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Hard Times: The United States and Mexico in NAFTA's "Renegotiation" Process

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Abstract: After a tense process of renegotiating the terms of the NAFTA (North American Free Trade Agreement), the governments of the United States, Mexico and Canada established a new regional agreement, the USMCA (United States, Mexico and Canada Agreement), whose purpose is to overcome problems that emerged since the NAFTA came into force in 1994. The ratification of this document by the national congresses of the referred countries has generated new tensions and instabilities in their political scenario, especially due to the existing structural asymmetries between them. This work aims to analyse the impact of that imbalance in the NAFTA renegotiation process, considering the behaviour of the United States in relation to its partners, especially Mexico.

Keywords: Canada; United States; Mexico; NAFTA; USMCA.

Introduction

In October 2018, the United States, Canada and Mexico concluded the process of renegotiating the North American Free Trade Agreement (NAFTA), which had been marked by pressure, tension, and inconsistent approaches. Although the discussion about the need to overhaul NAFTA was not new, given that former President Barack Obama (2009-2017) had already pointed out that necessity, much attention was drawn to the way in which the process was conducted. Despite being formally called a "renegotiation", the unilateralism of the Donald Trump administration (2017-2021) left little space for negotiation on the part of the partners, especially with regards to Mexico. As such, it left an impression

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that NAFTA's revision (known as the *Tratado de Libre Comercio de América del Norte* – TLCAN in Spanish) was a scenario close to that of a zero-sum game.

The Trump administration's position in this case drew attention because it contradicted the concept of open regionalism on which NAFTA was based (Eclac 1994) and resembled Cold War era approaches. In the conceptualization of the 1990s, regionalism was to promote interdependence between countries, including those with different levels of development, with the aim of stimulating trade liberalization in a context of globalization. Within this perception, open regionalism would allow for

> [...] the consolidation of links between two elements: de facto integration, and integration prompted by policies aimed to increase the competitiveness of countries in a region and constitute, as much as possible, a basis that favors a more open and transparent international economy. (Eclac 1994: 84)

Contrary to this logic, Trump administration's trade policy was characterized by protectionism; the raising of trade barriers; and a nationalist rhetoric. In practice, this strategy translated into policies that constrained US partners and made an individualist attitude explicit in the negotiations, leaving little room to bargain. In the specific case of the NAFTA renegotiation, this stance was revealed on various occasions. In the beginning, the United States tried to keep its end of the agreement to the project to build a wall on the border with Mexico, a Trump administration's obsession. Next, the US imposed new tariffs on the steel trade and tried to insert a sunset clause (limited term) into the process of overhauling the agreement.

This behaviour of the Trump administration had a distinct impact on the United States' trade policy involving other international players. China and the European Union (EU) demonstrated greater resilience and counter-offensive capacity in their dealings with Washington due to the weight of their economies in the international system and their political importance. However, countries whose economies are heavily dependent on the US market do not possess such leverage. This became evident in the abrupt way in which the Trump administration dealt with Mexico during the renegotiation, and through non-diplomatic statements on migration, economy and security – which often occurred in a condescending manner. Thus, it can be said that the NAFTA revision was, in a way, an ultimatum by the United States to Mexico with the intent of pushing for a renegotiation of the agreement. Canada, on the other hand, which is also heavily dependent on the US market, managed to maintain some room for maneuver and accommodate its interests in the face of American pressure.

In view of this posture of the US government and the little room for maneuver left to NAFTA's junior partners – Mexico in particular – the goal of this article was to demonstrate the imbalance of the NAFTA renegotiation process. To this purpose, the arguments and proposals defended by the respective governments about the need to overhaul the agreement were discussed.

Before analysing the renegotiation of the agreement and constraints on the actors involved in this process, it is necessary to draw attention to NAFTA's institutional structure. A first aspect to be highlighted is the principle that marked the agreement: 'single undertaking'. Unlike other regional integration processes, NAFTA presupposed the prior definition of commitments and goals for its entry into force. This option reinforced a characteristic of open regionalism with a low degree of institutionalism and an intergovernmental logic.

In the first case, the prior definition of commitments eliminates the need for permanent bureaucratic negotiation structures. Thus, NAFTA organs are restricted to the instruments for monitoring and supervising the agreement, which in this case are normally established within the national structures themselves. This characteristic gave rise to criticisms about the absence of a formal organizational structure for this trade block (Pastor 2001; Anderson 2008).

The exception was in the parallel agreement on environment that established the CEC (Commission for Environmental Cooperation), the North American Development Bank, and the BECC (Border Environment Cooperation Commission). Nonetheless, all these organizational structures operate strictly within an intergovernmental logic that presupposes the subordination of these organs to national governments, without any real decision-making autonomy.

This institutional conformation meets the theoretical assumptions of Liberal Intergovernmentalism, which in turn presupposes that, at the regional level, governments represent previously defined domestic interests (based on internal bargains) that determine governmental action. The regional scope represents a space for the articulation between these national interests, without constraining the decision-making autonomy of participating governments (Moravcsik 1998 2006; Schimmelfenning 2015).

