

LABOUR AND SOCIAL JUSTICE

Due diligence in the Mexican automotive industry.

The case of 5 German companies and their suppliers.

Executive Summary

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1.

INTRODUCTION

The purpose of this study, in accordance with the terms of reference approved by the Friedrich Ebert Foundation, was to diagnose the union situation and the prevailing labor conditions in the five selected German companies and their suppliers in Mexico, which translated into a total of 41 plants being analyzed. In addition, two other German assembly plants established in the country were also included, both of which are known for having independent and democratic trade unions as their counterparts. The diagnosis is set in the context of the Act on Corporate Due Diligence to Prevent Human Rights Violations in Supply Chains [sic] (*Ley de Diligencia Debida en las empresas para prevenir las violaciones a los derechos humanos en las cadenas de suministro*) (2021), and the general situation of the automotive and auto parts industry in Mexico. Likewise, the institutional context derived from the 2017/2019 labor reforms and their articulation with the USMCA labor agenda is considered.

The sources used to analyze the union situation and working conditions in the companies are those available on the website of the Federal Conciliation and Labor Registration Center (*Centro Federal de Conciliación y Registro Laboral*) (database of legitimized collective bargaining agreements and labor repository) as well as studies by specialists and hemerographic sources. For this reason, the study does neither reflect the actual dynamics of union activity or labor relations between the trade union, the workers, and the company, nor the level of compliance with the content of the collective bargaining agreements analyzed, which would require fieldwork at these companies and trade unions including interviews and observation of the ongoing union democracy processes.

One of the most important limitations regarding the sources used is that they did not allow for the presentation of relevant information on gender issues. On the one hand, there are no such clauses in the CBAs that were reviewed. On the other hand, the membership registers of the 26 trade unions studied - with a few exceptions (6) - do not allow for the gender identification of members. In addition, it is important to notice that there might be contract reviews that could not be identified, because the repository was opened to the public on September 20th, 2023, when analysis of the CBAs had already been completed; however, the repository could be consulted in order to incorporate

the most recent wage reviews. The methodology used to analyze the CBAs and wage tabulators, as well as to assess the risks of facing disputes due to union representation, is explained in the corresponding sections.

This document is hereinafter integrated as follows. Section 2 presents an analysis of the German Act on Due Diligence (DDA) and the resulting obligations for German companies which aim to identify possible risks and threats with regard to the compliance with fundamental labor rights and, in particular, those relating to freedom of association and collective bargaining.

Section 3 outlines the new Mexican institutional context, including internal reforms, such as the USMCA requirements, and particularly the lessons learned from the CBA legitimization processes, as well as from the 17 complaints for violations of freedom of association and collective bargaining filed by the United States under the Rapid-Response Labor Mechanism (RRM). These complaints provide an important precedent for the potential adoption of a similar mechanism known as "Intercompany Claim for the Automotive Industry [*Reclamación interempresarial para la industria automotriz* (sic)]" in Mexico. Section 4, in turn, refers to the labor situation of the automotive industry. Section 5 is about the union situation. The following sections analyze, firstly, collective bargaining at the selected assembly plants, followed by Tier 1 suppliers and finally Tier 2 suppliers (43 CBAs in total). In order to facilitate a comparison of the labor situation at companies, in the following section, the relationship between the wages from the lowest and highest categories in the tabulators with the minimum wage and the IMSS contribution average wage is analyzed. A risk matrix is also presented. It allows for the classification of companies, tentatively, in three levels of risk according to the protection level of their CBAs: high, moderate, and low risks. Some brief conclusions are to follow.

2.

OBLIGATIONS OF GERMAN COMPANIES AND THEIR PARTNERS IN MEXICO

INSTITUTIONAL FRAMEWORK

This study takes place within the context of the duties imposed on companies in Germany, under the "Act on Corporate Due Diligence to Prevent Human Rights Violations in Supply Chains [sic] (*Ley de Diligencia Debida en las Empresas para prevenir las violaciones a los derechos humanos en las cadenas de suministro*)" (hereinafter LDD), approved on June 11th 2021 in Germany. Based on this instrument, those companies must respect human and environmental rights along with their international supply chains, "from raw materials up to the finished product for sale." Thus, the LDD provides a fair institutional framework for international outsourcing processes in countries with low labor standards or wages (Grabosch, 2021, p. 8).

