

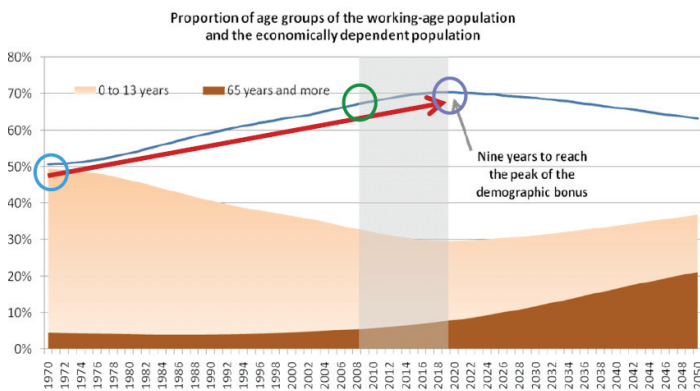
LABOR REFORM IN MEXICO

On March 18, 2010, President Calderón presented a bill for a comprehensive labor reform. The proposal aims to bring the legal framework that regulates labor relations in line with the needs of an open economy in a globalized world. While protecting and expanding worker’s rights, the proposal seeks to improve productivity by: a) creating new ways to access employment; b) establishing mechanisms to expedite justice in labor disputes; and c) promoting more democratic practices within labor unions to empower their own members.

FACING NEW REALITIES

From the outset of his Administration, President Felipe Calderón made it a priority of his government to create jobs and improve Mexico’s economic competitiveness. The improvement of labor legislation is a central driver to this end.

The current Mexican Federal Labor Law dates back to May 1, 1970 and Mexico’s demographic and economic structures have changed dramatically since. In four decades, Mexico has more than doubled its population and young people make up the most numerous demographic group. The combination of a high proportion of people in working age (between 14 and 64 years old) and the incorporation of women into the workforce, results in a larger share of the population contributing to the labor supply today. In fact, a peak of people in the labor force will be reached by 2019, when 70% of Mexicans will be at working age.



Yet, young people’s access to labor markets is rather limited. In fact, youth unemployment rate is almost twice as high as the national rate. Likewise, people over 40 years old find it extremely difficult to re-enter the labor force once they lose their jobs.

The economic structure has also dramatically changed. Mexico has gone from a statist and protectionist economy to an open, free-market model. Mexico has become a key player in a world of abundant flows of capital, goods and services. However, international competitiveness indexes show that Mexico has been falling behind in its indicators of labor market efficiency.

Nowadays, the dynamics of globalized economies have sensibly raised the bar for countries to perform better. Improving the labor market structure is a key driver to achieve greater productivity and competitiveness. A substantial overhaul of labor legislation is pressing, and President Calderón’s proposal seeks to move in that direction guaranteeing worker rights, and creating formal and well-paid jobs that enable people to gain access to social and health programs.

A NEW LABOR REFORM IN THE MAKING

The far-reaching proposal seeks to modify 419 of the 1010 articles of the current General Labor Law. Some of the key components of this proposal are:

1) Promote quality employment and greater labor equality

The bill introduces a reference to minimum acceptable conditions that any employment relationship must meet. The bill adopts the concept of “decent work”, established by the International Labor Organization, which underscores the respect for the dignity of workers, with no discrimination on the basis of gender, sexual preferences, disabilities, race or religion.

The initiative gives greater protection to vulnerable groups. For instance, It establishes that employers must provide adequate facilities for people with disabilities and specifically forbids that women be required to present a non-pregnancy medical certification to get a job or to obtain a promotion. Also, it imposes more

severe penalties for both sexual harassment in the workplace, and against child labor, by classifying hiring children under 14 years old as a crime.

2) Promote the creation of quality jobs in the formal economy

The proposal establishes new contractual modalities that make hiring in formal jobs easier:

- a) Trial contract: 1 to 6 months, with no extensions;
- b) Initial training: 3 to 6 months, with no extensions; and
- c) Temporary: for discontinuous /seasonal activities.

These modalities together with the establishment of hourly labor, in which worker and employer convene hourly pay for services, facilitate women, young and older people's access to the labor market, as they can also operate on a part-time basis. Under all these contracting schemes workers still have access to full social security benefits.

3) Modernize and expedite the administration of labor justice

Labor disputes in Mexico are known for being unnecessarily lengthy. This proposal seeks to speed up labor dispute resolutions through innovations in justice administration and the provision of adequate incentives for parties involved to seek more efficient and swift ruling processes. First, it avoids strikes from extending for an indefinite time, by entitling employers, and third parties who might be affected by the stoppage, to request arbitration after 60 days on strike. Unions are also required to comply with the provisions established in their own internal regulations for calling for strikes.

Second, to avoid unnecessary, artificial delays of trials for unjustified dismissal, the accumulated compensation payment will include a maximum six months of monthly pay, on top of the three-month severance pay mandated by the

Constitution. A monthly interest rate of 2% will be applied to the total accumulated compensation payment from the seventh month onwards. This is particularly significant as it addresses the importance to set limits to the accumulation of due wages and consequently, to the indiscriminate extension of labor trials that under the current law up to 38 months.

In addition, employers will be bound to cover the corresponding severance pay to workers with less than three years of seniority, but they will not be compelled to reinstate them.

4) Increase union transparency and accountability with full respect to their autonomy

The proposal highlights freedom of association, union autonomy, the right to strike and to collective bargaining, but also seeks to expand worker rights within their respective unions. It calls for the use of secret balloting in internal union leadership elections, for the democratization of the decision to strike, and to put an end to obligatory union dues and membership.

It also sets up measures to make the organization's finances more transparent. For instance, it requires unions to publish all relevant information regarding their assets' management. It also incorporates external audits for unions with more than 150 members to increase union management accountability.

5) Build a culture of productivity

The draft mandates the use of innovative tools to measure productivity. The later, together with training and skills, are to be the core criteria for promotion to a higher vacant position, instead of seniority, which is currently the sole guiding principle in the law. It also calls for the design of mechanisms for a fair distribution of productivity gains.

If approved, a labor reform is expected to effectively allow Mexico to move up between 20 and 25 positions in labor market efficiency indexes and 3 positions in terms of global competitiveness, transforming Mexico into a more attractive investment destination.

An intense debate is expected to take place in Mexico while reviewing this initiative in the coming months. However, for the first time in four decades, Mexico has a historic opportunity to achieve a reform that would modernize the legal labor framework and bestow the nation with better

tools to address the challenges of competitiveness and economic growth, without harming workers' rights.

The Mexican government is committed to ratifying key international labor instruments. A reform as the one the Calderón Administration has put on the table will certainly align domestic legislation with the intentional commitments Mexico is aspiring to adopt and implement.