

I. Basic Information for TC

▪ Country/Region:	MEXICO
▪ TC Name:	Support for a Successful Transition to the New Institutions created by the Labor Reform
▪ TC Number:	ME-T1448
▪ Team Leader/Members:	Kaplan, David Scott (SCL/LMK) Team Leader; Barragan Crespo, Enrique Ignacio (LEG/SGO); Barrios Nunez, Uriel (CID/CME); De Gyves Sandoval, Alejandro (CID/CME); Garcia Valero, Andrea Carolina (SCL/LMK); Garza Cortina, Miriam (VPC/FMP); Gonzalez Herrera, Beatriz Maria (SCL/LMK) Team Leader; Barragan Crespo, Enrique Ignacio (LEG/SGO); Barrios Nunez, Uriel (CID/CME); De Gyves Sandoval, Alejandro (CID/CME); Garcia Valero, Andrea Carolina (SCL/LMK); Garza Cortina, Miriam (VPC/FMP); Gonzalez Herrera, Beatriz Maria (SCL/LMK)
▪ Taxonomy:	Client Support
▪ Operation Supported by the TC:	N/A
▪ Date of TC Abstract authorization:	24 Mar 2021
▪ Beneficiary:	Ministry of Labor (STPS)
▪ Executing Agency and contact name:	Inter-American Development Bank
▪ Donors providing funding:	OC Strategic Development Program for Social Development(SOC)
▪ IDB Funding Requested:	US\$300,000.00
▪ Local counterpart funding, if any:	US\$0
▪ Disbursement period (which includes Execution period):	36 months
▪ Required start date:	June 30, 2021
▪ Types of consultants:	Consulting Firms and Individuals
▪ Prepared by Unit:	SCL/LMK-Labor Markets
▪ Unit of Disbursement Responsibility:	CID/CME-Country Office Mexico
▪ TC included in Country Strategy (y/n):	Yes
▪ TC included in CPD (y/n):	Yes
▪ Alignment to the Update to the Institutional Strategy 2010-2020:	Social inclusion and equality; Economic integration; Institutional capacity and rule of law; Gender equality; Diversity

II. Objectives and Justification of the TC

- 2.1 Since a 2017 constitutional reform, and especially due to the 2019 reform of the labor law, Mexico has undergone legislative efforts to reform its labor relations and justice system. This purpose of this reform is to secure fundamental labor rights, particularly union democracy, collective bargaining, and the efficient resolution of labor lawsuits. One of the main problems that Mexico faces in securing such rights is the dependence of Conciliation and Arbitration Boards (CABs) to the Executive Branch of Government. The CABs have overseen the registration of unions and their collective contracts, and have overseen labor disputes, including the conciliation procedures. Their dependence to the Executive Branch made it possible for politically favored union leaders to operate without demonstrating that they had the support of the represented workers, which undermined wages and labor rights in Mexico, throughout modern history. The resolution of labor lawsuits has also been shown to be inefficient and prone to errors.

- 2.2 Among the main changes made in 2019 to the Federal Labor Law (*Ley Federal del Trabajo*), Mexico's main labor law, in accordance with the 2017 Constitutional Reform, is the creation of two new institutions: The Federal Center for Conciliation and Labor Registration and the Labor Tribunals. These two institutions were created to substitute the CABs and take over their functions. The Federal Center for Conciliation and Labor Registration was created as a sectorized institution of the Ministry of Labor and will oversee a mandatory conciliation procedure prior to lawsuits proceeding to the newly created Labor Tribunals in the Judicial Branch of government. Also, the Federal Center for Conciliation and Labor Registration, as its name states, will oversee the registration of unions, collective contracts and related documents and procedures. On the other hand, Labor Courts were created to take over the dispute resolution aspect of the CABs, but with increased autonomy since they are part of the Judiciary Branch.
- 2.3 The 2019 labor reforms established a maximum period of four years for the entire implementation of the reform. Due to the complexity of the implementation of this reform, three phases were designed by the Ministry of Labor to assure an orderly and efficient rollout of the implementation. Mexico's federal states were divided in three groups to stagger the implementation of the labor reform. The first phase started on November 18th, 2020 with eight states adopting changes enacted by the labor reform. the second phase is to start on October 1st, 2021 and the third phase is to start on May 1st, 2022. These changes imply, among numerous other things, the creation and initiation of operations of the institutions previously mentioned. The CABs in each state stop receiving new cases once the reform is implemented but will remain open until they have adjudicated the cases that were pending at the moment of implementation. Furthermore, the CABs are no longer receiving collective bargaining agreements for registration purposes. The fact that the old and new institutions will operate in a parallel fashion represents a budgetary challenge for the government. The successful closing of the CABs will free up resources that can be assigned to the new institutions, which makes the closing of the CABs a significant step for the implementation of the 2019 labor reform.
- 2.4 It is worth noting that IDB support for to help the Conciliation and Arbitration Boards close was a decision made in coordination with other international agencies that give technical assistance for the implementation of Labor Reform in Mexico. These institutions include the International Labour Organization, the United States Department of Labor, and the United Nations Development Program (UNDP). The Labor Ministry coordinates all technical assistance to ensure that efforts are not duplicated and that the key topics are covered. Nevertheless, regarding the execution of this TC, the only direct involvement that is anticipated from other international organizations is the hiring of UNDP for the purposes of elaborating strategies and implementing at least one pilot aimed at demonstrating the effectiveness of the proposed measures.
- 2.5 The CABs in Mexico face tremendous procedural lags, with some from states like Mexico City and Jalisco which have lags that represent more than 100,000 cases to solve. Alongside, the CABs throughout Mexico's different states present diverse challenges stemming from the heterogenous nature of their users (quantity of cases and types of cases), diverse practices and budgets. Mexico needs to close the CABs efficiently and according to the law, to liberate resources and allocate them into the

