as well as of the entire North America region. As a consequence of the divergent interpretations, on Aug. 20, Mexico requested consultations to the United States under USMCA Chapter 31. Mexico aims to find the proper solution for the auto manufacturing sector. This will allow the sector to comply with the appropriate regional value content for vehicles to enjoy preferential access. This consultation process is meant to amicably solve the issue without having to recourse to the dispute settlement mechanism provided by the USMCA. Mexico is confident that the long-standing trade partnership with United States and Canada will continue to develop on the basis of mutual respect, open dialogue, friendship, fair trade and compliance with our international commitments."

A **Antonio Ortiz-Mena, senior vice president at Albright Stonebridge Group and adjunct professor at Georgetown University**

and CIDE: "It should come as no surprise that USMCA auto rules of origin generate uncertainty. To receive preferential tariff treatment, vehicles must have a 75 percent regional value content, or RVC, compared to 62.5 percent under NAFTA. Core parts have a 75 percent RVC requirement and different methodologies to calculate such content. There is a 70 percent North American steel and aluminum rule, and labor content requirements whereby 30-40 percent of the vehicle's value must be produced by workers earning at least \$16 per hour. These rules are difficult to administer for governments and producers. According to estimates, production costs will increase under the USMCA, raising the price for consumers in the region and risking loss of market share for North American autos in third markets. Even with the lower and simpler NAFTA auto rules, many producers opted to pay the WTO most-favored-nation 2.5 percent ad-valorem tariff to avoid cumbersome and costly compliance. Regardless of the final

interpretation, the new rules will remain highly complex, so even more producers could opt for WTO instead of USMCA rules. Market pressures could generate additional incentives to move away from USMCA rules. For instance, Swedish steel producer SSAB recently announced it would join forces with Mercedes-Benz to supply it with fossil-free steel in the coming years. As consumers become increasingly sensitive not only to vehicle emissions, but also to the carbon footprint of vehicle production, they could move away from North American vehicles if their steel is not carbon-free. USMCA auto rules have good intentions but may yield bad results."

A **Carlos Vejar, partner at Holland & Knight:** "After informal discussions between the parties of the USMCA failed to resolve the differing interpretations of the 'regional value content' applicable to vehicles under Chapter 4, Mexico filed a formal request on Aug. 20 for a consultation to the United States under Chapter 31 (dispute settlement), a move that Canada followed on Aug. 26. It appears that Canada and Mexico seem to share what experts consider a more 'flexible' interpretation of the agreement than what the United States requires. According to the International Trade Administration, 'Mexico is the sixth-largest global passenger vehicle manufacturer, producing approximately three million vehicles annually. Eighty-nine percent of vehicles produced in Mexico are exported, with 80 percent destined for the United States.' Simply put, this dispute relates to Mexico's biggest export products by value, and it may be the country's most relevant dispute ever filed against the United States. Mexican President López Obrador says he would like to see this matter resolved by the USMCA consultation mechanism to avoid the international panel that would be triggered if the consultation fails. This seems to be a reasonable expectation. The World Trade Organization reports that out of 598

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requests for consultations filed by Dec. 31, 2020, only 265 were subject to a panel report, although the statistics for Mexico-U.S. disputes show a more litigious pattern. Let's hope the parties can resolve more disputes in consultations under the USMCA than they did under the WTO."

A **Kellie Meiman Hock, managing partner at McLarty Associates:** "We should be laser-focused on clear and predictable implementation of the USMCA, particularly in light of Covid-19 supply chain disruptions. While the disconnect over the formula to calculate auto rules of origin at play in this dispute is one factor, we cannot forget that we are into year two of this agreement and still do not have the uniform regulations. This undercuts the main benefit of a free trade agreement—certainty for investors and workers. Firms need to trust that rules in place when they make multibillion-dollar investments will remain in place during their projects' life cycles. This allows for a focus on enhancing global competitiveness and creating jobs to the benefit of workers (especially with the USMCA's rapid response mechanism), as well as economic growth. With predictable rules, companies can use

North America as a platform to feed our car-hungry market and to export to the globe. While the three parties disagree over the USMCA's content calculation for autos, it is important to remember that the 62.5 percent regional content requirement for autos under NAFTA was already the most demanding level of local content in any trade agreement globally. The flexibility allowed under NAFTA regarding how to reach that ambitious number engendered a fully integrated North American supply chain for autos, which has allowed our region to lead in global automaking. The increase under the USMCA to 75 percent was significant, and global automakers have been preparing for the transition. At this point, we should at least be aligned on where the goalposts are. My hope is that the parties can quickly agree on the rules of the game to allow North American auto production to remain globally competitive—even dominant. My fear comes from the cautionary tale provided by the long-lived U.S.-E.U. dispute settlement wars in the aerospace sector, which did little other than leave room for China's rise."

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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