

Explanation of Mexico's energy sector dispute under USMCA



Miguel Ruiz Cabañas, Professor of Foreign Policy at [Tec de Monterrey](#), explained to CONECTA the possible scope of the **energy policy disputes** faced by **Mexico** over the **USMCA trade agreement**.

The Office of the United States Trade Representative ([USTR](#)) has requested consultations on **Mexico's public policy and regulations** that have negatively impacted its companies.

Canada also joined this consultation to determine whether the **reform** to the **Electricity Industry Act** of March 2021 benefited only the Federal Electricity Commission (CFE) and **Petróleos de México** (Pemex).

Ruiz Cabañas, who is also Director of the **Sustainable Development Goal (SDG) Initiative** at Tec de Monterrey, also shared possible scenarios regarding the outcome.

CFE electricidad width="900" loading="lazy">

What is the root cause of the disputes?

Ruiz Cabañas, who is also a former Mexican ambassador, said that the United States has tried to convince President (**Andrés Manuel**) **López Obrador** that his **energy policies affected its**

companies' investments and **violated** several provisions of **USMCA**.

*“Therefore, it is not surprising that they have **requested official consultations** (on July 20) under the treaty’s dispute settlement mechanism,”* he explained.

On July 21, one day after this statement issued by the United States, Canada also expressed concern over *“policies that are inconsistent with Mexico’s obligations under USMCA.”*

What provisions is the Mexican government allegedly violating?

The Santa Fe campus professor pointed out that the United States and Canada are accusing Mexico of violating various USMCA articles.

Ruiz Cabañas cited **Chapter 2**, which is related to national treatment and export restrictions; Article 14, referring to the national treatment that foreign-controlled enterprises must receive; and **Chapter 22**, which stipulates that regulators must act impartially.

*“When USMCA was signed by Mexico in 2019, it was done in a way in which **companies from the United States and Canada were given national treatment in our country**,”* Ruíz Cabañas explained.

*“Now, the United States and Canada claim that President López Obrador’s **energy policy** seeks to prioritize *Petróleos Mexicanos (Pemex)* and the *Federal Electricity Commission (CFE)* over private competitors.”*

The North America trade agreement itself contains **dispute settlement** mechanisms, which means that the United States and Canada must request **formal consultations** in order to be able to **negotiate and agree upon a common definition** of what USMCA says.

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What are the resolution scenarios?

Cabañas explained that Mexico has **a period of 75 days**, which ends on **October 3**, to resolve the dispute through consultation.

“If an agreement is not reached with the United States and Canada, the plaintiffs can request the establishment of a panel to decide on the correct interpretation of the Treaty.”

The panel would have between 6 months and 1 year to look at the issue and deliver its verdict.

If it rules in favor of Mexico’s neighbors to the north, they both could **impose economic sanctions on Mexico** equal to the losses caused to their companies.

What if they can’t reach an agreement?

*“We’re talking about a problem that could be to the tune of **30 billion dollars**,”* estimated the Tec expert.

*“If Mexico doesn’t come to an agreement before the panel’s ruling, it will have to **pay compensation** or await trade sanctions to that amount.”*

Ruiz Cabañas noted that reparatory measures by Mexico’s neighbors to the north could be applied in any industry and **not just in the energy sector**.

*“Sanctions would not only be imposed on the energy sector, but on whatever they decide. They could put **tariffs on Mexican cars** or **agricultural exports**,”* he notes.

*“On any sector of the economy they decide upon, which would **cause serious harm to our exports**.”*

This Santa Fe campus professor says it would be ideal for **an agreement to be reached** during this first stage of consultation.

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Who are the officials who will defend Mexico?

The Mexican team taking part in the consultations will be made up of the Minister of Trade (SE), **Tatiana Clouthier**; the Minister of Foreign Affairs, **Marcelo Ebrard**; and **Jesús Seade**, the Ambassador of Mexico to China, who participated in the negotiations for the trade agreement in 2018.

This Tec professor anticipates that if there is the desire to reach a compromise, the dispute should not reach a panel.

“Hopefully, they have the intention and willingness to reach an agreement,” he says.

Although he recalled the President saying that **he will set forth his position on September 16**, Mexico’s Independence Day.

*“It sounds like it could amount to a political response and that Mexico is not violating the treaty since foreign companies have **interventionist policies**,”* he said.

If these disputes are not resolved, would USMCA disappear?

Ruiz Cabañas believes that the Mexican government has two options: **to respect the treaty and negotiate**, or **to persist in its energy policy**.

The latter would end investment in all sectors and the economic integration of Mexico with its neighbors to the north.

“If it reaches the level where it’s determined that Mexico’s energy policy contravenes USMCA, it would cast doubt on the country’s integration with North America.”

The expert said that when the trade agreement was approved in 2019, a comprehensive review was stipulated for **2026**.

*“(However), such a big disagreement, on such a big issue, **would greatly affect its continuity,**”* he concluded.

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