new institutions, while respecting the rights of all workers. This will be achieved by concluding all of the cases being processed within the CABs, achieving prompt labor and fair resolutions for the parties involved in processes pending before the Boards. Through this TC, the IDB will collaborate directly with the Ministry of Labor in two main areas. The first is the development of strategies to resolve pending disputes in the most expeditious manner possible. The second area is the development of plans to close that institutions in a timely and orderly manner.

2.6 **Potential anticipated results of this TC are:** (i) the timely and efficient termination of the CABs, and therefore the liberation of resources in favor of the government, for usage in the new labor institutions; and (ii) the practical resolution of labor disputes held in Labor and Arbitration Boards, benefitting the Mexican public (firms and workers) with cases pending in the CABs.

2.7 This TC builds on the Bank's previous experience and expertise in the subject matter. The IDB has positioned itself as a recognized actor in Mexican labor law and the labor reform since its enactment. The IDB analytical work has supported the Mexican authorities in the design of system improvements, as well as recognized the Bank as a reference in the public debate. This includes:

- a. In 2019, the IDB directed the program "Support for the Implementation of Labor Reform in Mexico" (ME-T1393) in which it provided technical related to the loan "Program to promote better working conditions in Mexico" (ME-L1289). Additionally, the TC provided key inputs for the government for the implementation of the labor reform in Mexico. In 2020, alongside the UNDP, the IDB created material for disseminating information on the labor reform and the relative workers', unions' and employers' rights and obligations.
- b. In 2020, the IDB participated in a working group alongside the UNDP, by creating a legal diagnosis, with recommendations and suggestions for the modification of the Protocol for the Legitimation of Collective Contracts, in order to include a complaint procedure for workers in democratic elections within work.
- c. In 2020, the alongside the UNDP, the IDB generated a guide for electoral observers and another one for non-labor authorities to participate in union democratic procedures.

2.8 **Strategic Alignment.** The TC is consistent with the Bank's Institutional Strategy Update (UIS) (AB-3190-2) and its accompanying Second Revised Version of the Corporate Results Framework (CRF, GN-2727-12). Thus, this TC contributes to the development challenges of: (i) social inclusion and equality by guaranteeing equal access to labor justice to all workers with disputes before the CABs; (ii) productivity and innovation by achieving a prompt and efficient resolution of labor disputes, reducing costs for firms; (iii) economic integration since the successful implementation of Labor reform is a key requirement of the US-Mexico-Canada trade agreement; (iv) gender equality, specifically regarding the protection of the rights of workers who allege discrimination or harassment in their lawsuits; and (v) institutional capacity and the rule of law by strengthening that government's capacity to administer justice and guarantee that the rights of citizens are respected in practice. The TC is aligned with

the objectives of the Ordinary Capital Strategic Development Programs for Social Development (GN-2819-1) and, in particular, with its objectives: (iii) support IDB and clients to foster social inclusion, gender equality, and diversity through projects and programs; and (iv) promote social inclusion, gender equality, and diversity in member countries. The TC is also aligned with the Country Strategy of Mexico (GN-2982) in that it supports the implementation of the labor reform (paragraph 3.7 of the country strategy).

