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Comments on the Operation of the Agreement between the United States of America, the United Mexican States, and Canada (USMCA): Status, Compliance, and Implementation Recommendations for the Hydrocarbons and Refined Petroleum Products Markets.

I. INTRODUCTION

These comments on the operation of the Agreement between the United States of America, the United Mexican States, and Canada (USMCA) provide an assessment focused on how recent policy and legal changes in the hydrocarbons and refined petroleum products sector in Mexico interact with, support, strain, or potentially breach, the commitments established in the USMCA. One of its purposes is to provide understanding of the regulatory framework and enforcement options pursuant to the Agreement in North America's energy value chain. The analysis integrates statutory and regulatory developments in Mexico (2021–2025) with the Agreement's text and structure, and it offers opinions and recommendations aimed at restoring predictability, competitive neutrality, and compliance within the USMCA rules.

We begin with the USMCA's preamble principles which establish the interpretive baseline for sectoral measures. Against that baseline, these comments track Mexico's policy trajectory since 2021, which now include permit cancellations and stringent import restrictions; operational interventions of private storage and terminal assets; institutional consolidation culminating in the reclassification of Petróleos Mexicanos (PEMEX) from a State Productive Enterprise (SPE) to a State Public Company (SPC), and the creation of a sole central energy regulator. We also analyze the procedural shifts such as the use of constructive denials and shortened permit tenures introduced in 2025. Collectively, these measures shape commercial conditions for traders, logistic operators, distributors, and retailers of refined petroleum products.

The core of the report maps those developments to relevant USMCA chapters: National Treatment and Market Access (Chapter 2); Rules of Origin, Origin Procedures, and Customs Facilitation (Chapters 4–5–7); Technical Barriers to Trade (Chapter 11); Government Procurement and Investment (Chapters 13–14, including Annexes 14-D and 14-E); State-Owned Enterprises (Chapter 22); Competitiveness (Chapter 26); Good Regulatory Practices (Chapter 28); and State-to-State Dispute Settlement (Chapter 31). For each area, we identify alignments and pressure points, where measures risk constituting discriminatory treatment, de facto non-tariff barriers, or nullification or impairment of expected benefits, and where targeted controls and focused implementation could quickly improve compliance and market function.

Because the refined products market is operationally intensive and capital-dependent, the report emphasizes business consequences: planning horizons shortened by permit terms, uncertainty introduced by opaque granting procedures, logistical bottlenecks from unequal import access, and the strategic implications of concentrating regulatory and commercial power in state entities. These insights inform of the practical options we recommend for both public and private actors. On the governmental side, they include structured use of Chapter 31 consultations and panels, strengthened transparency and consultation requirements under Chapter 28, and institutional arrangements to monitor SOE conduct and sector competitiveness. For investors, we discuss the calibrated use of Investor–State Dispute Settlement where available under Chapter 14 and Annexes 14-D and 14-E, alongside risk mitigants and corrections suited to the current environment.

This document contains analysis and opinions grounded in the cited legal instruments and observable regulatory practice. We do not intend to provide or to substitute for case-specific legal advice, and the opinions do not presume outcomes of any administrative or arbitral proceeding. Rather, it provides a

disciplined framework to evaluate status, prioritize engagement by stakeholders, active supervision by signatories and specific enforcement pathways that are commercially rational and consistent with the commitments agreed to by the signatories of the USMCA. Our objective is twofold: to clarify how current policies affect market access and investment protections today, and to set out realistic steps that can restore confidence, reduce friction, and reinforce North America's integrated energy market over the medium term.

II. USMCA Background and preliminary considerations.

II.1. Principles of the Preamble of USMCA

The USMCA was established on clear, specific, and straightforward principles, among others, to:

REPLACE the 1994 North American Free Trade Agreement with a 21st Century, high standard new agreement to support mutually beneficial trade leading to freer, fairer markets, and to robust economic growth in the region;

PRESERVE AND EXPAND regional trade and production by further incentivizing the production and sourcing of goods and materials in the region;

ENHANCE AND PROMOTE the competitiveness of regional exports and firms in global markets, and conditions of fair competition in the region;

RECOGNIZE that small and medium-sized enterprises (SMEs), including micro-sized enterprises, contribute significantly to economic growth, employment, community development, youth engagement and innovation, and seek to support their growth and development by enhancing their ability to participate in and benefit from the opportunities created by this Agreement;

ESTABLISH a clear, transparent, and predictable legal and commercial framework for business planning, that supports further expansion of trade and investment;

FACILITATE trade between the Parties by promoting efficient and transparent customs procedures that reduce costs and ensure predictability for importers and exporters, and encourage expanding cooperation in the area of trade facilitation and enforcement;

…..

FACILITATE trade in goods and services between the Parties by preventing, identifying, and eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting good regulatory practices;

…..

ELIMINATE obstacles to international trade which are more trade-restrictive than necessary;

…..
RECOGNIZE that the implementation of government-wide practices to promote regulatory quality through greater transparency, objective analysis, accountability, and predictability can facilitate international trade, investment, and economic growth, while contributing to each Party's ability to achieve its public policy objectives;

PROMOTE transparency, good governance and the rule of law, and eliminate bribery and corruption in trade and investment;

While the USMCA does not have a standalone "Energy Chapter", the Agreement contains Energy-related rules and protections across several chapters, side letters and a chapter recognizing Mexican ownership of subsoil hydrocarbons. It is essential to note Chapter 8 of the USMCA includes specific provisions recognizing that *"Mexico has the direct, inalienable, and imprescriptible ownership of all hydrocarbons in the subsoil of the national territory"*.

This sovereign ownership is circumscribed to "hydrocarbons in the subsoil" and does not include distilled products.

Without specific provisions under the USCMA, refined petroleum products are protected under the general trade and investment framework, as such, these products are subject to the general rules on trade in goods, market access, non-discrimination, technical standards, and investment protection.

