

Technical Cooperation (TC) Document

I. Basic Information for TC

▪ Country/Region:	MEXICO
▪ TC Name:	Support for the implementation of labor reform in Mexico
▪ TC Number:	ME-T1393
▪ Team Leader/Members:	Kaplan, David Scott (SCL/LMK) Líder del Equipo; Barrios Nunez, Uriel (CID/CME); De Dobrzynski, Esteban (LEG/SGO); Gaona, Tania Lucia (SCL/LMK); Garcia Valero, Andrea Carolina (SCL/LMK); Garza Cortina, Miriam (VPC/FMP); Hand, Anne Elizabeth (SCL/LMK); Miranda Monroy, Edna (CID/CME); Muhlstein, Ethel Rosa (SCL/LMK); Rodriguez Perez, Ariel Enrique (VPC/FMP); Zappani, German (VPC/FMP)
▪ Taxonomy:	Operational Support
▪ Operation Supported by the TC:	ME-L1289 – Program to Promote Better Working Conditions in Mexico
▪ Date of TC Abstract authorization:	09 Apr 2019
▪ Beneficiary:	Estados Unidos Mexicanos, through Secretaría del Trabajo y Previsión Social (STPS)
▪ Executing Agency and contact name:	Inter-American Development Bank (IDB), Social Sector, Labor Markets Division, David Kaplan, dkaplan@iadb.org.
▪ Donors providing funding:	OC Strategic Development Program for Institutions(INS)
▪ IDB Funding Requested:	US\$200,000.00
▪ Local counterpart funding, if any:	
▪ Disbursement period (which includes Execution period):	36 months
▪ Required start date:	July 2019
▪ Types of consultants:	Consulting firms and individual consultants
▪ 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; Productivity and innovation; Institutional capacity and rule of law.

II. Description of the Associated Loan

- 2.1 The Program to Promote Better Working Conditions in Mexico (ME-L1289) will support and ambitious reform of the Federal Labor Law that will achieve three main goals. First, the reform will guarantee transparency and democracy for in collective bargaining agreements, ensuring that workers have effective representation. Second, the reform will transfer labor lawsuits from the executive branch to the judicial branch. And third, the reform will institute a pre-trial conciliation stage in the executive branch of government.
- 2.2 The loan ME-L1289 is anticipated to be a policy-based loan that will support both the legislative approval and implementation of the reform. It is anticipated that the preparation of this loan will begin early in the second semester of 2019 for approval either at the end of 2019 or early in 2020.

III. Objectives and Justification of the TC

- 3.1 On February 25, 2017, a constitutional reform pertaining to labor justice came into effect in Mexico that established the general framework for establishing a new labor justice system that improves labor dispute resolution through mechanisms designed to improve workers' representation and incorporate new technology to streamline claims processing and adjudication. The constitutional reform contains three primary elements. These elements, if successfully implemented, will result in (i) a more efficient, open, and public-oriented labor justice process; (ii) improvements in business confidence in Mexico, due to proper functioning of the rule of law, which can lead to increased productivity; and (iii) reduced corruption in the labor justice process.
- 3.2 Under the constitutional reform, labor lawsuits that resolved in the executive branch, specifically in mediation and arbitration boards, are transferred to judicial labor courts to improve the process and the quality of the delivery of justice. It is expected that the implementation of oral arguments in the presence of the judge will significantly increase the speed of the trials, lowering the costs for both firms and workers.
- 3.3 In order to promote unions that more effectively defend workers' rights, the reform requires a union to verify that it represents its workers, through a free and secret vote. The reform will also protect firms from being extorted by unions by forcing the unions to show they have true support of their members before calling a strike.
- 3.4 To privilege mediation in the dispute resolution process, the reform mandates a mediation stage as an administrative precursor for initiating a labor lawsuit.
- 3.5 On January 3, 2019, a labor reform initiative was presented to the Mexican Congress to codify this constitutional reform. There are many positive structural aspects of this labor reform that deserve to be highlighted, which include:
- 3.6 Measures to reduce corruption in the labor justice process by reducing the discretionary authority of Government officials and clearly listing notoriously inappropriate acts that have been commonplace in the labor justice process such as intentionally delaying the notification process, the use of false witnesses, and avoiding payment after losing a judgment.
- 3.7 Measures to improve efficiency and provide improved service to litigants, for example, through electronic notifications throughout the process, and by requiring a mediation process prior to formally proceeding to court. Mediation based on the delivery of statistical information from similar lawsuits has been shown to be important in fostering consensus and resolving disputes.
- 3.8 Measures to reinforce the authority of judgments and rulings by facilitating the immediate processing and receipt of adjudicated awards, utilizing existing systems.
- 3.9 The Bank views this labor reform as a positive step towards improving efficiency and productivity in the Mexican labor market. Given the importance of the reform, published in the Official Journal of the Federation on May 1st, 2019, the Bank is in ongoing dialogue to offer support through the operation ME-L1289. It is anticipated that preparation of this operation will begin soon.