However, the assumption of liberal intergovernmentalism is not concerned with the effects of increased interdependence between countries resulting from integration (Pelcastre 2018). Instead, it assumes that these demands are properly channelled by national governments. However, when analysing the NAFTA case, it is clear that the rigidity of the agreement was a limiting factor in making these adjustments. Integration developments strengthened both supporters and critics of the process, hindering the renegotiation of the treaty over time. Therefore, this analysis aims to discuss how the NAFTA renegotiation was inserted into the US trade policy advocated by the Trump administration, and what its partners' strategic options were, especially the Mexican government of López Obrador, in light of the new agreement.

The Trump administration and its distorted narrative about globalization

Trump's electoral success in 2016 was largely based on globalism and globalization criticisms. For four decades, the US economy had made working class voters swallow a bitter pill experiencing wage stagnation and job losses in the manufacturing sector. Although the profitability of manufacturing in the US managed to recover from the second Reagan

administration (1985-1989), until the end of the Clinton administration in 2001, wages remained stagnant (Brenner 2003). This created discontent and frustrated expectations. In this regard, Stokes (2018) argued that globalization has had a proven negative impact on workers in the West. This is especially true for the United States, where the social protections are much weaker than in other developed countries with social welfare regimes. Moreover, American welfare is strongly market based, either through private welfare (health and retirement plans provided by the company) or through fiscal welfare (tax deductions) (Kerstenetzky 2012).

This scenario broke with the so-called 'American dream', whose operation was based on a simple equation: work hard, do the right thing, and your children will have a better life than you. The social forces that helped propel Trump to power felt that this dream had become a nightmare, in a country with huge disparities in wealth and negative expectations about the future. Sassen (2016) analysed the increase in inequality experienced by US citizens since the 1980s in contrast to the period of strengthening and expansion of the middle class between 1945 and 1980. This extreme inequality is characterized by Sassen as expulsions, since, according to the author, the use of the term inequality would not be enough to characterize the brutality imposed on families in the United States in shortening the perspective for a just and dignified life since the 1980s. These profound changes in the standard of living were also analysed by Milanovic (2020). According to him, inequality in the American society today shapes what he calls liberal meritocratic capitalism, due to its low social mobility.

Trump exploited this discontent and disappointment by posing as a critic of Wall Street and economic neoliberalism, promising to make the economy work for working-class Americans. During his 2016 presidential campaign, Trump repeatedly cited the growing trade deficit and the outsourcing of jobs from the United States to low-cost countries like Mexico.

In this sense, how Trump appropriated the debate about globalization is particularly important. By presenting himself as a critic of the globalized economy, Trump gained credibility by supposedly taking the side of working families by emphasizing the harms of globalization: deindustrialization and the loss of middle-class income and its impact on wages and jobs. For Stiglitz (2020: 103), 'this critique of globalization has found enormous resonance, especially in parts of the country that have experienced deindustrialization'. Thereby, Trump has created a distorted narrative about globalization, whereby he blames foreigners and immigrants in making American lives worse (Palley 2017).

Trump's narrative is based on the idea that the United States is a victim that, supposedly out of generosity, awarded foreign partners with favourable trade deals and was betrayed in return. At the same time, this American generosity allowed hordes of illegal immigrants to invade the country and steal jobs, whilst also causing a reduction in wages and an increase in violence. This characterization, although reductionist in the social and political reality, motivated important portions of the electorate.

For Trump, a fair-trade policy meant protecting and expanding jobs in the United States. However, in the last 20 years, coherence has not always been a constant in American

trade policy, in which 'the discourse of free trade coexists with a high level of agricultural protectionism' (Vigevani, Mendonça and Lima 2018: 23).

In this sense, the organizational conception established by the original agreement created a rigidity to NAFTA that made it difficult to implement adjustments to accommodate new interests or establish compensatory measures that could alleviate criticism. The lack of regional instruments to deal with the problems resulting from the increased interdependence ended up creating a negative perception about the agreement in the member countries, which was channelled by radical political factions to advocate protectionist policies.

According to Kucik and Pelc (2017), Trump's opposition to free trade reverberated among voters. In an impressive reversal, the former enthusiasm of Republican voters for international trade evaporated over the course of the 2016 campaign. Research from the Pew Research Center (2016) revealed that the proportion of Republicans who considered trade deals to be good business for the United States fell from 57% in 2009 to 32% in 2016. Even in May 2015, a month before Trump announced that he would run for president, 51% of Republicans still considered trade deals as good for the United States. In effect, from the announcement of his candidacy onwards, a strong reversal of this perception began to take place. In addition, a Politico-Harvard survey (Politico 2016) indicated that 85% of Republicans came to believe that foreign trade cost more jobs than it created. And this was observed in a party with a decade-long commitment to trade liberalization. With regard to globalization in particular, Frieden (2018) showed that the support of American public opinion collapsed in the 2000s, pointing to increased scepticism and hostility in the wake of the 2008 financial crisis.