Pursuant to the USMCA, the regulatory framework for distilled petroleum products is defined by the following chapters:

II.2. Chapter 2. National Treatment and Market Access for Goods

Under the USMCA, distilled and refined petroleum products are governed by the general rules on trade in goods. Annex 2-B of Chapter 2 of the USMCA consolidates tariff schedules, maintaining the NAFTA-era elimination of duties for most refined derivatives. This guarantees that exports of U.S. gasoline, diesel, and other refined products to Mexico remain duty-free, eliminating customs barriers as a trade impediment. Chapter 2 also prohibits the introduction of new tariffs, quotas, or restrictions inconsistent with these commitments. Combined with National Treatment (Art. 2.3) and the Treatment of Customs Duties compromise (Art. 2.4), **this framework prevents Mexico from applying discriminatory internal taxes, licensing schemes, restrictive distribution requirements that would undermine the benefit of tariff-free entry, or other Non-Tariff Barriers to trade (NTBs)**. For refiners of petroleum products, this creates secure market access — Mexico cannot shield the National Oil Company (NOCs) through tariffs or fiscal policies that treat imports less favorably. This obligation interacts with the Technical Barriers to Trade chapter (Chapter 11) and the State-Owned Enterprises (SOEs) chapter (Chapter 22) by ensuring that both state-owned operators and regulators cannot deploy indirect measures to erode the tariff-free guarantees established in the schedules.

The USMCA reaffirms the core GATT/WTO principles of non-discrimination, which applies to petroleum and its derivatives. Under national treatment, once refined petroleum products enter a party's market, said products must be treated no less favorably than "like" domestic products and should not be applied with any *"internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations" [see* GATT CITATION*]*. It is important to note that Annex 2-A of Chapter 2 contains certain exceptions to Article 2.3 (National Treatment) and Article 2.11 (Import and Export Restrictions), which were established by each of the contracting countries. For Mexico, these exemptions mean that Paragraphs 1 through 4 of Article 2.11 (Import and Export Restrictions) do not apply to **export measures** pursuant to Article 48 of the Mexican Hydrocarbons Law (Ley de Hidrocarburos). To put it differently, for purposes of petroleum in general, the only exceptions to Articles 2.3, and 2.11 the country of Mexico established exemptions to export measures, exclusively.

For companies or individuals in the refined petroleum products business, these provisions create predictable conditions of competition: refiners and distributors know their products will not be sidelined by discriminatory measures. These rules interact with customs and market access rules and practices to make sure that once a product has been cleared by the applicable Customs Agency, said product continues to receive equal treatment inside the destination market. In practice, National Treatment (together with Most Favored Nation principles) operates as a guarantee, protecting distilled petroleum products from regulatory, fiscal, procedural discrimination even in highly sensitive energy markets.

II.3. Chapter 4, Chapter 5 and Chapter 7: Rules of Origin, Origin Procedures and Customs Administration and Trade Facilitation.

To benefit from the USMCA's tariff preferences, refined petroleum products must qualify as "originating goods" under Chapter 4. This means that the specific products must adhere to the requirements of subsections (a) to (d) of Article 4.2. Chapter 5 sets out Origin Procedures, requiring exporters to provide accurate certifications of origin. These must be accepted by customs authorities in Mexico, and importers must be able to claim preferential tariff treatment without unnecessary administrative hurdles. Chapter 7 enhances predictability by mandating transparent, efficient customs administration, risk management practices, and prompt release of goods. For

petroleum businesses, this framework should reduce delays at entry ports and minimize costly compliance risks. Importantly, Mexico is bound to honor origin certifications and cannot use customs or other entry procedures as a disguised barrier to restrict U.S. petroleum products. These rules interact closely with market access (Chapter 2): while tariff schedules guarantee duty-free entry, origin procedures ensure that only refined products produced within the USMCA get that benefit. Together, these rules are aimed at protecting business importing and selling petroleum products into the Mexican market, by securing duty-free access while preventing Mexico from undermining the Agreement through restrictive or opaque customs and administrative entry practices.

II.4. Chapter 11: Technical Barriers to Trade (TBTs)

This Chapter of the USMCA, and specifically Articles 11.2.1 and 11.4.4 "*applies to the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures, including any amendments, of central level of government bodies, which may affect trade in goods between the Parties*.", through which the signatories "*shall cooperate with each other in appropriate circumstances to ensure that international standards, guides, and recommendations that are likely to become a basis for technical regulations and conformity assessment procedures do not create unnecessary obstacles to international trade*."

These TBTs in the form of technical regulations and standards are particularly relevant in the petroleum sector, where fuel quality, emissions thresholds, labeling, and safety norms can significantly affect market access. The USMCA's TBT Chapter requires Parties to ensure that technical regulations affecting goods (including distilled petroleum products) are non-discriminatory, transparent, based on international standards where feasible, and do not create unnecessary burdens by using them as an excuse to limit trade between the signatories.

In line with the above, pursuant to Article 11.3.1 of the USMCA some provisions of the *Agreement on Technical Barriers to Trade* of Annex 1A to the WTO Agreement (TBT Agreement) are incorporated into and made part of the same USMCA. For purposes of our analysis and comments, Section 2.2 of the TBT Agreement establishes that "*Members shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade*".

While Section 2.2 of the TBT Agreement establishes that "*technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create*", establishing that such "*legitimate objectives are, inter alia: national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment.*", under the USMCA, the signatories shall work to establish and clearly define the limits of some "legitimate objectives" such as the prevention of deceptive practices as this a term that may be broadly interpreted by a party wishing to purposedly disrupt or create obstacles to international trade.

A party to the USMCA may adopt TBTs, but such measures cannot be disguised or used as restrictions on trade. This framework interacts with other relevant parts of the USMCA to ensure that technical regulations do not undermine applicable free-trade rules by creating a predictable regulatory environment that reduces arbitrary or protectionist barriers.

II.5. Chapter 13 and Chapter 14: Government Procurement and Investment

Under the USMCA, Chapter 13 and Chapter 14 establish two specific dispute resolution tracks. Chapter 13 deals with Government Procurement and relies on state-to-state dispute settlement pursuant to Chapter 31, meaning that only governments may bring claims and remedies that involve compliance or trade retaliation. In contrast, Chapter 14 governs investment and provides Investor-State Dispute Settlement (ISDS) mechanisms, allowing private investors to arbitrate directly against a government for breaches of investment protections. ISDSs of Chapter 14 apply to the United States and Mexico, as Canada opted out of these provisions.

Investment protections under USMCA's Chapter 14 are narrower than under NAFTA but remain critical for the petroleum sector. Chapter 14 provides general protection against direct or indirect expropriation, ensures a Minimum Standard of Treatment *("in accordance with customary international law, including fair and equitable treatment and full protection and security",* in Article 14.6), provides rules for National Treatment (Article 14.4)

and Most-Favored-Nation Treatment (Article 14.5) for investments. For most sectors, ISDSs became heavily restricted under the USMCA. Despite that, investors from the US and Mexico still have ISDSs avenues to file a claim and start a dispute.