- 3.10 This TC will provide technical support to the loan ME-L1289. Specifically, the TC will: (i) support the design of new centers for labor mediation; (ii) support the design of the technological platform that will support the new labor justice system; and (iii) describe an implementation plan that will serve as the basis for the policy matrix for the program.
- 3.11 This TC builds on the Bank's previous experience and expertise in the subject matter. This labor reform represents an importance advance for Mexican labor justice. Given previous lessons of the Bank in the topic of labor justice in Mexico, in which technical inputs, such as research reports, show that upwards of 50% of labor judgments in favor of workers were not enforced or collected, and upwards of 40% of businesses that lose labor lawsuits restructure so judgments cannot be collected, this TC aims to support the construction of a strong, reliable, and trustworthy labor justice system that serves both Mexican businesses and workers.
- 3.12 The TC is consistent with the Institutional Strategy Update (UIS) 2010-2020 (AB-3008) and aligns with the development challenges of: (i) institutional capacity and rule of law (since it supports the creation of new institutions and the strengthening of existing institutions that will administer the new Labor Justice system); (ii) social inclusion and equality, by promoting equitable access to systems designed to support fair resolution of labor disputes for all workers, and (iii) low productivity and innovation, by strengthening the rule of law and efficient processes related to adjudication of labor-related disputes, which will reduce the costs of formal employment and therefore promote the creation of higher-productivity jobs. The TC is also aligned to the Country Strategy with Mexico; considering the TC will promote better job placements by reducing the cost of formal employment and improving working conditions. The TC matches the objectives of the Strategic Development Program for Institutions (INS) fund: institutional capacity and rule of law, social inclusion and equality, low productivity and innovation. Finally, the TC is aligned with every of the four objectives of the Ordinary Capital Strategic Development Program for Institutions: (i) contribute to public policies and institutions that are more effective, efficient, open and citizen-centered; (ii) improve service delivery to citizens; (iii) reduce constraints for business growth and productivity; and, (iv) strengthen enforcement of the rule of law, citizen security, and the fight against corruption (GN-2819-1).

IV. Description of activities/components and budget

- 4.1 **Component 1: Design of labor mediation institutions.** A comparative labor mediation study is a necessary input in order to provide detailed information of reform proposals and opportunities. This tool would be available to strategic stakeholders and partners in the reform process, such as Mexican legislators, to assess the labor justice impact of different organizational designs of centers for labor mediation. Then, this tool would guide stakeholders' suggestions and decision-making to, for example, promote the best incentives for the mediation mechanism's success.
- 4.2 This component would include one or more consultancies of labor justice experts. Inputs would consider international cases of labor justice reform and, nevertheless, implementation of labor mediation centers. Activities will focus on the efficiency of the mediation process, in the context of far more labor lawsuits than the current system

can adjudicate in a reasonable timeframe. Inputs will design an infrastructure and strengthen judicial power capabilities in order to improve the resolution of successful mediation agreements in a significant way. To design a roadmap study for the implementation reform, the following specific activities must be undertaken:

- Generate inputs for the identification of the central axes of the roadmap, its components and subcomponents (General action plan).
- Produce a normative, institutional and organizational analysis of the current actors in charge of the labor reform. Identify the changes required by the Law and draw the future institutional-organizational map that should be established (Institutional-organizational map).
- Identify comparable experiences that allow learning good and bad practices to inform the design of the roadmap for the Implementation of the labor reform (regional experience in labor reforms).
- Delineate the action plan for one and four years to accompany the labor reform (professionalization of the civil services of the institutional actors involved in the labor reform).

4.3 **Component 2: Technological upgrade design to improve efficiency.** It is important to contribute in designing a technological platform that guarantees quality and access to labor justice for everyone along the labor adjudication process, from the first notification of parties, to the execution of judgments, in an efficient way. For this reason, the resources will be used to define the platform that best suits the resolution of disputes.

4.4 Consultancies are necessary to assess which technological platforms or information technology systems could best support resolution of labor lawsuits in the most efficient way possible. The design of the technological platform must respond to these needs. The technological platform might facilitate, among others, a useful and effective coordination and communication between administrative and judicial bodies.

4.5 Activities of this second component can propose solutions for improving notifications of the parties, which represents one of the most important areas of opportunity of the labor justice reform. The technological platform can also help in the assignation of files to people in charge of notification and, more generally, reduce risks of corruption along the notification process. In order to reach those objectives, it is necessary to develop the following specific activities:

- Identify the restrictions to requirements for scalability and sustainability.
- Present a recommendation document to contribute in designing a technological platform but it will not involve the actual design of the system.
- Define the hypothesis, conditions, and methodology used for the implementation of the technological platform.
- Propose solutions for improving notifications of the parties.
- Estimate the net benefits and costs of the technological platform.