These obligations became enforceable from January 1st, 2023; therefore, having one first diagnosis on the union and labor situation of companies established in Mexico selected in this study, and identifying potential risks and threats concerning the respect for such rights, both within those companies and their suppliers, can be a starting point to reduce their most negative effects, both on the workers' welfare and the stability of the companies.

Companies having an obligation under the LDD are those from all sectors and of all legal forms, having their legal address, headquarters or a subsidiary in Germany, with at least three thousand employees working in that country, including staff of foreign subsidiaries working therein. For next year (2024), companies with a minimum of one thousand employees will be included. This would represent a total of 2,900 German companies and 1,900 foreign companies with a subsidiary in Germany. This scope could be further extended should the possibility of including companies with a lesser number of employees be considered later on. These companies must take all preventive and corrective measures necessary to face risks set by the Act (Grabosch 2021, p. 4).

Among the risks to the most relevant human rights for this study, there are those making reference to the eight ILO fundamental Conventions and, most particularly, the first of these:

- a. Freedom of association (Convention No. 87) and effective recognition of the right to collective bargaining (Convention No. 98);
- b. Elimination of all forms of forced or compulsory labor (Conventions No. 29 y 105);
- c. Effective abolition of child labor (Conventions No. 138 and 182); and
- d. Elimination of discrimination in respect of employment and occupation (Conventions No. 100 and 111).

Among the risks to labor human rights expressly mentioned, there are, besides those laid down in the aforementioned conventions, the occupational safety standards in the workplace, as well as the payment of a proper wage. According to the circumstances, it should exceed the legal minimum at the place of employment (Article 2, Section 2 of the Act, cited by Grabosch (2021, p. 4). As we will see in the analysis of the CBAs tabulators of the selected companies, this provision is complied with.

Coverage of the Act can be extended in some cases beyond direct suppliers. In principle, the established obligations include measures, such as the establishment of management and risk analysis systems and the adoption of preventive measures in each entity's field of business. This entails the consideration of risks within recruitment strategies and the establishing of controls vis-à-vis direct suppliers. However, it is also established that "reasonable efforts are to be made in order to remedy problems that could exist downstream in the supply chain" (Art. 9, Section 3). It is important to note that risk management is deemed "effective" if "it is appropriate to prevent or minimize infringements to the supply chain committed by the company or to which it has contributed" (Article 4, Section 2).

It is important to mention that in the case of Mexico, as a result of an important constitutional (2017) and legal (LFT 2019) reform, there are new mechanisms and instances of internal control -whose responsible body is the Federal Conciliation and Labor Registration Center- of labor standards violations. In particular, this is about violations occurring in union democracy processes including the election of leaders, the accreditation of union representation for collective bargaining, the approval by majority vote of initial CBAs and the corresponding reviews, as well as the

legitimization process finalized on July 31st, 2023, of existing CBAs as of May 1st, 2019.

At the same time, it is important to mention that under the USMCA framework, there is a chapter on labor with trilateral binding agreements (Chapter 23 and Annex 23 A), as well as a Rapid-Response Labor Mechanism (Article 31) (bilateral) to file complaints of violations to the freedom of association and collective bargaining. In fact, most complaints against facilities covered by such mechanism in Mexico filed by the USA (14 out of 17 as of November 2023) concerned the IAM and, except for one case (GM, Silao, Guanajuato), the rest took place in the auto parts industry sector.

Therefore, any cases of violation affecting the German company or its direct or indirect suppliers and giving rise to complaints is expected to have enough visibility as to create responsibilities to such company concerning the periodical risk analysis. Moreover, given that automotive industry companies, which are the ones concerning this study, are in a restructuring process linked both to the new USMCA demands (new origin rules and wage clauses) and to the adoption of new technologies, and the transition to electric mobility, risks in the field of labor human rights violations could increase along supply chains. This is particularly true for the pressure on Tiers 1 and 2 suppliers to maintain their agreements and that has affected the workers' rights, even with union consent, as a way to maintain competitiveness (Bensusán et al., 2022).