Annex 14-D is the main Investor-State route for disputes under the USMCA for the US and Mexico, allowing "qualifying investors" to submit claims for specific breaches under Chapter 14. Annex 14-D, has specific grounds that an investor may invoke to submit a claim, including breach of National Treatment, breach of Most-Favored Nation Treatment and Expropriation and Compensation (except with respect to indirect expropriation)

Also, under Annex 14-E, U.S. and Mexican investors in *"covered government contracts*" in specific "*covered sectors*" which include *"activities with respect to oil and natural gas that a national authority of an Annex Party controls, such as exploration, extraction, refining, transportation, distribution, or sale"* ISDS mechanisms are available. This means that a company (of the US or Mexico) performing "exploration, extraction, refining, transportation, distribution, or sale" of oil, natural gas holding a qualifying contract can bring claims if the other country expropriates assets, breaches contract commitments, or imposes discriminatory measures. For petroleum businesses, the limited ISDS carve-out preserves a direct enforcement mechanism in high-risk, state-dominated energy sectors.

II.6. Chapter 22: State-Owned Enterprises (SOEs) and Designated Monopolies

In general, Chapter 22 defines, regulates and limits the activities of "*state-owned enterprises, state enterprises, or designated monopolies"* of a signatory party "*that affect or could affect trade or investment between Parties within the free trade area*" and, pursuant to certain rules, this chapter also regulates SOEs activities causing adverse effects in non-party markets.

Chapter 22 requires SOEs and designated monopolies to provide Non-Discriminatory Treatment and to act in accordance with Commercial Considerations in their purchases and sales of goods or services. It also imposes transparency obligations, requiring the signatories to share information on their SOEs' operations and regulatory frameworks.

While this provision recognizes the right of the parties to establish SOEs and to designate monopolies, it also imposes the parties and their SOEs the obligation to limit or prohibit certain forms of non-commercial assistance (grants, debt forgiveness, insolvency assistance, equity infusions in forms that distort competition) and ensure their SOEs do not cause adverse effects to another party's industry or covered investment. It is important to note that certain State Productive Enterprises (SPEs) are exempted from this proviso, if said SPEs are primarily engaged in oil and gas activities, a fact, concept, and applicability that we will analyze later. It is important to note, that Mexico changed the status of their energy-related SPEs, and therefore it is worth reviewing if the new legal status of the SOEs (currently State Public Companies) should provide the coverage and benefits originally intended for the SPEs.

II.7. Chapter 26: Competitiveness

The provisions of Chapter 26, reaffirm the signatories' "*shared interest in strengthening regional economic growth, prosperity, and competitiveness*" and set up the North American Competitiveness Committee to promote "*further economic integration among the Parties and enhancing the competitiveness*", this committee has among its goals to incentivize production in North America, facilitate regional trade and investment, enhance a predictable and transparent regulatory environment, encourage the swift movement of goods and the provision of services throughout the region, and responds to market developments and emerging technologies.

This chapter emphasizes the need for continuous cooperation on cross-border infrastructure and regulatory compatibility, both of which are crucial for a healthy commercial environment within the USMCA area. For petroleum businesses, Chapter 26 adds a layer of institutional oversight, providing a structured mechanism to challenge practices that could harm competitiveness in energy markets, while promoting long-term regional integration.

II.8. Chapter 28: Good Regulatory Practices

The articles of this chapter establish a framework for transparency, predictability, and stakeholder participation in regulatory processes by recognizing "*that implementation of government-wide practices to promote regulatory quality through greater transparency, objective analysis, accountability, and predictability can facilitate international trade, investment, and economic growth, while contributing to each Party's ability to achieve its public policy objectives*". One of the goals of this chapter is to "*support the development of compatible regulatory approaches among the Parties, and reduce or eliminate unnecessarily burdensome, duplicative, or divergent regulatory requirements*".

The provisions of this chapter are aimed at the implementation of government practices that shall promote regulatory quality (with accountability, transparency, objective analysis and predictability) to facilitate trade and growth, allowing each of the signatories to pursue their laws and regulations at the level they individually consider appropriate. The parties agree to certain requirements and procedures to achieve Good Regulatory Practices that involve but are not limited to the legislative process, such as planning, design, issuance, implementation and review of laws and regulations. Under these terms, the parties agree to adopt internal consultations, coordination and review mechanisms, ensure information quality, publish annual regulatory agendas, provide transparency and consultation when drafting regulations, and to conduct retrospective review of regulations.

These stipulations also establish a Committee on Good Regulatory Practices and provide that the dispute settlement recourse will be available for a "sustained or recurring course of action or inaction" that is inconsistent with the provisions of Chapter 28.

II.9. Chapter 31: Dispute Settlement

The provisions of Chapter 31 of the USMCA, provide the principal state-to-state dispute settlement mechanism under this Agreement. The dispute settlement mechanism provisions apply to the avoidance or settlement of disputes between the Parties regarding the interpretation or application of the USMCA; when a signatory considers that an actual or proposed measure of another signatory is or would be inconsistent with an obligation of the USMCA or that another signatory has otherwise failed to carry out an obligation of the agreement; or, when a party to the USMCA considers that a benefit it could reasonably have expected to accrue to it under Chapter 2 (National Treatment and Market Access for Goods), Chapter 3 (Agriculture), Chapter 4 (Rules of Origin), Chapter 5 (Origin Procedures), Chapter 6 (Textile and Apparel Goods), Chapter 7 (Customs Administration and Trade Facilitation), Chapter 9 (Sanitary and Phytosanitary Measures), Chapter 11 (Technical Barriers to Trade), Chapter 13 (Government Procurement), Chapter 15 (Cross-Border Trade in Services), or Chapter 20 (Intellectual Property Rights), is being nullified or impaired as a result of the application of a measure of another Party.

The stipulations of this chapter include the specific procedures that the parties will follow to settle disputes, and these include consultations, good offices, conciliation, mediation, the establishment of a panel, the requirements to serve as a panelist, the composition of the panel, rules, participation of third parties and the role of experts, the panel report, and the consequences of not implementing a resolution by the panel.

The mechanisms established in these articles provide a structured, enforceable, and predictable state-to-state dispute settlement system. Under these terms, the USMCA strengthens trust among the parties to the Agreement by offering transparent mechanisms to resolve disputes over their obligations by providing a tool to reduce the risk of unilateral measures. Chapter 31 provides legal certainty to the process when controversies arise between the signatories by providing enforceability to the free trade framework.

III. Recent Regulatory and Institutional Developments in Mexico's Refined Petroleum Products Sector (2021–2025)

III. 1. Summary

Between 2021 and 2025, the Government of Mexico adopted a series of measures that progressively reshaped the refined petroleum products market and redefined the institutional framework governing the energy sector. Beginning with administrative actions aimed at tightening regulatory control and limiting private participation, these measures evolved into constitutional and other legal reforms that consolidated state authority across the entire hydrocarbons value chain.