Trump effectively presented a dual anti-globalization platform. Its first aspect was isolationism, focused on greater commercial protection for the United States. The second was related to consumer habits. Trump asked the government, businesses, and consumers in the United States to buy American goods and products. At the same time, he broke with the Republican tradition in defence of free trade and thus appealed to the working-class voter, historically associated with the Democratic Party. It was the first time since the 1930s that one of the major parties had a candidate for president openly hostile to economic integration. Donald Trump's victory in the 2016 presidential election marked the victory of an economic nationalism that was a long way from the mainstream of American politics. Trump and his supporters expressed hostility to large international companies, large financial corporations, the international economy in general, immigrants, as well as many traditional US foreign policy commitments.

During his presidency, Trump acted in accordance with his electoral speech to implement his anti-globalization platform. To this end, his government broke with the Paris Climate Agreements and the TPP (Trans-Pacific Partnership), imposed higher import tariffs on China, and renegotiated NAFTA.

Mexico in the Trump era

NAFTA was created as a response to the globalization process and as an engine of trade liberalization. Faced with this global context, the Mexican government of Carlos Salinas de Gortari, guided by the precepts of neoliberalism, enthusiastically embraced the proposal to form a free trade area with the USA and Canada. Today, the three countries combined have 492 million inhabitants, representing 28% of the world GDP and 18% of international trade.

From NAFTA's onset, Mexico's subordinate position within it became clear, as 25 years of membership have practically tied the country to the dynamics of the US economy. This link allowed the country to significantly increase its exports, to the point where in 2016 it ranked 13th in the world as an exporting country. Between 1980 and 2016, Mexico also bolstered Latin America's highest annual export growth rates (Brid, Salat and Sánchez 2018).

However, the expansion of Mexican export capacity did not equate to a strong economic growth capable of driving an improvement in wages, competitiveness or technological advancement. The strategy adopted by the Gortari government of export-led growth (Ramírez 2018; Brid, Salat and Sánchez 2018) intended to use the regional agreement as a driving force behind this policy, which in a way proved to be effective. However, the increase in the share of exports in Mexico's GDP (Gross Domestic Product) proved unable to stimulate the Mexican economy as a whole, because it concentrated on the *maquiladora* activities[1] of the exporting industries and maintained its competitiveness through cheap labour. This background led some authors to call it an export led (low) growth strategy (Brid, Salat and Sánchez 2018).

This situation was reaffirmed in the signing of the United States-Mexico-Canada Agreement (USMCA), which remains a kind of an anchor for Mexico's trade policy. Although the opening of the renegotiation was presented as a unilateral move by the Trump administration, there was also an interest on the part of Mexico to revise the agreement, albeit not necessarily in the same terms put forward by the US government. In January 2017, then President Peña Nieto presented his government's objectives for the renegotiation of topics which were not directly related to NAFTA, including migration, remittances and the illegal entry of arms, and money of illicit origin, as well as telecommunications, energy, and electronic commerce, workers' wages, and investment flows (Peters 2018).

The agreement signed in 1994 focused mainly on trade liberalization and the facilitation of investment, both central aspects in the construction of a free trade area. As a result, there was a significant increase in regional trade, which rose from US $ 290 million in 1993 to more than US $ 1 trillion in 2016 (McBride and Sergie 2018). At the same time, this increase in trade was not accompanied by an improvement in employment conditions, notably in the USA, a fact that was widely explored by Donald Trump during the 2016 election campaign.

The issue of Mexican immigration into the United States is a perennial one, that was present both in the early 1990s negotiations and at the time of NAFTA's revision. Although

the issue has been present since the late 1980s, its characteristics have changed over time. At the end of the Ronald Reagan governments (1981-1989), there was a steep increase in immigration from Mexico to the United States, especially in terms of undocumented workers. Currently, about 31% of the immigrants living in the United States are of Mexican origin (United States Census Bureau 2010), representing a significant portion of the American population.

The initial NAFTA's expectation on the part of the American government was that the agreement would somehow reduce this movement, whereas for the Mexican government the intention was to enable a better treatment and ease in the emigration of its citizens to the United States. It should be noted that none of the goals mentioned above have been achieved.

Partly, the explanation for this frustration lies in imbalances between the economies and the deepening of social problems in Mexico. Since the economic and financial crisis of 2008, criticisms about Mexico's vulnerability to the United States have increased, as well as the need for the Mexican government to seek alternatives to this dependence on the US economy, especially in the current scenario, in which the United States intensified trade and economic disputes with China:

> Although Mexico has consolidated itself as the United States' third largest trading partner over the past two decades and is expected to surpass Canada in becoming the US second largest trading partner, China's growth has certainly been NAFTA's main event since the beginning of its existence: five years ago, it replaced Mexico as the country's second largest commercial partner, and in 2018 Canada. (Peters 2018: 9)

Mexico's participation in US foreign trade increased significantly since the 2000s and is now close to overtaking Canada, which was the main American trade partner back in 1994. The latter saw its importance decline during the same period, with a tendency to rank third place soon. Another important aspect is that the rise of China as a trading partner took place to the detriment of Japan, which, as the second largest trading partner in 1990 (with a trade volume twice that of Mexico at that time), today occupies the fourth position with a share of less than half that of Mexico (Peters 2018).

