



Council of the Americas is delighted to release this commissioned brief, **USMCA Expansion: Options and Rationale**, advancing the idea that the Western Hemisphere requires renewed economic focus on expanding and deepening regional supply chains, and that the best way to do this is to offer nations the option to accede to the US-Mexico-Canada Agreement.

Over time, this approach will build broad-based and inclusive economic growth, strengthen democracy and the rule of law, and link economies more closely to the world's most competitive region, North America. It will provide concrete incentives for a regional reform agenda and create a competitive "race to the top," rewarding early movers. And it will differentiate between market- and state-led economic models, strengthening a vision that in recent years has been obscured.

Prepared by Ansley International Consultants, this brief answers several questions:

- Is accession possible given the lack of such a clause within USMCA? Yes.
- Would USMCA expansion benefit the US, Mexico, and Canada? Yes.
- Would the option of expansion support reforms across the region? Yes.
- Is this an attractive option for countries in the region itself? Yes; several including Costa Rica and Ecuador have already requested USMCA accession, while others are actively considering doing so.
- Is there an ideal timeframe for consideration? Yes; after the North American elections cycle and as part of the mandated 2026 USMCA review process.

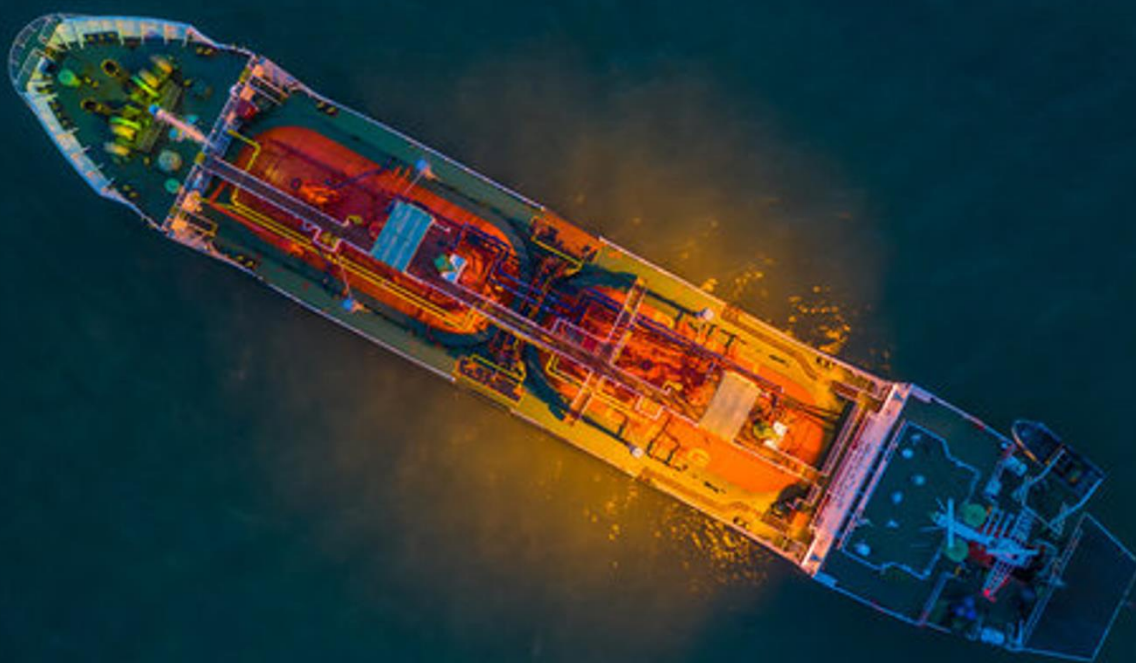
Of course, we are at the very beginning of the process, and this brief is only the first salvo in building the case for USMCA accession to re-invigorate the hemispheric growth agenda. As we have for almost 60 years, Council of the Americas will continue to play a leading role supporting the sustainable economic development that the citizens of the hemisphere seek—and very much deserve.

Much additional work remains to be done. We hope you will join us in this effort.