This period marks a decisive return to a state-centered model, led by Petróleos Mexicanos (PEMEX) and coordinated by the Ministry of Energy (SENER). The reforms reversed much of the 2013 Energy Reform's liberalization process, reinstating government control over exploration, production, and indirectly other midstream and downstream activities. The consolidation of regulatory bodies and subsequent judicial reforms further aligned Mexico's institutional architecture with the administration's stated goal of achieving energy sovereignty and central policy coordination.

III.2. Regulatory Tightening and Market Control (2021–2024)

Following the gradual lifting of global COVID-19 lockdowns, the Government of Mexico initiated a series of measures aimed at tightening regulatory control over the refined petroleum products market. Beginning in May 2021, the Energy Regulatory Commission (CRE) revoked 139 commercialization permits, citing inactivity as the principal reason. This marked the start of a sustained regulatory campaign characterized by permit cancellations as the first administrative action, often preceding full due process or stakeholder consultation. The approach favored abrupt enforcement over collaborative resolution, limiting the possibility of fostering a competitive and transparent market environment.

Later that same year, the federal government intensified restrictions on private-sector imports of refined fuels. By October 2021, the Ministry of Energy (SENER) cancelled 1,866 import permits, effectively constraining the ability of non-state entities to participate in fuel importation. This restrictive policy has remained largely unchanged, with minimal instances of reinstatement or issuance of new permits.

Concurrently, authorities expanded their intervention into private infrastructure operations. Between July and September 2021, several private terminals were ordered to suspend operations, including those operated by IENOVA (Sempra Energy), Bulkmatic, Liderlac, and Monterra Energy (KKR). These actions were presented as part of broader enforcement efforts but have been interpreted by market participants and part of the legal community as measures to consolidate state control over the logistics chain of fuel distribution and commercialization.

Between 2020 and 2022, the Energy Regulatory Commission (CRE) accumulated a significant backlog of fuel-sector permit applications, resulting first from the formal suspension of regulatory deadlines during the pandemic and later from a stricter governmental review. Industry data in late 2022 suggested that the backlog approached approximately 950 pending applications, reflecting a substantial volume of unprocessed filings from that period.

In March 2023, the CRE initiated a phased reactivation of application processing, prioritizing older filings and gradually resuming the issuance of decisions to grant or deny the permits. While this effort has led to a slow reduction of the backlog, approval rates remain uneven across activities, and the overall permitting process continues to operate below full normalization and not entirely transparent. For operators, extended lead

times and procedural uncertainty have continued to impact project sequencing, supply arrangements, and investment planning.

Further centralization occurred in October 2023, when a Presidential Decree temporarily restricted some petroleum products imports under the justification of "*combating the illicit fuel market*." The decree expressly exempted state-owned enterprises and other government agencies from these restrictive measures, ensuring that government entities retained full import capacity while private importers faced suspension of activities.

During 2024, regulatory activity in this sector appeared to moderate, likely influenced by the federal electoral cycle to renew the Presidency, the Senate, and the Mexican House of Representatives. Nonetheless, the overarching policy direction which prioritizes state participation and oversight in the refined fuel supply chain remained intact.

Since late 2023, official information concerning the status of revoked or reinstated permits has become increasingly limited. The scarcity of updated and reliable data complicates efforts to determine the current scope of private participation or to assess the operational reinstatement of affected companies.

III.3. Legal Reforms (2024-2025)

III.3.1. Constitutional and Institutional Reforms in Mexico's Energy Sector (2024–2025)

The policy trajectory that began in 2021 with tightened regulatory control over private participation in Mexico's refined fuels market culminated in constitutional and institutional reforms adopted between late 2024 and mid-2025. These reforms significantly redefined the structure of the Mexican energy sector, consolidating state authority and reshaping the governance of hydrocarbons.

III.3.2. Constitutional Amendments to Articles 25, 27, and 28 (October 31, 2024)

On October 31, 2024, amendments to Articles 25, 27, and 28 of the Mexican Constitution were enacted. These reforms formally reversed key provisions of the 2013 Energy Reform, which had opened the hydrocarbons market to private and foreign investment. As a result, Petróleos Mexicanos (PEMEX) ceased to operate as a "State Productive Enterprise" and was reclassified as a "State Public Company."

Under this new designation and status, PEMEX regained exclusive control over the exploration and production of hydrocarbons within national territory, effectively restoring its pre-2013 monopoly in upstream operations. The shift marks a clear re-centralization of the sector, placing strategic decision-making firmly under state management.

III.3.3. Law of the State Public Company Petróleos Mexicanos (March 18, 2025)

To implement these constitutional changes, Congress enacted the *Law of the State Public Company Petróleos Mexicanos* on March 18, 2025. This legislation formally incorporated PEMEX as an entity of the Federal Public Administration, subject to the coordination and oversight of the Ministry of Energy (SENER) under the "sectorization" framework.

While reaffirming PEMEX's central role in exploration and production, the law also preserved PEMEX's legal capacity to store, commercialize, transport, distribute, and sell hydrocarbons and derivative products, maintaining its predominant presence across the entire value chain. This restructured legal status aligns PEMEX's operations with broader national policy goals emphasizing energy sovereignty and fiscal control with concrete (and potential) impacts on the petroleum products market.

III.3.4. Dissolution of the National Hydrocarbons Commission (CNH) and the Energy Regulatory Commission (CRE) and the creation of the National Energy Commission (CNE)

As part of this institutional consolidation, the CNH and the CRE were dissolved under a decree published on December 20, 2024. Their responsibilities were merged into a newly established body: the National Energy Commission (CNE), through a law published on March 18, 2025, that became effective the following day.

The CNE was created to integrate regulatory, supervisory, and policy coordination functions previously divided between CNH and CRE. Like PEMEX, the newly created CNE is *sectorized* under the Ministry of Energy, further concentrating regulatory authority within the executive branch and reinforcing government oversight and control over all stages of the hydrocarbons value chain.

III.3.5. Judicial Reform and Election of Judges (2024–2025)

Parallel to these energy sector reforms, the Mexican government pursued an extensive restructuring of the judiciary. A decree issued on September 15, 2024, introduced direct popular elections for Supreme Court Justices, Circuit Judges, and District Judges which is an unprecedented shift in the Mexican legal system.

