Windsor, Canada, May 21, 2020: Transport trucks pass under a "Bridge To USA" at the entrance to the Ambassador Bridge, US-Canada border crossing. Photo courtesy of: JL IMAGES/shutterstock.com

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North American Cooperation: the USMCA and Pacta Sunt Servanda

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It is striking that, more than a quarter century after NAFTA's entry into force, it is still necessary to provide a business case for deeper North American cooperation on economics and beyond, but that is where we are.

After the 1989 Canada-US FTA, the best case for deeper Mexico-US cooperation was made by Sidney Weintraub in his aptly titled "A Marriage of Convenience."[1] After that potential marriage of convenience became a ménage-à-trois, many studies and reports highlighted the benefits of deeper regional cooperation. To highlight just two, in 2005 the Council on Foreign Relations published "Building a North American Community",[2] calling for the establishment of a North American economic and security community by 2010, and in 2014 CFR published "North America: Time for a New Focus,"[3] with less ambitious goals, many of which are still unrealized.

The case for enhanced cooperation was clear decades ago and is more so now.

Focusing on economic issues, the US remains the main trading partner for Canada and the US, but a key change is that Canada and Mexico are increasingly relevant for US economic prosperity. This is so because the US' neighbors are also its main

Diveresified supply chains have provided opportunity for North American cooperation. Photo courtesy of: urfin/shutterstock.com

trading partners globally (vying with China over the top three spots), but especially given shared production. NAFTA, and now the USMCA, facilitate intra-industry and intra-firm trade, which generates efficiencies but also higher costs from disruptions to trade and investment.[4]

The multifaceted geopolitical competition between China and the US provides an opportunity for enhanced North American economic cooperation. Many companies are diversifying their supply chains away from China, with a view to reducing political and regulatory risks. North America can provide a competitive production platform of goods and services destined for its enormous market and for export to other regions.

The push to reduce carbon emission by international agreements (Paris Agreement), domestic environmental policies, company priorities and consumer demands also create new opportunities for the region. Relocating supply chains to North America can reduce the carbon footprint of production, yielding an increasingly important advantage for our goods and services to remain competitive.

The table seems set, but recent developments could translate into a missed opportunity.

Less than two years into the USMCA, there are troubling signs of ill-advised nationalist policies that hinder the potential of our regional production platform. For instance, Canada and Mexico have initiated dispute settlement proceedings against the US over how to apply USMCA rules of origin for autos.[5] While disputes are to be expected in such an intense trade relationship, the fact that the most significant one so far involves the paradigmatic industry for regional production, and that the three countries were unable to resolve their differences via consultations, does not bode well. Likewise, US initiatives such as strengthened Build America, Buy America provisions,[6] hinder the generation of truly regional perspectives to boost shared production.

Perhaps the biggest impediment to deeper economic integration lies in Mexico's wrong-headed energy reforms. The main impetus for NAFTA, and for the USMCA, was to create stable and clear rules to foster regional trade and investment. The high level of regulatory uncertainty, and the myriad obstacles posed to energy investments, mean that the supply of energy in Mexico will likely be unreliable, without enough clean sources, and not competitively priced. While this will be a foregone opportunity for investments in energy, it will affect the whole region's production platform.

How can Mexico be part of the North American solution to re-shoring because of China-US geopolitical competition, if energy supplies will likely remain inadequate? How can Mexico be part of the North American solution to re-shoring for environmental reasons, if its energy policies run directly counter to an energy transition and to addressing climate change goals?

A way forward would be, in the case of the dispute over automotive rules of origin, for the party(ies) found to be in non-compliance to promptly bring their inconsistent measures into compliance. Past disputes, such as that involving Mexico and the US over cross-border transportation services, resulted in the US refusing to comply with panel recommendations and Mexico engaging in sanctioned retaliation. This episode generated uncertainty for trade and investment beyond trucking services. Hopefully the lesson has been learned and disputes will be resolved via negotiations and, if not possible, via full commitment to implementing panel recommendations as embodied in the USMCA.

Regarding energy, it will be difficult for Mexico to significantly change course, but Canada and the US can request consultations under the USMCA to discuss concerns over energy and environmental commitments. In addition, USMCA's Chapter 26, on competitiveness,7 could be used to its maximum potential through the activities of the North American Competitiveness Committee, including dynamic engagement with business and civil society.

More than a grand vision for North American integration, what is needed now on the economic front is for Canada, Mexico, and the US to is to comply with the letter and spirit of the USMCA. Pacta sunt servanda – agreements must be kept!

Endnotes

1. Sidney Weintraub, A Marriage of Convenience: Relations Between Mexico and the United States: A Twentieth Century Fund Report (Oxford University Press, 1990).
2. https://www.cfr.org/report/building-north-american-community
3. https://www.cfr.org/blog/north-america-time-new-focus
4. Chris Wilson, A Regional Manufacturing Platform (WIlson Center mexico Institute, 2016): https://www.wilsoncenter.org/sites/default/files/media/documents/misc/a_regional_manufacturing_platform.pdf
5. https://can-mex-usa-sec.org/secretariat/disputes-litges-controversias.aspx?lang=eng
6. https://www.whitehouse.gov/omb/briefing-room/2022/04/20/how-build-america-buy-america-guidance-strengthens-made-in-america-requirements/
7. https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/26_Competitiveness.pdf

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