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Abstract

This document explores the options and rationale for expanding the membership of the United States – Mexico – Canada Agreement (USMCA) to include other countries. In support of this proposal, it is argued that the agreement already sets the standard for trade policy going forward in the United States, and in the North American region, and there is a consensus that the USMCA will help to advance other policy objectives in the region. Also, it is increasingly clear that the USMCA's provisions are becoming a reference in the wider international trade policy context.

To begin a conversation in that direction, the document provides a brief analysis of what are the legal avenues already available for the USMCA countries to design and execute such enlargement process. There are some alternatives that rely mostly in the spheres of the Executive branch, but given the interest that the process will create, it is highly likely that the process of accepting new parties to the Agreement may imply legislative processes.

Nonetheless, we note that in addition to the technical negotiating process itself, expanding the USMCA will demand an articulated strategy that considers the domestic political situation in Mexico, the United States and Canada, since the three countries will have general elections in 2024 and 2025.

The USMCA has been a resounding success

Since the entry into force of the USMCA, in July 2020, trade and investment have grown substantially among the three Parties: trilateral trade grew from 1 trillion dollars in 2020 to 1.5 trillion in 2022. Such dynamism has accelerated in the first months for 2023, to the point that Mexico has become the largest trading partner of the United States, while Canada stands as a close second¹.

The developments and events of the past three years have proven that the USMCA is indeed a policy instrument that stands out by its strategic considerations, the built-in mechanisms for keeping its provisions updated and, perhaps most important, the high political consensus it enjoys within the three Parties.

During these past three years Mexico, the United States and Canada have endeavored to advance the regional agenda in topics such as labor, environment, small and medium enterprises, rules of origin, and competitiveness. During the meeting of the USMCA's Free Trade Commission, held in México in July 2023, the authorities of the three countries reaffirmed their shared interest in enhancing regional competitiveness, highlighted the importance of the Agreement as the foundational pillar of the North American economic relationship, and underscored the importance of resolving disputes through the Agreement's mechanisms to provide greater certainty, enhance competitiveness, and avoid unnecessary disruptions to trade². Similarly, the engagement of the authorities of the three countries has been remarkable: the Free Trade Commission of the USMCA – the highest authority of the agreement – has met three times, while the committees and working groups have gathered dozens of times.

These efforts have been accompanied by encounters among the North American Leaders, who provide strategic guidance on the regional objectives, and by the procedures of bilateral high level economic dialogues between Mexico – United States and Mexico – Canada, the 21st Century Border Initiative, and the United States – Canada Joint Action Plan on Critical Mineral Cooperation.

The three countries also rely on the USMCA when advancing their regional agendas. For example, the United States and Canada will advance a cross-border semiconductor packaging corridor, and will work with automakers, battery manufacturers, and organized labor on sharing training efforts and cross-border credentials to meet the growing demands for electric vehicles in North America³. On

¹ Emily Peck, "Mexico surpassed China as the top U.S. trading partner" *Axios*, July 12, 2023. Available at: <https://www.axios.com/2023/07/12/us-top-trading-partner-mexico-china#>. (Retrieved August 9, 2023).

² US Embassy at Mexico, Third Meeting of the USMCA/T-MEC/CUSMA Free Trade Commission joint statement, July 13, 2023. Available at: <https://mx.usembassy.gov/third-meeting-of-the-usmca-t-mec-cusma-free-trade-commission/>. (Retrieved August 9, 2023).

³ The White House, "FACT SHEET: Strengthening the United States-Canada Partnership", March 24, 2023. Available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/03/24/fact-sheet-strengthening-the-united-states-canada-partnership/>. (Retrieved August 9, 2023).

the other hand, United States and Canada have expressed interest in the investment opportunities derived from Mexico's Sonora Plan on energy transition⁴.

It is thus not surprising that the blueprint of the USMCA has inspired other initiatives. While details on the exact commitments are yet to be released, it is clear that the Indo Pacific Economic Framework for Prosperity (IPEF) and the Americas Partnership for Economic Prosperity (APEP) will draw from the USMCA, or at least be informed by it in areas such as labor, environment, trade facilitation, state owned enterprises and the digital economy.

While these initiatives are valuable and must be pursued, the possibility of docking current or future trading partners into the USMCA platform could represent a much more pragmatic and effective approach going forward, in addition to providing a larger capacity to Mexico, the United States and Canada to drive the hemispherical integration process.