The elections were held on June 1, 2025, and the newly elected judiciary was sworn in on September 1, 2025. While the reform was presented as a measure to enhance democratic legitimacy, its long-term implications for judicial independence and administrative review (particularly in regulatory and energy matters) remain uncertain due to the lack of measurable outcomes or jurisprudential data at this early stage.

III.3.6. Change in Permit Duration (Commercialization, Retail Sale, Distribution)

With the publication of the new *Regulations of the Hydrocarbons Sector Law* (Reglamento de la Ley del Sector Hidrocarburos) on October 3, 2025, Mexico introduced new permit rules for the hydrocarbons sector, eliminating the possibility of permit renewals and instituting differentiated maximum permit durations determined by the specific activity to be carried out by the permit holder. Under the new regulatory framework, holders of existing permits must apply for a new permit rather than obtaining a renewal, without a clear metric to determine approval likelihood.

For downstream fuel activities, the revised maximum terms are as follows:

- Commercialization: up to 2 years
- Import/export: up to 5 years
- Retail sales (service stations): up to 20 years

These limits replace the previous 2014 regulatory regime, which allowed up to 30-year terms with a one-time extension for most activities. The shorter duration of the permits compress investment planning horizons and heightens operational and financial risks if an application is denied or delayed.

Additionally, the new regulations keep the “constructive denial” mechanism, under which the absence of a response within the decision time limit constitutes an automatic rejection of a permit application, further increasing procedural and timing uncertainty for permit holders.

III.4. Assessment and Outlook

The period from 2020 to 2025 reflects a comprehensive reassertion of state control over Mexico’s hydrocarbons sector. The combination of administrative enforcement, constitutional reform, and regulatory restructuring has recentralized authority within the federal executive, particularly through the Ministry of Energy and PEMEX.

From a business and investment perspective, these measures have increased regulatory risk, reduced transparency, and constrained private participation in both upstream and downstream activities, contrary to the commitments under the USMCA. The dissolution of autonomous regulators and the subordination of

PEMEX to ministerial coordination signal a return to a state-centric governance model reminiscent of pre-2013 structures.

While these reforms purportedly align with the administration's political objectives to achieve energy sovereignty, strengthen fiscal control, and consolidate national oversight of strategic assets, in this environment private investors face a landscape characterized by limited predictability, prolonged approval cycles, and greater dependence on government policy direction rather than the principles established in the USMCA.

IV. USMCA and Mexican Domestic Laws and Regulations: Contrasts and Alignments.

IV.1. Background

In this chapter, we analyze how the legal and policy adopted by the Government of Mexico in recent years (between 2021 and 2025) may impact, align or conflict with the principles, rights, obligations, and commitments assumed by the signatories under the USMCA. These measures, as described in this text, include mass permit cancellations, import restrictions (direct or indirect), regulatory consolidation, and constitutional amendments restoring the dominant role of the state in the energy sector through Petróleos Mexicanos as National Oil Company and the Mexican Energy Ministry (SENER) as the head of the government's energy sector.

The analysis below compares the actions and the newly adopted domestic legislation with the relevant USMCA provisions, identifying areas where Mexico's current regulatory trajectory and practices align or undermine (or have the potential to undermine in the future) commitments concerning market access, investment protection, transparency, and fair competition within North America's integrated energy market, and provide a number of suggestion relating to the operation of the USMCA agreement.

IV.2. Preamble Commitments and Policy Direction

The preamble of the USMCA embodies and emphasizes the signatories' commitment to transparency, predictability, the elimination of unnecessary obstacles to trade, and the establishment of fair, competitive markets. The principles of the preamble of the USMCA serve as interpretative baselines emphasizing the creation of a legal, commercial, and political environment that promotes competitive neutrality for the USMCA trade zone.

In contrast, the measures adopted by the country of Mexico between 2021 and 2025 (which include permit cancellations, import restrictions, and the concentration of authority in the Ministry of Energy and PEMEX) may be interpreted to have reintroduced administrative discretion, reduced legal and commercial predictability, and discourage private investment. These policies are inconsistent with the USMCA's principles, which seek to preserve transparency and promote free and fair competition. The provisions of the preamble establish the foundational policy expectations against which subsequent state conduct is expected and assessed. The actions and terms of Mexico's re-centralization of the energy sector might be considered as a departure from the cooperative, market-oriented model envisioned in the USMCA for regional trade and investment.

IV.3. Chapter 2: National Treatment and Market Access

Chapter 2 of the USMCA prohibits the introduction of new tariffs, quotas, or discriminatory non-tariff measures and guarantees that imported goods shall be treated no less favorably than "like" domestic goods. The cancellation of more than 1,800 import permits, the suspension of private fuel terminals, and the 2023 decree restricting private imports while exempting state-owned entities are past examples of what can constitute restrictions that are against the commitments of the USCMA.

Although formally justified as "enforcement against illicit trade", the measures taken under the applicable decree, had the effect of eliminating private import competition and granting exclusive operational and

commercial advantages to PEMEX and other government agencies. This may constitute discriminatory treatment inconsistent with the national treatment and other obligations under the USCMA agreement. Moreover, other selective restrictions nullify the benefits market access secured under the USMCA stipulations. In practical terms, these actions may create non-tariff barriers that replicate the very trade impediments the Agreement sought to abolish, undermining market access even if tariffs remain at zero.

IV.4. Chapters 4, 5 and 7: Rules of Origin, Origin Procedures, and Customs Facilitation

Chapters 4 through 7 of the USMCA collectively ensure that qualifying goods enjoy preferential access through clear rules of origin, efficient customs administration, and transparent trade facilitation. The extensive backlog to review and decide applications to secure permits, the introduction of the "constructive denial" rule, and the administrative practice of "indefinite inaction" undermine these commitments.

While these measures are not formally customs procedures, in practice they operate as *pre-entry* and *post-entry* restrictions that obstruct the movement of qualifying goods to and within the territory of Mexico. By conditioning participation in the domestic market on unpredictable, discretionary administrative decisions, Mexico introduces uncertainty that may be equivalent to a hidden trade barrier. The systemic delays and opaque decision-making processes (or the non-decision-making process, to that effect) contradict the USMCA's objective of prompt and transparent customs and administrative treatment for cross-border trade.

IV.5. Chapter 11: Technical Barriers to Trade

The Technical Barriers to Trade (TBT) chapter requires that technical regulations and enforcement measures be non-discriminatory, transparent, and not more trade-restrictive than necessary to achieve legitimate policy objectives. Measures such as the Presidential Decree of October 2023 restricting fuel imports under the rationale of combating illicit trade may well fail this proportionality test.