According to NAFTA's deputy chief negotiator Salvador Behar Lavalle (2019: 12), 'NAFTA had as its main result the modernization and economic growth of Mexico'. Although he failed to explain exactly what this modernization would encompass, the fact is that Mexico has increased its commercial and economic interdependence, especially with the United States. Nonetheless, the population's well-being has remained stagnant. According to a report produced by the Center for Economic and Policy Research (CEPR) (Weisbrot et al. 2017: 9), the poverty rate in Mexico has risen significantly: 'In 2014 it stood at 55.1%, in comparison to 52.4% in 1994. As a result, in 2014 there were about 20.5 million more Mexicans living below the poverty line than in 1994'.

This harsh reality of Mexican society, along with other indicators, contradicts the Trump administration's rhetoric that Mexico was the major beneficiary of NAFTA. Furthermore, according to the CEPR report (Weisbrot et al. 2017: 5), 'The Mexican GDP per capita grew only 28.7%, cumulatively, from 1994 to 2016. This represents an average annual growth rate of just 1.2%, very low compared to other countries in the region in the same period'.

The question of unemployment caused by NAFTA is interesting, because this criticism is directed at the Mexican partner. During his campaign speeches, the Republican candidate repeatedly linked the problems of unemployment, drugs and violence to the partnership with Mexico. These problems were supposedly created by the worst deal ever, in a direct reference to NAFTA. After his victory, this argument became official and the US government began to affirm the need for its review as a way of addressing these problems and compensate for the 'loss of more than 5 million jobs, especially in view of factory displacements in the automobile and transportation sectors to Mexico, where the wages paid by these companies are lower' (Mattos 2018: n.p.).

The first contradiction pointed out by those who contested this discourse was that if Mexico had been NAFTA's biggest beneficiary, there would have been a disincentive for Mexican immigration to the United States, since an increase in the job supply, higher wages and improved working conditions would encourage workers to stay in their country. However, the data pointed out by the CEPR report show that the real wage (adjusted for inflation) in Mexico was almost the same in 2012 as it was in 1994, with an increase of only 2.3% over 18 years, being currently slightly above its 1980 level (Weisbrot et al. 2017).

Despite Mexico's economic dependence and the weaknesses of its economy in relation to its NAFTA partners, some authors have drawn attention to the country's bargaining power in renegotiation. They indicated that although an end to the agreement would have a negative impact, it would not be disastrous, because from a tariff point of view there would be no major changes, since the Most Favored Nation (MFN) standard of the World Trade Organization (WTO) could be applied, being relatively close to those currently used in NAFTA (Peters 2018; Ramírez 2018).

Simultaneously, the tariff increases resulting from NAFTA's suppression would affect the costs of Mexican exports to the United States, especially those related to the automobile sector, generating a significant impact on the US economy. For this reason, there was a strong reaction from this sector when the Trump administration threatened to end the deal. Although there wasn't much room for maneuver and resistance on the Mexican side concerning the proposed revision and the issues on the negotiating table, the government did seek to take advantage of the situation and reinforce its role within the agreement:

> In Mexico's strategy of global opening and integration, NAFTA has become the main engine for the growth of our foreign trade and the basis of our international competitiveness. Therefore, since the beginning of 2017, President Enrique Peña Nieto has clearly established the principles that would guide Mexico's commercial relationship with the United States at the current juncture: 1. Mexico would

> not accept the reimposition of tariffs, quotas or other mechanisms that would restrict Mexican exports to the USA; 2. Mexico would be willing to modernize NAFTA to incorporate new disciplines, suitable for the 21st century, that were not present at the time of the original NAFTA negotiation; 3. NAFTA, by nature, involved Mexico, the USA and Canada, so that any update to this agreement should consider the interests of all three parties and remain a trilateral agreement. (México 2017b: 5-6)

Since 2017, when the three governments began NAFTA's revision process, the internal political context has proved to be important in the course of the negotiations, since all presidents were preparing for electoral processes, not always in favourable contexts. Specifically in the Mexican case, it was already possible to identify an increase in popular support for the election of opposition candidates. The renegotiation of NAFTA, therefore, could be an interesting instrument to win voters by creating a positive expectation regarding the developments of this process.

In this sense, the government sought to capitalize on the negotiations by attracting the support of important economic and social sectors, including prior public consultations in person with productive sectors, in associations and commercial and business centres, and online. The representatives of the Mexican government repeatedly referred to these internal consultations, pointing them out as an indication that, in the case of that country, their positions would be supported by the participation and perception of the public opinion. As such, the Mexican negotiators would represent the national interest.

An online consultation was carried out with the strong involvement of the Mexican Senate's Committee on Foreign Relations, North America and Economic Development. Basically, there were five open questions[2] on which respondents should indicate their position through messages sent to the e-mail address, consultatlcan@senado.gob.mx, between 26 June and 31 July 2017. Participants in this consultation emphasized the need to deepen the relationship between the countries of North America, without restrictions, customs barriers and with a greater circulation of human capital. In the labour field, an emphasis was placed on reducing wage differences and protecting workers' rights, as well as adopting measures that could facilitate the circulation of qualified labour. A highlighted point was the need to maintain Chapter 19 of NAFTA, which establishes dispute settlement mechanisms, and how disputes between countries should be resolved. This demonstrates a concern about the unpredictability of the US government. Despite the government's attempts to generate support for the negotiations, the revision process ended up stimulating protests from different social groups, which have pointed out problems caused or aggravated by the agreement since 1994. These groups formed the movement '*México mejor sin TLCs*' ('Mexico better without Free Trade Agreements'), focused on the strengthening the national industry and economic sector. They demanded that the negotiations include representatives of the Legislative Power in the Mexican delegation (which happened), in addition to labor unions and peasant organizations (TelesurTV 2017).