⁴ Bnamericas, "Mexico's US\$2.5bn Sonora plan courts US, Canadian investments", November 15, 2022. Available at: <https://www.bnamericas.com/en/news/mexicos-us25bn-sonora-plan-courts-us-canadian-investments>. (Retrieved August 10, 2023).

Why expanding the USMCA should be a priority

From a North American perspective, an alignment of potential allies around a set of trade values that serve larger purposes is highly desirable. If the three North American partners seek to increase, complement, and reassert the region's competitiveness and security in an increasingly geopolitical world, such objective could be better served by incrementally docking qualified allies into the USMCA trade values-platform.

This is more evident when we consider the policies that the North American countries are already launching to cope with the new realities of globalization. For example, in the United States, domestic initiatives such as the Bipartisan Infrastructure Law, the Creating Helpful Incentives to Produce Semiconductors (*CHIPS* Act) and the Inflation Reduction Act, include subsidies to boost production and develop strategic capacity areas such as semiconductors, clean energies, critical minerals, electric vehicles and their respective supply chains (including with selected partners); in its 2023 federal budget Canada committed to historic investments in clean electricity and fresh water and based in its strategic partnership with the United States has established a wide range of projects in strategic industries. Mexico is investing in infrastructure to link the Gulf of Mexico and the Pacific Ocean.

In complementary fashion, a larger trade vision should be accordingly deployed. To that end, an expansion strategy should emphasize resilient supply chains, nearshoring strategic activities, trade facilitative measures, clean technologies, workers' rights, non-market economy considerations and the digital economy – precisely the disciplines that were translated in the USMCA into chapters including Customs Administration and Trade Facilitation, Trade Remedies, Sanitary and Phytosanitary Measures, Technical Barriers to Trade, Intellectual Property, Digital Trade, State-Owned Enterprises, Labor, Environment, Anticorruption, and Good Regulatory Practices, to name a few.

One final important point in favor of considering new participants in the USMCA is the fact that the agreement was approved with overwhelming support by all political parties in the three countries. Particularly for the case of the US, the Agreement could be seen not only as a reference, but as a platform to incorporate additional trade allies, given the bipartisan political consensus it has achieved.

Legal considerations for an expansion process

The USMCA does not have an accession clause, but this does not mean that its Parties are prevented from accepting new members. The USMCA already contains provisions that could serve for this purpose. Arguably, there are three potential routes to provide a legal background for a USMCA expansion, this would be conducted by initiating an accession process based on the mandate given to the USMCA Free Trade Commission pursuant to Article 30.2 (Functions of the Commission) that enables the Commission to:

- **Consider proposals to amend or modify the Agreement**⁵. A proposal to establish the corresponding procedure and negotiate the terms and conditions for an accession process with a third party could fall within this category.
- **Establish *ad hoc* working groups and refer matters to them**. The Commission may decide to establish an *ad hoc* working group or committee and refer the expansion issue to it⁶. Such working group could be tasked with negotiating with a third party the terms and conditions for an accession process, for example.
- **Take any other action as the Parties may decide**⁷. In the event of a request for accession from a third party, the Free Trade Commission has the authority to take “any action” with respect to such request, including processing it, approving the terms and conditions for an accession, and inviting the third party to become a Party if the negotiation is concluded.

Despite the mandate of the Free Trade Commission, its authority does not supersede any domestic procedure that the Parties need to complete, e.g., Mexico would probably still have to submit any amendment to the agreement to its Senate. It is uncertain at this stage what other requirements would be demanded in each USMCA capital, but there is no doubt that some steps would be required to fulfil internal procedures when considering a request for accession.

In conclusion, despite not having an explicit accession process embedded in the USMCA, its Free Trade Commission could act on its own initiative or, alternatively, it could instruct working groups to take appropriate steps to facilitate the same result.

⁵ Article 30.2 (1)(b) of the USMCA.

⁶ Article 30.2 (2)(a) of the USMCA.

⁷ Article 30.2 (2)(i) of the USMCA.