PROTECTED RIGHTS AND RISKS

The report prepared by Ergon (2023) with regards to the development of a pilot program within the framework of the Human Rights and Environmental Issues Complaint Intercompany Mechanism for the IAA (*Industria Automotriz*

Alemana: German automotive industry) and its partners in Mexico (UBM, German acronym and MRI, Spanish acronym) offers contextual information on the situation of human rights in Mexico, the potential risks and their relevance for the automotive industry. It also includes a framework to understand the operation of existing complaint mechanisms in Mexico, as well as the challenges and opportunities for the German intercompany mechanism (UBM), while it collects the opinions of the Mexican stakeholders, among others.¹ Risks identified by Ergon (2023) are summarized below and comments are made based on the findings of this study.

1 For possible pathways for the remediation of risks in wage issues, anti-union practices, discrimination, and harassment, see the useful diagram by Ergon (2023, p. 13-15). In this regard, voluntary-type mediation forms, complaints before the ILO or the USMCA RRM, Work Inspection, Labor Courts, and company internal mechanisms are mentioned, as the case may be. The report also shows some problems faced by workers when using these resources, such as time and required assistance, or the collusion between auditors and employers, the lack of resources of the auditing body, as well as the existence of blacklists, among others. Likewise, the relevance of the USMCA RRM is indicated exclusively for matters of freedom of association and collective bargaining, covering companies exporting from Mexico into the USA and Canada, or those companies not exporting but competing on the territory against others that do. The advantage of this mechanism is its promptness and the reparation of violations to which it gives rise. On these experiences, see Bensusán (2023).

Table 1
Risks previously identified by Ergon's report

Risks	Preliminary comments and findings based on this study
1) Existence of Employer Protection Agreements	It had been estimated that this practice would reach 80% of the country's CBAs (Bouzas, et al., 2007). The result of the legitimization process would confirm this estimate, given that out of 139,000 CBAs dossiers, only 30,510 were legitimized. This does not mean that surviving CBAs have no risks.
2) Risk of stagnating and decreasing wages	Upon analysis of the minimum wage and the IMSS contribution average wage, which show a sustained recovery, a slight increase in contractually negotiated wages both in the manufacturing and the automotive industries as a whole is observed. This constitutes an indication of the weak union bargaining power at the plant level. Improvements are due to legal reforms and governmental policy (minimum wages and outsourcing).
3) Lack of transparency in the wage setting process	The review procedure of contractual wages in Mexico is carried out annually and is set forth by the LFT. Only when the CBA is reviewed, including wages, from the 2019 LFT Reform, it is necessary that the negotiation result be approved by a majority vote of the CBA-covered workers.

Risks	Preliminary comments and findings based on this study
<p>4) Excessive working hours</p>	<p>It is not possible to know whether workers work excessively long hours through unlimited overtime -deemed mandatory in the analyzed agreements and governed by the LFT rules. A working week usually consists of 48 hrs. Exceptionally, in a few CBAs, working days last less or there are individual accounts of working hours, where long working days are set off against reduced working days or strike days. Thus, only those days exceeding a specific number of hours give rise to the payment of overtime.</p>
<p>5) Presence of small businesses, many of which informal, within the supply chain</p>	<p>La economía mexicana se caracteriza por tener al 60% de la población ocupada en la informalidad, y por una marcada heterogeneidad productiva, con micro y pequeñas empresas de muy baja productividad vs grandes empresas con niveles altos de productividad. No obstante, la informalidad en la IAM es mínima, en 2018 sólo representó el 2.36% de la población ocupada en dicha industria y en 2023 apenas significó el 1.72% (ENOE, 2023).</p>

Source: preparation based on Ergon (2023)

3.

THE MEXICAN INSTITUTIONAL CONTEXT REGARDING THE IAM: A NEW LABOR MODEL

LABOR REFORMS²

Wage gaps in the IAM between Mexico and its business partners were at the center of labor demands in the negotiation of the USMCA that came into effect in July 2020. Comparable levels of productivity with wages ten times lower were considered part of the explanation for the job drain towards the South and a case of social dumping. That is why trade unions of those countries made pressure on their governments to steer the negotiation towards a radical change in the Mexican labor legislation (Bensusán and Middlebrook, 2020; Bensusán et al., 2022).³

The union situation in the IAM, with almost 100% of unionization at assembly plants established in Mexico in trade unions mostly integrated into one same central (CTM) and with rates higher than the auto parts industry average, did not translate into greater bargaining power, but into a strong control of wages and workers. This guaranteed the absence of labor disputes.