III. Description of activities/components and budget

- 3.1 The general objective of the TC is to support a successful transition from the CABs that existed prior to the labor reform to the newly created Conciliation Centers and Labor Tribunals. The specific objectives are: (i) identify and pilot strategies to resolve the cases pending before the CABs in the most expeditious way possible; and (ii) create a plan for the closing of the CABs in an orderly and efficient manner.
- 3.2 **Component 1: Strategies for Reducing the Lags in Labor and Arbitration Boards.** The Labor and Arbitration Boards cannot be closed until all remaining cases have been resolved. For this reason, it is of fundamental importance that these cases be resolved as quickly as possible, freeing up budgetary resources for the new institutions created by Labor Reform. This objective can be reached through the analysis of data on cases within Labor and Arbitration Boards throughout the country. Some of this data will be obtained through focus group meetings with boards in diverse federal states. Data will be processed through calculations to identify bottlenecks in the labor process. This component will offer recommendations for the design of different strategies to resolve the existing cases in the most expeditated manner possible in the form of a technical document.
- 3.3 These technical outputs will include the following topics:
 - a. Analysis of the current situation of the Labor and Arbitration Boards, including the identification of the main causes of existing lags;
 - b. Proposals for more efficient delivery of notifications;
 - c. Proposals for more efficient conciliations processes, including the use of technological platforms to allow the conciliation to take place online;
 - d. Proposals for quality control mechanisms that reduce the probability that the judgments are appealed.
 - e. Proposals for the reassignment of personnel to the Boards with higher workloads.
 - f. Estimates of the fiscal costs associated with the implementation of the proposals to reduce the lags.
- 3.4 Additionally, the degree to which the proposals are viable will be put to the test in at least one pilot program in at least one Labor and Arbitration Board. This pilot program will last up to 18 months, although concrete recommendations will be delivered every six months to the Labor Ministry. The fact that the measures will be piloted guarantees that the recommendations will be practical and actionable.
- 3.5 **Component 2: Legal and Institutional Analysis with Strategies for Terminating Efficiently the Labor and Arbitration Boards.** This component will fund the development of institutional strategies to close the Conciliation and Arbitration Boards gradually and in the most efficient way possible, through the analysis of outputs and lessons learned generated in previous projects by the Bank. Meetings will be carried

out throughout the development of this component to ensure that the needs of the Labor Ministry are being satisfied.

- 3.6 These technical outputs will include the following topics:
- An estimated timeframe for when different areas of the Boards could be closed;
 - Recommendations for the gradual sale of existing physical and technological assets;
 - Recommendations for the gradual reduction of personnel, guaranteeing full respect for labor rights;
 - Estimates of the fiscal-cost savings that result from the gradual elimination of the Conciliation and Arbitration Boards.
- 3.7 The total cost of the operation is US\$300,000 and it is financed by the Ordinary Capital Strategic Development Program for Social Development (SOC).'

Indicative Budget

Activity/Component	Description	IDB/FUND (SOC)	Total Funding
Component 1. Strategies for Reducing the Lags in Labor and Arbitration Boards			
Firm and Individual Consultants	<p>Recommendation studies covering topics to include:</p> <ul style="list-style-type: none"> - Analysis of the current situation of the Labor and Arbitration Boards, including the identification of the main causes of existing lags; - Proposals for more efficient delivery of notifications; - Proposals for more efficient conciliations processes, including the use of technological platforms to allow the conciliation to take place online; - Proposals for quality control mechanisms that reduce the probability that the judgments are appealed. - Proposals for the reassignment of personnel to the Boards with higher workloads. - Estimates of the fiscal costs associated with the implementation of the proposals to reduce the lags. - Technical support for the revision of the content and assuring the quality of the plans for reducing lags, as well as technical support for the successful implementation of the pilot. This specific element will be covered by the hiring of individual consultants. 	150,000	150,000
Dissemination and communication	Technical Note	65,000	65,000
SUBTOTAL		215,000	215,000
Component 2. Legal and Institutional Analysis with Strategies for Terminating Efficiently the Labor and Arbitration Boards			
Firm and individual consultants	<p>Recommendation studies covering topics to include:</p> <ul style="list-style-type: none"> - An estimated timeframe for when different areas of the Boards could be closed; - Recommendations for the gradual sale of existing physical and technological assets; - Estimates of the fiscal-cost savings that result from the gradual elimination of the Conciliation and Arbitration Boards. <p>Technical support for the revision of the content and assuring the quality of the plans for reducing lags, as well as technical support for the successful implementation of the pilot.</p>	50,000	50,000

Activity/Component	Description	IDB/FUND (SOC)	Total Funding
Dissemination and communication	Workshops / Technical Notes/Materials/Meetings	25,000	25,000
SUBTOTAL		75,000	75,000
Incidentals		10,000	10,000
TOTAL		300,000	300,000