While preventing fuel smuggling constitutes a legitimate regulatory aim, the decree's blanket prohibition on private importers (coupled with explicit exemptions for state-owned enterprises) renders it more restrictive than necessary. The governments can implement mechanisms that are less damaging to trade than targeted audits or excessive burdens to permits. Moreover, the absence of public consultation and the limited disclosure of enforcement data since late 2023 undermine transparency and stakeholder participation. As a result, measures taken by the administration, such as the 2023 decree, constitute a decision inconsistent with the standards of necessity and non-discrimination required by both the USMCA and the WTO TBT Agreement, which the USMCA incorporates by reference.

IV.6. Chapter 14: Investment Protection

USMCA Chapter 14, together with Annexes 14-D and 14-E, guarantees foreign investors protection against discrimination and certain forms of expropriation. While the reclassification of PEMEX as a "State Public Company" and the restoration of exclusive control over exploration and production excludes commercialization activities, the newly enacted laws and regulations represent a structural reorganization of the energy sector where the Mexican government is preeminent. While this is not intrinsically against the rules of the USMCA, the impacts, and ramifications of the implementation of the new legal framework could potentially be against the spirit and conditions of the Agreement.

Foreign investors holding or seeking to hold downstream assets (including storage, distribution, commercialization, and retail facilities) now operate in an environment of systemic disadvantages. The signatories must be aware that the preferential treatment of PEMEX as a NOC through exemptions from import restrictions, excessive conditions to obtain permits for private companies, preferential conditions for PEMEX to secure permits, and in general preferential administrative treatment for PEMEX may constitute a violation of the National Treatment and Most-Favored-Nation provisions applicable to covered investments. Additionally, measures such as terminal closures and prolonged administrative paralysis could be construed as indirect expropriation, particularly where they render existing investments commercially non-viable without formal expropriation and compensation, under the terms of the Agreement.

IV.7. Chapter 22: State-Owned Enterprises and Competitive Neutrality

Chapter 22 of the USMCA allows the signatories to maintain state-owned enterprises but mandates them to act according to commercial considerations, provide non-discriminatory treatment, and refrain from receiving non-commercial assistance that distorts competition.

Pursuant to the commitments of the USMCA, exempting PEMEX or other state entities from import restrictions and granting them privileged access to permits and infrastructure, the Mexican government would confer competitive advantages unattainable by private operators. Such actions undermine competitive neutrality and create adverse effects on the industries and investors. Even considering the limited carve-outs for the National Oil Company engaged in oil and gas activities, the magnitude of these privileges and their direct impact on cross-border refined product trade require deeper analysis to define whether this support exceed the permissible scope of non-commercial assistance under the Agreement.

Systematically channeling import and logistic advantages to the National Oil Company, against the stipulations of the USMCA, while curtailing private investment, creates adverse effects on trade. Limiting the participation agreed to by the parties is not necessarily a commercial decision by the National Oil Company as a player in a free trade zone market, it might well be construed as a state-made competitive advantage that distorts downstream markets of petroleum products.

IV.8. Chapter 26: Competitiveness and Regional Integration

Chapter 26 establishes a framework for strengthening regional competitiveness through transparent and predictable rules and policies that facilitate the efficient movement of goods and services. Mexico's re-centralization of the energy sector, coupled with more restrictive import and permit policies, erodes the integrated supply chains that the USMCA seeks to promote.

By limiting private investment and participation in the transportation, storage, and retail segments as agreed to in the USMCA, Mexico introduces logistical inefficiencies and bottlenecks that reduce North America's overall competitiveness. The concentration of market control in a single state entity discourages cross-border investment and undermines the cooperative infrastructure planning and regulatory compatibility that Chapter 26 envisions. The shift to an energy sector regime dominated by the state, where exceptions are made to create winners and losers undermines regional competitiveness and fairness. The cumulative effect is the fragmentation of the regional energy market rather than its integration.

IV.9. Chapter 28: Good Regulatory Practices

The Good Regulatory Practices (GRP) chapter seeks to institutionalize transparency, accountability, predictability, and stakeholder participation throughout the regulatory and implementation process. It requires from each signatory to publish annual regulatory agendas, provide notice and opportunity for comment, and ensure that regulations are based on objective analysis and quality information, including actions related to "*planning, design, issuance, implementation, and review of the Parties' respective regulations*".

The new pattern of regulatory conduct in Mexico in the different procedures (a few examples include revoking permits as a first administrative action, failing to consult affected stakeholders, maintaining opaque backlogs, and relying on "constructive denial" by silence) runs counter to these standards. The lack of readily, accurate, reliable and publicly available data on procedures together with the dissolution of autonomous regulatory agencies further erode the principles of transparency and independence central to the GRP framework. Taken together, these measures constitute a sustained course of action and inaction inconsistent with Chapter 28 of the USMCA.

IV.10. Chapter 31: Dispute Settlement Implications

State-to-state dispute resolution recourse becomes likely when a Party's measures are inconsistent with the Agreement or when a measure, even if not directly inconsistent, nullifies or impairs expected benefits under multiple chapters.

The pattern of restrictions, exemptions, suspensions, and shutdowns resulting in market distortions that work against the terms of the USMCA, could support both inconsistency and nullification/impairment claims. The institutional consolidation of regulatory authority and the judicial reform introducing elected judges also raise concerns regarding impartial domestic review, further emphasizing the need for recourse under the USMCA dispute settlement mechanisms. These developments together create a strong factual basis for consultations or panel proceedings initiated by the affected signatories.

IV.11. Conclusion

The policy direction adopted by Mexico in recent years represents a structural reversal of the liberalization process established under the 2013 Energy Reform and safeguarded by the USMCA. The cumulative effect of permit cancellations, import restrictions, administrative opacity, and institutional consolidation is to re-establish an energy market dominated by the government that contradicts multiple provisions of the USMCA.

These actions are inconsistent with the obligations to ensure national treatment, transparent regulation, competitive neutrality of state enterprises, and facilitation of trade and investment. Beyond their legal implications, they signal a shift away from North American economic integration toward a protectionist framework that increases operational uncertainty for private investors and trading partners.

Even where the new laws and regulations are framed as measures to increase law enforcement and to keep sovereign control over national assets, their design and effects from a policy standpoint is the restoration of an energy market controlled by the state, affecting neutrality and fairness. The misalignment of the laws and governmental actions with the terms of the USMCA operate as *de-facto* Non-Tariff Barriers and investment restrictions that may yield short-term administrative control but at the cost of regional competitiveness, investor confidence, fragmentation of the energy market (rather than its integration) and restrictions to access the market, which is against the USMCA framework.