Faced with this troubled national situation, President Enrique Peña Nieto sought to showcase the benefits that a renegotiation would bring to the country. On the other hand, he had to recognize the inevitability of this revision, considering that since 80% of the country's exports are to the United States and that 66% of trade with the rest of the world is related in some way to the NAFTA agreement (México 2017b).

When the negotiations started in 2018 the climate of tension in Mexico increased, because the proximity of the presidential elections in July of that year jeopardized both the conclusion of the negotiations and the eventual ratification by the National Congress. This was especially due to the growth of the opposition candidate Andrés Manuel López Obrador in the polls. According to the then secretary of Economy,[3] Ildefonso Guajardo Villareal:

> Without a doubt, times are always important. There will be political calendars in the three countries, but what we need to be aware of is that the end result is strong enough for us all to present to our countries a treaty that represents the best interests of the three nations (México 2018).

Faced with this scenario of growing insecurity, the Mexican government sought to guarantee the support of the Senate by maintaining a constant dialogue through meetings between congressmen and Mexican negotiators to inform them about the details of the agreement, thus aiming to expedite its ratification. As soon as the reviewed treaty was announced by the United States, the *Centro de Estudios Internacionales Gilberto Bosques*, linked to the Mexican Senate, had already produced an analysis document that mentioned article 76 of the country's Constitution, according to which there would be a need for Senate ratification of any agreements signed by the Executive Branch.

Despite fears to the contrary, the election of opposition candidate López Obrador in July 2018 did not represent a substantial change to the Mexican negotiating agenda, nor an impediment to the approval of the USMCA in Congress. The USMCA was ratified by the Mexican Senate on 19 June 2019, making it the first country to do so.[4] The agreement's analysis and evaluation work went through several commissions, in which a consensus was maintained regarding the need for its approval (Maria, 2019; Senado de la República 2019). The voting tally of its ratification expresses this reality: 114 votes in favor, 4 against and 3 abstentions.

It is important to note that the NAFTA renegotiation took place during the presidency of Peña Nieto and the 63rd Legislature of the Congress of Mexico (2015-2018), in which the president's party, the PRI (Institutional Revolutionary Party), had a large majority and the support of the PAN (National Action Party), with both parties representing 62.8% of the House of Representatives and 64% of the Senate. The election of Andrés Manuel López Obrador (from Morena – the National Regeneration Movement) brought about a recomposition of Congress, with the new government coalition having a majority only in the House (63.6%), although maintaining an important bench in the Senate (at 47.8%), according to information from the National Electoral Institute (2015, 2019).

Although the coalition that supported the candidate Obrador was strongly linked to social and economic groups critical of NAFTA, his election did not affect the ratification process or significantly alter the country's stance in the face of US pressure. Nonetheless, the policy principle implemented in the last decade by Mexican governments to seek to diversify foreign trade through agreements with other partners remained, exemplified by an agreement with the European Union and participation in the Pacific Alliance, among others.

Although the Peña Nieto government sought to use the NAFTA review as an asset in the electoral campaign, the coalition he headed - All for Mexico (PRI, PANAL - New Alliance Party - and PVEM - Green Ecological Party of Mexico) - came in third place in the dispute, even behind the party alliance Por México al Frente (PAN, PRD - Party of the Democratic Revolution - and PC, the Communist Party of Mexico), which secured the second place. The candidate López Obrador represented the winning coalition *Juntos Haremos História* (Morena, PT – Workers' Party – and PES – Partido Encontro Social), with a promise of change in Mexico's political scenery, which had been marked since the 1990s by a strong neoliberal paradigm.

Obrador's campaign speech promised to combat the negative social and economic effects of the policies adopted by his predecessors, but he could not ignore the strong ties established by NAFTA and later reinforced by the USMCA. His goal was to ensure the implementation of the new agreement as soon as possible, whilst waiting for his partners to finally ratify it.

From NAFTA to the USMCA

When negotiations to establish NAFTA began in 1991, the United States hoped that more free trade would bring about stronger and more stable economic growth for Mexico, discouraging illegal migration. Negotiated by Republican President George H. W. Bush and approved by a Democrat controlled Congress, the agreement achieved bipartisan support. Setting standards for environment, intellectual property rights and trademarks, the NAFTA agreement aimed to eliminate tariffs and to lower cross-border barriers to services and investments.