4.6 The total cost of the operation is US\$200,000 and it is financed with funding from the Ordinary Capital Strategic Development Program for Institutions (INS).

Indicative Budget (US\$)

Activity/Component	Description	IDB/Fund (INS)	Counterpart Funding	Total Funding
Component 1. Design of labor mediation institutions				
Implementation and Management Plan Developed	Consultancies to design new centers for labor mediation that incorporate strategic stakeholder input, such as proposals from Mexican legislators	70,000		70,000
Institutional Capacity Analysis Conducted	Manual workshops / Technical Notes / Materials / Meetings	30,000		30,000
SUBTOTAL		100,000		100,000
Component 2. Technological upgrade design to improve efficiency				
Management Information Systems (MIS) Designed	Consultancies to design a technological platform to facilitate the high-level functioning of the new labor justice system in Mexico	80,000		80,000
SUBTOTAL		80,000		80,000
Other costs				
Incidentals		20,000		20,000
TOTAL		200,000		200,000

V. Executing agency and execution structure

5.1 This TC will be executed by the Bank through the Labor Market Division (SCL/LMK) at the request of Mexican authorities (Secretariat of Finance and Public Credit). The project team is led by SCL/LMK who will supervise the TC components. In addition, execution by the Bank in this topic has proved to enhance information sharing among beneficiaries, allowing an efficient exchange of best practices by countries engaged in comparable reform processes. The Bank, through 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.

5.2 With respect to procurement and financial management:

- a. 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. To this end, Section AM-650 of the Administrative Manual "Complementary Work Force" will be applied to individual consultants, the Policy for the Selection and Contracting of Consulting Companies for Operational Work Executed by the Bank (GN-2765-1) and its operational guidelines (OP-1155-4)

and the IDB's institutional procurement policy GN-2303-20 for different consulting services.

- b. SCL/LMK will be responsible for the direction, supervision, monitoring and coordination of the TC, with the direct input from the Secretariat of Finance and Public Credit. 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.

VI. Major issues

- 6.1 There are a series of structural challenges inherent in drastically modifying a system, such as the previous labor justice mechanism in Mexico, and creating a new system with new institutions. This TC is designed to provide accompaniment and accountability to a process which, by its nature, has risks associated with poor execution. Some of the risks identified include:
- 6.2 Structural risks, similar to those recently seen as part of the implementation of Mexico's broader judicial reform. Documented challenges^{1 2} related to implementing the Mexican judicial reform of 2008 include a low clearance rate for prosecutions, delays in acquiring equipment and hardware to support the new system, and a training lag for judges, lawyers, and other stakeholders, to learn new techniques related to changes in the system, such as the broad incorporation of oral arguments. This TC will incorporate these previous learning related to Mexican justice reform implementation in its execution, to attempt to avoid past mistakes and mitigate these risks, particularly since implementing a new system does not mean that guidance based on the old system will be useful.
- 6.3 Technological risks related to streamlined processes and information security. A strength of the new labor reform is its focus on automatic, digital, notifications, but this must be accompanied by a strong technological back-end framework from the beginning to ensure that notifications are received, hearings are automatically scheduled, different parts of the system process (for example, the transition from unsuccessful mediation to arbitration) are seamlessly communicated, and that digital case files are secure. This TC will incorporate best practices from other contexts to recommend structural and process design that will mitigate these risks.
- 6.4 Operational risks could include the difficulty in accomplishing the tasks due to changes in the priorities of the Government. Most of the products of this TC will depend crucially on the active participation of the Government. Nevertheless, given that the reform has been such a high priority for the Government, this risk is not considered to be high. Additionally, close dialogue with the Government will be maintained to ensure that the products of the TC are in line with the priorities of the Government.

¹ <https://www.insightcrime.org/news/analysis/six-shortcomings-of-mexico-new-accusatory-criminal-system-according-to-experts/>

² <https://www.insightcrime.org/news/analysis/mexico-s-judicial-reform-a-mix-of-successes-and-defects-one-year-in/>

VII. Exceptions to Bank Policy

7.1 None.

VIII. Environmental and Social Strategy

8.1 Due to the nature of this operation, it is not expected that it will have a significant negative environmental or social impact. See safeguards [SPF](#) 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-T1393](#)

[Results Matrix - ME-T1393](#)

[Terms of Reference - ME-T1393](#)

[Request from the Client_36688.pdf](#)

[Results Matrix_24334.pdf](#)

[Terms of Reference_96158.pdf](#)

[Procurement Plan_25452.pdf](#)

[Procurement Plan - ME-T1393](#)