V. Comments on the Operational Improvements of the USMCA: The Refined Petroleum Products Market.

Based on the previous analysis, the following comments are designed to provide our overview on the status of the refined petroleum products market within Mexico *vis-à-vis* the Agreement between the United States of America, the United Mexican States, and Canada (USMCA) and to suggest operational improvements by addressing systemic non-compliance with the Agreement's obligations, particularly within the hydrocarbons and refined petroleum products sector. Rooted in the USMCA's core principles of transparency, predictability, fair competition, and adherence to the rule of law, this document proposes operational and practical, agreement-based mechanisms to reinstate compliance, balance market conditions, transparency, market fairness, and safeguard investor confidence towards integrated energy markets.

These recommendations recognize that the USMCA is a legal and institutional structure meant to guarantee equitable treatment, regulatory accountability, and the elimination of discriminatory, or protectionist conducts of its parties. When a signatory deviates from these commitments, the effectiveness of the entire regional framework is compromised. The operational opinions and measures outlined below are aimed at providing structured, rules-based mechanisms to reestablish the integrity of the Agreement. Collectively, these operational suggestions are intended to preserve the balance between state sovereignty and the stipulations of the Agreement, ensuring that the principles of fairness, transparency, and international legality remain as the foundation of North American economic relations.

V.1. Strategic and Resolute use of State-to-State Dispute Settlement under Chapter 31.

To address systemic non-compliance, the compliant signatories should consider using formal dispute settlement processes as established in the USMCA. This mechanism allows a party to request consultations, and, if unresolved, the establishment of a panel to determine whether another party's measures violate the Agreement or nullify or impair expected benefits, and we strongly suggest relying on these tools as proactive means to enforce the terms and conditions of the USMCA. Discriminatory import restrictions, selective permit granting or cancellations/revocations, and NOCs exemptions impair market access and clear investment conditions guaranteed under various chapters of the Agreement. Formal panel processes would create a binding and transparent record of findings, compelling the non-compliant party to justify the "necessity" and proportionality of the measures implemented. Beyond legal compliance, invoking Chapter 31 dispute settlement processes would reaffirm the credibility of the USMCA enforcement system, deter further protectionist measures, create a dynamic environment to enforce and settle disputes and send a signal to investors that member governments are committed to preserving a regional energy market based on the rule of international law. Governments and players from the energy industry need to coordinate and take an active role in the utilization of the mechanisms available and use them as necessary to limit actions against the compromises under the USMCA. Implementing a vigorous approach to resolving controversies reinforces the principle that sovereignty over natural resources does not exempt a signatory from its trade and investment obligations once products enter commerce.

V.2. Strategic and Diligent implementation of Investor–State Dispute Settlement Mechanisms (ISDSs) as a Compliance Tool under Chapter 14 of the USMCA.

In the context of recent policy reversals, ISDS procedures are a valuable tool to reinforce the rule of law by compelling adherence to Articles 14.4 (National Treatment), 14.5 (Most-Favored-Nation Treatment), and 14.6 (Minimum Standard of Treatment). This measure is a complement to the state-to-state remedies of Chapter 31 by providing a parallel, investor-driven enforcement avenue that operates independently of political negotiation. By ensuring that breaches to the USMCA have tangible financial and diplomatic consequences, ISDS mechanisms transform obligations from abstract commitments into enforceable rights. Properly invoked, the ISDS of the Agreement should too function as a corrective instrument that restrains protectionist behavior while reinforcing market confidence and upholds the credibility of the USMCA's investment framework.

Applicable signatory governments should actively promote awareness of this tool among their qualified investors and clearly communicate its availability. Additionally, they are encouraged to provide necessary resources (including educational, informational, and legal support) to ensure that investors are prepared, well-equipped and motivated to utilize this dispute settlement mechanism. Businesses should be informed of the availability of the Investor–State Dispute Settlement (ISDS) mechanism established in Chapter 14 of the USMCA as this device provides a direct, enforceable means of holding a signatory accountable when its actions undermine the Agreement's investment protections. The ISDS framework remains a vital instrument to discipline regulatory conduct that results in discriminatory treatment, expropriation, or denial of fair and equitable treatment to covered investors.

Through these provisions, qualifying investors from a Party may bring claims directly against a non-compliant government before an international arbitral tribunal, bypassing domestic courts where impartial review may be uncertain. This mechanism serves both a corrective and deterrent function. Correctively, this mechanism allows investors harmed by measures such as arbitrary permit cancellations, discriminatory import restrictions, or regulatory expropriations to obtain binding awards of compensation or restitution. Deterrently, it incentivizes governments to maintain transparent, predictable, and non-discriminatory regulatory environments to avoid costly litigation and reputational damage.

This is a mechanism that should be supported, encouraged and communicated extensively by the USA government agencies to USMCA investors so that they utilize this measure which should be utilized as a direct enforcement resource in the high-risk environment of the energy sector.

V.3. Establishment of a Trilateral Monitoring Mechanism on Energy Market Practices

Under the *Committee on State-Owned Enterprises and Designated Monopolies* (Chapter 22.12) the *North American Competitiveness Committee* (Chapter 26.1) and in coordination with the *Committee on Good Regulatory Practices* (Chapter 28.28), the Parties should establish a specialized and continued monitoring mechanism to oversee transparency and compliance in the refined petroleum sector. The mechanism would allow the parties to collect data on different important issues, such as permit issuance or denial, regulatory timelines, status of importation and customs procedures, logistics, storage, distribution, commercialization, and retail to issue periodic reports assessing whether national measures conform to USMCA standards and requirements. By embedding monitoring in an international institutional framework rather than a confrontational process, the Parties can encourage compliance through peer-to-peer conversations and public accountability. This would also provide early warnings of potential breaches before they escalate to controversies and disputes. The sustained implementation of mechanisms like the ones mentioned above would contribute to monitoring and achieving the objectives of transparency, accountability, and retrospective review, while supporting the goal of maintaining predictable conditions for regional competitiveness and trade. The reports of these committees could serve as the factual foundation for consultations or dispute settlement if corrective action is not voluntarily taken by the signatory at fault.