Regional trade has more than tripled since the agreement came into effect, and international investments between the three countries have increased significantly. NAFTA has fuelled an unprecedented integration between Mexico's developing economy and the developed economies of Canada and the United States. It is estimated that some fourteen million jobs in the US depend on trade with Canada and Mexico, and that the nearly two hundred thousand export related jobs created annually by the pact pay an average of 15 to 20 percent more than the jobs extinguished by it (Hufbauer et al. 2014); numbers that reveal NAFTA's weight in US trade policy. In addition, NAFTA pioneered in the incorporation of labour and environmental provisions.

Despite this, NAFTA critics argue that it was to blame for job losses and wage stagnation in the United States, driven by low wage competition and companies shifting

production to Mexico in order to reduce costs and a growing trade deficit (Chatzky et al. 2020). Claiming that NAFTA has damaged American jobs and manufacturing, Donald Trump's election, since 2016, advocated for the renegotiation of the agreement, subsequently carried out during his time in office.

The renegotiation of NAFTA has been on the US government's agenda since the time of President Barack Obama.[5] There was a recognition of the need for adjustments, since the existing agreement did not include important aspects resulting from technological changes like electronic commerce. Adjustments were also needed in some sectors to mitigate negative impacts verified throughout NAFTA's existence, especially in those affected by the displacement of production and subsequent job losses in the United States. As was pointed out at the beginning of this analysis, the institutional rigidity of the agreement made it impossible to carry out these adjustments and, consequently, the minimization of discontent.

In line with the importance given in the campaign to the NAFTA issue, the Trump administration announced on 18 May 2017 (four months after taking office) the opening of negotiations for the revision of the agreement. The government's trade representative informed Congress of his proposal.[6] According to an excerpt from the document, the justification for this initiative read as follows:

> In particular, we note that NAFTA was negotiated 25 years ago, and while our economy and businesses have changed considerably over that period, NAFTA has not. Many chapters are outdated and do not reflect modern standards. For example, digital trade was in its infancy when NAFTA was enacted. In addition, and consistent with the negotiating objectives in the Trade Priorities and Accountability Act, our aim is that NAFTA be modernized to include new provisions to address intellectual property rights, regulatory practices, state-owned enterprises, services, customs procedures, sanitary and phytosanitary measures, labor, environment, as well as small and medium-sized enterprises. Moreover, establishing an effective implementation and aggressive enforcement of the commitments made by our trading partners under our trade agreements is vital to the success of those agreements and should be improved in the context of NAFTA. (Lightizer 2017: n.p.)

Initially, the objective was to create a NAFTA 2.0, i.e., a modernized version of the original. However, during the process the US government took a position to replace the original agreement, which ended up being called the USMCA (United States-Mexico-Canada Agreement) by the Americans, T-MEC (Tratado México – Estados Unidos – Canadá) by Mexicans, and CUSMA (Canada – United States – Mexico Agreement) by the Canadians.

The USMCA negotiations lasted for a year and a half and were characterized by a lot of tension, conflicts and threats, especially on the part of the Trump administration. This

raised doubts about the feasibility of a new agreement throughout the process, or even whether the free trade area between the three countries should be maintained.

The negotiations themselves took place over seven rounds,[7] which began in August 2017 in Washington DC and concluded with the final signing of the USMCA in Argentina, on 30 November 2018, during the G20 Summit. The agreement only came into force after ratification by the Congresses of the three countries, a process that dragged on for more than a year.[8]

The renegotiation of NAFTA incorporated both a revision of themes present in the original agreement, and new commercial issues, addressing aspects like non-tariff barriers, intellectual property, and digital commerce (Gray 2018). According to Bojikian (2018), the renegotiation proposal put forth by the Trump administration emphasized some points: rules of origin, especially for the automotive sector; customs duties; labor clauses; intellectual property; digital commerce; and dispute resolution. The summary of this proposal is easily seen in Chart 1:

Chart 1. A comparison between USMCA and NAFTA: main sectors

Sector	USMCA	NAFTA
Automotive	75% American content for automobiles, light trucks and motors	62.5% American content
Intellectual property rights	Biologic: 10 years Author's rights: 70 years	Biologic: no commitments Author's rights: 50 years
Public contracts	Defines rules only for the USA and Mexico, Canada subject to WTO	Trilateral commitments
Digital commerce	Cross-border data: restricts data localization / protection of source codes and algorithms	No commitments
Investor – State in dispute settlements	Not applicable to disputes between the USA and Canada; disputes between the USA and Mexico are restricted	No commitments

In addition to the aspects dealt with in the drafting of the new agreement, the focus of this analysis is the behaviour of governments during the negotiation, especially the dynamics between the United States and Mexico. Since its inception, the Trump administration adopted an aggressive and accusatory discourse towards its southern neighbour, identifying it as one of the main sources of American problems (as it did with China) and even affirming the need to create physical barriers for containment, as in the case of the construction of the wall on the border between both countries.

A first aspect that calls attention is that NAFTA is a sensitive issue for the economies of all partners. This implies that its renegotiation would likely provoke strong reactions and interest on the part of civil society. Therefore, the US government demanded the prior signing of a confidentiality agreement. The existence of this document was met with considerable scepticism in Mexico, because even before the negotiations actually started,

a lack of transparency seemed to involve the entire process. Faced with this situation of strong criticism, the Mexican government issued a statement committing itself to share information about the negotiating progress with Congress and civil society (México 2017a).