IV. Executing agency and execution structure

- 4.1 This TC will be executed by the Bank through the Labor Market Division (SCL/LMK), at the request of Mexican authorities. The Labor Markets Division team working in Mexico (LMK/CME) has the relevant background, skills, and technical experience to carry out this technical cooperation; therefore, the Mexican federal government has requested the IDB's support to directly execute the TC. Furthermore, the execution of TCs by the Bank is common practice in Mexico due to the national budgeting mechanism, which subtracts the financing of the TC from the beneficiary's budget when the beneficiary executes them. The Bank, through SCL/LMK, has worked for several years in collaboration with the Government of Mexico in general, and with the Secretariat of Labor and Social Welfare, which will be the counterpart in the design and implementation of effective and efficient solutions, positioning it as a benchmark in the area. In addition, the Bank has specific experience in the execution of the activities foreseen in this TC.
- 4.2 LMK/CME will be responsible for the leadership, supervision, and coordination of the TC. LMK/CME will submit annual reports and a final report to the donor.
- 4.3 With respect to procurement and financial management, direct contracting is requested using the non-competitive method: single source selection, in accordance with the Policy for the Selection and Contracting of Consulting Firms for Bank-executed Operational Work (GN-2765-4, section IV paragraph A.4.1.3.a), for the contracting of United Nations Development Program (UNDP), with resources from Components 1 and 2, that is, it is anticipated that UNDP will have one contract that will cover the products from both components. The UNDP is the United Nations' global development network, advocating for change and connecting countries to knowledge, experience and resources to help people build a better life. UNDP helps countries attract and use aid effectively, including Mexico. In all its activities, UNDP promotes gender equality and the protection of human rights. "Democratic governance and peacebuilding" are one of its three main focus areas of work. For those reasons, the IDB has previously contracting UNDP with very good results reviewing and improving the union election process manual in an earlier stage of the implementation of the Labor Reform (ME-T1333 y ME-T1393). This unique experience and UNDP exceptional expertise would be useful to provide a preliminary analysis with recommendations on how to resolve existing cases of the Conciliation and Arbitration Boards in the most expeditated manner possible. In addition, the request for support from the client specifically mentions UNDP as the institution with which they would like the IDB to collaborate.

- 4.4 The direct contracting of this organization is consistent with the Policy for the Selection and Contracting of Consulting Firms for Bank-executed Operational Work (GN-2765-4, section IV paragraph A.4.1.3.a) which allows single source selection in the following cases: (a) the assignments represent continuity of previous work carried out by the firm; (b) when the firm alone is qualified or has experience and exceptional value for the project and presents a clear advantage over its competitors; (c) for small assignments where the value is equal to or less than US\$100,000; (d) in cases of emergency, such as disaster response or consulting services in the immediate aftermath of a disaster. This procurement corresponds to points (a) as UNDP has already successfully contributed to the implementation of the Labor Reform with satisfaction of the STPS and the IDB and has demonstrated in this prior technical assistance having qualified personnel and expertise on Labor Justice.
- 4.5 The Bank will contract the services of individual consultants, consulting firms and different consulting services, in accordance with the policies and procedures in force in the Bank. All activities to be executed under this TC will be included in the Procurement Plan and will be contracted in accordance with Bank policies as follows: (a) AM-650 for individual consultants; (b) GN-2765-4 and Guidelines OP-1155-4 for Consulting Firms for services of an intellectual nature and; (c) GN-2303-28 for logistics and other related services.
- 4.6 SCL/LMK will be responsible for the direction, supervision, monitoring and coordination of the TC. SCL/LMK will submit annual reports and a final report to the fund. The Official Exchange Rates of the IDB indicated in the SDP will be applied for necessary conversions to local currency. Audits will not be required for this TC.

V. Major issues

- 5.1 **Coronavirus/COVID-19.** The current Global Coronavirus Pandemic and health contingencies have introduced a generalized risk of uncertainty to the success of this Technical Cooperation, as well as all activities planned by the Government of Mexico in the short and potentially medium term. To mitigate this risk, the Bank is in constant communication with counterparts at the Ministry of Labor. The Bank will maintain constant communication with the Ministry of Labor to mitigate this risk and adapt accordingly to any changes necessitated by this unique risk and challenge.
- 5.2 This component includes the risk of there being possible opponents to the recommendations generated for reducing the number of Labor and Arbitration Boards, which could affect the development of diagnosis on procedural lags in the CABs and implementation of pilot programs. The Bank will adopt a mitigation strategy based on selecting Labor Boards that appear to be willing to implement the proposed changes. There is also the risk that the CABs that will implement the pilots will not have the institutional capacity to undertake the required actions. This risk will be mitigated by identifying the institutional requirements for the pilot and prioritizing the CABs that fulfill these requirements. This exercise will also serve to lay out the investment requirements for the CABs that would implement the strategies after the pilots.

VI. Exceptions to Bank policy

- 6.1 None.

VII. Environmental and Social Strategy

- 7.1 Due to the nature of this operation, it is not expected that it will have a significant negative environmental or social impact. See safeguards [SPE](#) and [SSF](#). This TC does not include activities that would have significant negative environmental and/or social impacts and is therefore classified as a category “C” operation, according to the policy OP-703.

Required Annexes:

[Request from the Client - ME-T1448](#)

[Results Matrix - ME-T1448](#)

[Terms of Reference - ME-T1448](#)

[Procurement Plan - ME-T1448](#)