V.4. Reinforce and Reinstate Transparency and Stakeholder Consultation Requirements

A key USMCA objective under Chapter 28 (Good Regulatory Practices) is to ensure transparent, substantial, real, and effective public participation in the design and implementation of regulations pursuant to the USMCA. To align the regulatory process of a party with these obligations is essential to restore Good Regulatory Practices as conceived by the USMCA, which would necessarily require publication of regulatory proposals with real formal public consultation periods including relevant stakeholders, and rely on regulatory impact analyses before adoption of new laws and regulations. Adopting new laws or regulations without sufficient public consultation or democratic participation from the energy sector community undermines the procedural guarantees of predictability and accountability required by Chapter 28 and Chapter 11 (Technical Barriers to Trade). Restoring transparency mechanisms would allow affected operators (both domestic and foreign) to provide factual and data-oriented feedback, identify unintended trade barriers, and improve regulatory design. This approach not only ensures formal compliance with the USMCA, but it will also restore investor confidence by demonstrating that Mexico's regulatory decisions are based on objective analysis rather than administrative discretion. Reinstating these consultation processes would be one of the most immediate and visible steps toward demonstrating good faith, democratic discussion of rules pursuant to an international law instrument and regulatory normalization.

V.5. Reinforce and Reinstate the Independence and Functional Autonomy of Energy Regulators

To restore confidence in regulatory neutrality, pursuant to the conditions of the USMCA, the signatories should defend and advocate for the implementation of independent regulatory bodies (equivalent to the former Energy Regulatory Commission and the National Hydrocarbons Commission). Chapter 22 (State-Owned Enterprises) implicitly requires a separation between regulators and market participants to ensure non-discriminatory treatment and commercially oriented decision-making by state enterprises. The dissolution of these autonomous agencies and the concentration of regulatory and policy functions under the Ministry of Energy (SENER) undermine impartial oversight and create structural conflicts of interest. Reinstating autonomous regulators, with transparent appointment procedures and fixed-term leadership in compliance and within the terms allowed by the USMCA, would align Mexico's policies with the standards of good governance and institutional expectations embedded in Chapters 22 and 28 of the Agreement. Implementing these measures would help to minimize future disputes by guaranteeing that decisions regarding permit issuance, supervision, enforcement, and cancellation or revocation are based on transparent and objective criteria, rather than serving as tools for governmental industrial policy.

V.6. Align 2025 Hydrocarbons Sector Regulations with International Commitments under the USMCA.

The new regulations from 2025, which eliminate permit renewals and shorten permit durations to as little as two years for commercialization, introduce uncertainty inconsistent with the USMCA commitment to provide a predictable legal framework for investment. Under the framework of the USMCA the parties should call

Mexico to revise these new regulations to reinstate renewal mechanisms and align permit durations with the economic life of the relevant investments. Longer-term and renewable permits are standard practice internationally and help to reduce administrative burdens while giving certainty and encouraging capital-intensive infrastructure development. Restoring predictability in permit tenure would meet the transparency and stability expectations under Chapters 2 and 14, where investors rely on a consistent and rational long-term regulatory environment. These measures would contribute to ease administrative backlogs, enhance procedural efficiency, provide consistent legal ecosystems, and demonstrate compliance with the Agreement's principles of fair competition and non-discrimination.

V.7. Discriminatory Exemptions and Apply Uniform Enforcement

The October 2023 Presidential Decree that restricted private imports while exempting state-owned enterprises opened the gates to future violations to National Treatment (Chapter 2) and Non-Discriminatory Enforcement (Chapter 11) obligations. Signatories should avoid such exemptions and replace them with uniform, compliant, and transparent enforcement measures applicable to both state and private entities.

Uniform application of regulations eliminates the perception of favoritism toward a National Oil Company and aligns regulatory practice with USMCA and WTO norms. Equal treatment in import permitting and enforcement would not undermine legitimate policy goals; rather, it would ensure that such objectives are pursued through proportionate and non-protectionist instruments. Implementing rules in accordance with these principles restores investor confidence, reduces the risk of trade retaliation, and improves compliance record before any Chapter 31 panel proceedings.

V.8. Implement a Structured Review and Sunset Mechanism for Trade-Related Policies and Regulations.

In accordance with Articles 28.13 and 28.14 of Chapter 28, which promote retrospective evaluation and continuous improvement, each regulation impacting trade should be subject to periodic review to assess its necessity, proportionality, and alignment with international commitments under the USMCA. Signatories should adopt regulatory reviews and sunset clause mechanisms applicable to energy-related decrees and ministerial regulations that affect trade and investment flows. These mechanisms would institutionalize compliance by requiring agencies to justify the continued existence of restrictive measures, unfair treatment, and distortions to the energy markets. It would also enable multilateral consultation before renewal or amendment of contested decrees or regulations. A structured review process will ensure adaptability of domestic policy while preventing entrenched non-compliance. Over time, it would reinforce a party's reputation for regulatory predictability and good faith adherence to its USMCA obligations.

V.9. Establish Permanent Consultation Forums for the Petroleum Sector.

Before resorting to formal disputes, the Parties could create permanent Petroleum Trade and Investment Forums pursuant to Chapter 26's North American Competitiveness Committee and other applicable cooperation provisions. This would serve as an early and continued dialogue mechanism to discuss regulatory changes, identify measures impacting trade within the region, and share data on market conditions. Modeled after other sectoral working groups under the USMCA, such a forum could include industry representatives, regulators, and trade officials. The forum would provide a structured venue to solve discrepancies and policy coordination, consistent with the cooperative spirit of the Agreement. Institutionalized dialogue can reduce misinterpretation of measures, prevent escalation of disputes, and help the signatories to design compliant reforms without external compulsion. Over time, this approach could help to build trust and facilitate policy alignment in the extremely sensitive hydrocarbons sector.

V.10. Conclusion: Advancing Implementation, Fairness, and the Rule of International Law under the USCMA

These operational recommendations and comments presented in this document serve a dual function: they provide immediate corrective mechanisms for current non-compliance and establish long-term institutional

safeguards to prevent their recurrence. Implementing these measures would enhance the effectiveness, fairness, and credibility of the USMCA as a living framework for regional integration. By operationalizing the dispute settlement mechanisms, by reinforcing transparency and stakeholder participation, and by ensuring the neutral conduct of state-owned enterprises as required by the Agreement, the signatories would reaffirm that trade and regulatory sovereignty can coexist under the discipline of international law.

In practical terms, these actions would contribute to recalibrate the status of the refined petroleum market, improve regulatory predictability, improve transparency, provide stability, and protect the mutual benefits derived from open and fair open markets based on international law. Equally important, they would demonstrate that compliance with the USMCA is not optional, but a shared responsibility anchored in good faith, legal certainty, and accountability. A vigorous and coordinated application of these recommendations would therefore not only correct the present deviations but also fortify the institutional foundations of the USMCA by strengthening the rule of law, enhancing competitiveness, and preserving the long-term integrity of North America's economic partnership.

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INDEX