During the negotiations, the Mexican and Canadian representatives reaffirmed their commitment to improving the agreement and building conditions for mutual benefit, disagreeing with constant American threats to walk away from the table and seek unilateral advantages. The President frequently took to Twitter with claims that his partners were hindering negotiations on the new agreement and threats to pull out of the process altogether (The Guardian 2017; Twitter 2017). The American stance caused strong reactions, including those expressed by representatives of the Mexican government such as the responsible for Special Economic Zones, Gerardo Gutiérrez Candiani. He went so far as to declare to the press that, in case a consensus was not reached, his country would prioritize other options. Mexico's Secretary of Foreign Affairs, Luis Videgaray, declared: 'If the outcome of the negotiations is not beneficial for Mexico, surely Mexico will not participate' (Voa Noticias 2017: n.p.).

The Trump administration's stance brought instability to the relationship between the partners, increasing the feeling of insecurity not only with regard to the possible effects of the changes, but also to the future of the bloc itself. In addition to threats to abolish the free trade area, during the fourth round, negotiators presented a proposal for an expiration mechanism, suggesting that the agreement would expire every five years:

> It is a terrible principle that every five years it would be necessary to renegotiate or, even worse, that every five years the agreement is terminated", the Mexican government emphasized. "Inserting such a clause explicitly is clearly the opposite of what is expected from trade agreements. If the only certainty is termination and that with just one vote it can continue or end, we would be giving investors from the three countries very bad indications about the maintenance and longevity of a trade agreement", as the Mexican Secretary for Economy, Ildefonso Guajardo, put it. (Fariza 2017)

The prospect of periodically renegotiating everything proved to be both daunting and unfeasible, since an expiration date would bring instability to relationships and rules. 'I don't think there should be such a clause […] certainty and stability are needed because of supply chains', the Mexican Secretary for Economy Ildefonso Guajardo said in an interview with Televisa (Forbes México 2017). At the end of the negotiations, a consensus was reached that the USMCA would undergo periodic reviews every five years, with a view to making adjustments without the agreement losing its validity. This measure was understood as a precaution to ensure that the agreement is updated over time, which was not the case with NAFTA.

On the other hand, the clause was intended to solve a central problem of NAFTA, which was its institutional rigidity. At the same time, the solution to this problem presupposed the creation of an organizational structure in charge of establishing a permanent

negotiation on the integration progress, thus contradicting the principle of single undertaking and low institutionalization, defended by the governments. In this case, the power imbalance between the partners represents a disincentive for the establishment of this type of organization, because it could mean greater interference / influence of the American government on Mexico and Canada (Pelcastre 2018).

In early 2018, negotiators began to address the most controversial issues, notably the labour issue. Here, Mexico was painted as the main villain, as expressed by the words of Richard Trumka, president of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO): 'Mexico's persistent failure to comply with labor obligations, after almost a quarter of a century in force, demonstrates how great the failure of NAFTA is' (Efe 2018: n.p.).

It is interesting to note that as the negotiating process dragged on, President Trump's government increasingly demonstrated impatience and haste to conclude the negotiations - especially in the face of a possible government change in Mexico - but at the same time it did not avoid measures that ended up delaying progress, such as the imposition of tariffs on steel and aluminum imports, including those from NAFTA partners. The imposition of these quotas caused strong reactions by the governments of Mexico and Canada, who expressed that they would not sign the agreement in case they were not to withdrawn. Here, the main interested party was the Canadian government, but the Mexican side took the opportunity to declare that it would await negotiations between the United States and Canada on the subject, thus securing some leverage in light of the American pressure.

The standoff between the three countries ended only in May 2019, when President Trump's government finally suspended the application of quotas for steel and aluminium from its NAFTA partners in exchange for the commitment that both parties would cooperate with the United States to hinder the entry of Chinese products into the North American market, against the background of America's trade war with China, considering that this country is an important trading partner for both Mexico and Canada.

Conclusion

During the 2016 presidential election in the United States, one of Trump's campaign main issues was his criticism of the free trade agreement between Mexico, Canada, and the United States. Of the 74 speeches given by Trump during his campaign, 51 (about 70%) mentioned the NAFTA issue.[9] He accused NAFTA of having 'stolen' jobs from the Americans and of being responsible for part of the country's trade deficit. Through attacks on NAFTA, Trump made Mexico one of the targets of his far-right political platform. In Trump's assessment, Mexico was the big beneficiary of the agreement signed in 1994, to the detriment of the American worker.

Since taking office in January 2017, Donald Trump took an aggressive stance in the direction of US trade policy, beginning with withdrawing from the Trans-Pacific Partnership (TPP) in the first weeks of his government. TPP had been a centrepiece in former President Barack Obama's geopolitical and trade strategy. Next, Trump proceeded

to attack the multilateral trading system and demanded that China act based on the principle of fair trade.

Furthermore, the Trump administration refused to approve new names for the Dispute Settlement Body, paralyzing and destabilizing the World Trade Organization (WTO). The arm wrestling with China since mid-2018 encompassed a tendency to increase friction between the two countries and shook the world economy. Attacks on the Chinese company Huawei and its 5G technology were flags of the Trump administration to keep the United States economy in the lead in this sector and to prevent China from becoming a global technological giant. Meanwhile, the Chinese government struggled to secure markets for its corporations.