Politics and timing

Even though the Commission has the ability to consider an accession request, or to issue instructions for designing a process for new countries to join the USMCA, the political realities of North America dictate that the best window to attempt an expansion would be in the context of the 2026 USMCA review process.

In 2024, the political cycles of Mexico and the US will align, as both countries have general elections. In the case of Mexico, voters will elect a new President, 128 Senators and 500 Deputies. Similarly, in the US the entire House of Representatives is up for elections, as are 34 Senators and the President. Canada does not have to organize federal elections until 2025, and Prime Minister Trudeau has announced his intentions to run again whenever elections do take place⁸.

Thus, the electoral panorama makes virtually impossible that any serious talk about enlarging the USMCA participation takes place in the remaining months of 2023 or 2024 (although this does not prevent Parties from articulating a strategy to that end immediately). The best window of opportunity for promoting a discussion on the expansion of the USMCA will, accordingly, come in the context of the 2026 review.

Article 34.7.2 (Review and Term Extension) of the USMCA reads as follows⁹.

2. On the sixth anniversary of the entry into force of this Agreement, the Commission shall meet to conduct a "joint review" of the operation of this Agreement, review any recommendations for action submitted by a Party, and decide on any appropriate actions. Each Party may provide recommendations for the Commission to take action at least one month before the Commission's joint review meeting takes place.

Using the 2026 review process should help to accomplish at least two goals:

- a. Have the 2025 meeting of the Free Trade Commission to issue a mandate to devise and present a set of rules for a potential expansion of the agreement, following the selected criteria;
- b. Set an aspirational date for welcoming the first acceding country; and,
- c. Invite any interested countries to make expressions of interest.

With the procedural steps defined, what would follow is the establishment of key champions, from diverse backgrounds – businesspersons, academics, legislators,

⁸ Steve Scherer, "Canada's Trudeau vows to run in next election at Liberal party convention", Reuters, May 4 2023. Available at: <https://www.reuters.com/world/americas/canadas-justin-trudeau-may-be-struggling-he-still-commands-his-party-2023-05-04/> (retrieved June 10, 2023).

⁹ USTR, Agreement between the United States of America, the United Mexican States, and Canada 7/1/20 Text. Available at: <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between> (retrieved July 3, 2023)

representatives of minority groups, trade unions, environmentalists - in order to guarantee support for the process.

This sequencing should be also used by those interested countries to promote their case, including a thorough analysis of how its relevant domestic legislation fulfils (or not) the USMCA provisions, and to prepare for working on offers and legislation on new topics such as services, investment, financial services, or state-owned enterprises, among others.

Finally, a special note must be mentioned concerning China. The USMCA includes an Article covering “Non Market Country FTAs”, which seeks to discourage USMCA parties from negotiating agreements with China. While this Article cannot be applied retroactively – that is, it cannot be expected that it would be applied to a country that already has an agreement with China at the moment it presents a request to accede to the USMCA – it is nonetheless fair to assume that political and diplomatic pressure would be applied to the aspirant country in an effort to guarantee that its relationship with China would not undermine the terms of the USMCA upon entry.

Conclusions

Based on the analysis presented, it would be appropriate to seek expansion of USMCA from both a trade and a political standpoint. It is indeed possible for the USMCA Parties to set up a process that eventually welcomes new countries into the agreement, even if there is not a specific procedure or accession clause therein.

In order to trigger such a process, there could be two potential avenues: the first one would be to rely on the present functions and mandate of the USMCA Free Trade Commission. While this approach is technically feasible, it is unlikely that the USMCA Parties will take the issue of expansion in isolation from a larger working agenda, especially considering the political environment that will prevail in the US and Mexico in 2024, and in Canada in 2025.

Accordingly, the best window of opportunity to explore an accession to the agreement is to take advantage of the 2026 review process. Linking this issue with the rest of the action items in the review would create the most fortuitous circumstances for USMCA accession.

Moreover, this approach would allow sufficient time for aspiring countries to develop a strategy for consideration. There will be a need to devote a considerable amount of time, resources, and political capital to effectively promote the project. Such promotion implies developing an offensive narrative to convince the most important stakeholders in each country, in order to rally allies and to minimize criticisms.