In 2017, Robert Lighthizer, the United States Trade Representative, declared China to be an unprecedented threat to world trade (Mauldin 2017). Lighthizer shared with the Secretary of Commerce, Wilbur Ross, an agenda in defence of protectionism and attacks on free trade agreements. They were the United States negotiators in the NAFTA review process.

These positions were also manifest in the asymmetric and unbalanced proposals made by the Trump administration, whose view was that Mexico and Canada were seeking reciprocity. For the internal audience, it would be a settlement of accounts of Trump electoral proposals that the United States would no longer be 'exploited' by other nations. The agreement signed in 1994 was for an indefinite period. The Trump administration unsuccessfully tried to turn it into a five-year contract. Now, the agreement will run for 16 years, with revisions every six years. All these aspects were important elements for the Canadian Parliament to approve the ratification of the agreement, although Mexico did not have the same possibility of resistance.

Under this simplistic rhetoric, Trump tried to conceal that his government's actions were in fact guided by a certain patriotic neoliberalism (Scott 2018). In his project of world leadership there were no allies, only subordinates and enemies. This aggressive stance guaranteed him popularity through the construction of an image of a leader who was fighting for the interests of his country, which were to be great assets for his re-election campaign.

However, the advent of the Covid-19 pandemic and the government's subsequent inability to deal with the crisis properly ended up overshadowing the obtained benefits. The fact that Canada's ratification finally enabled the implementation of the USMCA went largely unnoticed made it clear that the populist rhetoric of anti-globalism was not enough to win the elections.

Notes

1 Maquiladora companies have existed in Mexico since the mid-1960s and expanded with the end of import tariffs as of NAFTA's entry into force. These companies import parts and components from their headquarters abroad so that the products are assembled by workers who receive lower wages than those paid at the headquarters. Then the products are sent to the headquarters or exported to other markets. In 1998, with the Decree for the Promotion and Operation of the Maquiladora Industry, this type of company was further expanded in Mexican territory.

2 '1. What should Mexico's priorities be in modernizing NAFTA ?; 2. Which themes that are not included in the original NAFTA text should be integrated into it ?; 3. Which areas of NAFTA should be improved or updated ?; 4. Which sectors of the economy should receive greater support from the government in view of the modernization of NAFTA ?; 5. How to deal with the issues of worker mobility, wages and environmental protection in the negotiation?' (Comisiones de Relaciones Exteriores 2017: n.p.).

3 Position equivalent to that of Minister of Economy in Brazil.

4 As long as the new agreement, USMCA, was not approved by the three member country congresses, the NAFTA agreement would still remain in effect.

5 Obama also announced in his election campaign the intention to revise the agreement, as compiled by the Obama's Promise to renegotiate NAFTA video. Available at https://www.youtube.com/watch?v=PF9gpvI2UfU. Accessed on 14 September 2019.

6 In Mexico, this official communication with the legislative branch was made in July 2017 through a letter Selap / 300/1841/17, addressed by the Secretariat of Economy to the Mexican Senate.

7 Washington, 16-20 August 2017; Mexico City, 1-5 September 2017; Ottawa, 23-27 September 2017; Washington, 11-17 October 2017; Mexico City, 17-21 November 2017; Montreal, 23-29 January 2018; Mexico City, 25 February to 5 March 2018.

8 The first country to ratify the agreement was Mexico, in June 2019. The US Congress ratified it in November of that same year, while the Canadian parliament only did so in March 2020, pressured by the crisis caused by the pandemic of the new coronavirus.

9 Trump campaign speeches – available in the American Presidency Project database – were codified by us. The states where most speeches against NAFTA were made were: North Carolina, with eight speeches (15.7% of the 51); Florida, with six speeches or almost 12%; Ohio and Pennsylvania, both with five speeches each (or 10%); Michigan, with four or almost 8%; Arizona, Wisconsin, New Hampshire and New York, with three speeches each or almost 6% each. Of those states, Trump won the elections in all but New Hampshire (he lost by a small margin of votes, having received just 0.3 percentage points less than Hillary Clinton) and New York.

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Tempos difíceis: os Estados Unidos e o México na "renegociação" do NAFTA

Resumo: Após um tenso processo de renegociação dos termos do NAFTA (Acordo de Livre Comércio Norte-Americano), os governos dos Estados Unidos, México e Canadá estabeleceram um novo acordo regional: o USMCA (Acordo Estados Unidos, México e Canadá), cujo objetivo é superar problemas criados desde a entrada em vigor do NAFTA em 1994. A ratificação deste documento pelos respectivos congressos nacionais gerou novas tensões e instabilidades no cenário político destes países, especialmente devido às assimetrias que existem entre eles. Este trabalho visa analisar o impacto deste desequilíbrio no processo de renegociação do NAFTA, considerando o comportamento dos Estados Unidos em relação a seus parceiros, especialmente o México.

Palavras-chave: Canadá, Estados Unidos, México, NAFTA, USMCA.

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