The articulation between constitutional reforms (2017) and the Mexican Federal Labor Law (Ley Federal del Trabajo) (LFT, 2019), Labor Chapter (23 and its Annex 23 A), and the Rapid-Response Labor Mechanism (Chapter 31, Annex 31-A and 31-B) of the USMCA aimed at eliminating the institutional determinants of bad quality in representation and the simulation of collective bargaining, and at creating unprecedented union democracy processes to give voice to workers. The direct, free, and secret vote of the workers constituted the main resource to promote an effective representation of their interests, as well as true bilateralism in the negotiation of working conditions.⁴

Without ignoring potential deficiencies in the implementation of the reforms, among other reasons on grounds of the urgency with which it had to be conducted (2019-2023) and insufficient resources and auditing state capacities, what is important is the fact that this institutional framework provides a singular context for the enforcement of the LDD, given the fact that this is not a "low labor standards" country or where the existence of trade unions is forbidden. Rather, problems being faced are the non-compliance with employer obligations, the survival of violations to freedom of association and collective bargaining, and wages which, while recovering, remain insufficient to guarantee a decent life.

Experiences associated with the process of the legitimization of the CBAs and to the RRM provide contradictory evidence. On the one hand, it is important to notice the survival of practices against freedom of association and collective bargaining, as well as the existence of leaders who bypassed without any great difficulty some union democracy processes despite their distancing from the bases and thanks to their closeness to employers. On the other hand, there are positive cases where in little time –comparing with historic defeats in previous disputes in the IAM, for instance, Honda, Alto Jalisco (Bensusán and Covarrubias, 2016) – new independent organizations could be created in a short time, collective bargaining agreements negotiated by leaders without representation could be terminated, the agreements necessary to negotiate a new one with enhancements could be obtained, and, finally, this agreement could successfully be put to the vote of the workers, as was the case of GM, Silao, Guanajuato, under the first complaint accepted by Mexico under the RRM.⁵

In this lights and shadows scenario, it is too soon to say whether the positive effects of this mechanism will be

² Part of this section is taken from Bensusán (2023).

³ In countries of the Americas in 2019, the median value of the monthly minimum wage in dollars in the United States (PPP) was 668 dollars; the highest minimum wages were found in Mexico's two main business partners, Canada (1,612 dollars, minimum wage in PPP) and the United States (1,257 dollars, minimum wage in PPP), while the lowest wages were found in Mexico (289 dollars, minimum wage in PPP) and Haiti (359 dollars, minimum wage in PPP), (ILO, 2021, pp. 106-107).

⁴ For an analysis of the relationship between the internal changes in the Mexican labor legislation and the USMCA, see Bensusán (2023), Covarrubias (2021), and Escobar Toledo (2023).

⁵ The relevance of turnover at the union level is illustrated by this case where the new trade union managed, in the last two reviews, to obtain a wage and benefits increase of over 20% (13.5% in benefits in 2022 and wages, and 10% in 2023). Furthermore, it obtained the participation of the trade union in different aspects of the labor relations. As their Secretary-General stated, increases in 2022 exceeded the increase in inflation and the sector increase average. Moreover, those being granted in previous reviews did not exceed 4.5% (Horta, 2022). It is important to indicate that in 2023 Audi agreed to a 9.4% increase, VW 9%, and Nissan Cuernavaca 9% (Cortés Fernández, 2023).

extended to other businesses or sectors, or whether in the near future the necessary incentives to promote a deep reorganization of the union structures, changes in leadership and styles of negotiation in the IAM, either it's "company unions" or independent ones, since in both cases negotiations occur on an individual basis, thus limiting the bargaining power, will be created.

IMPLICATIONS OF THE LEGITIMIZATION OF CBAs AND THE SYSTEMIC CHARACTER OF THE 2019 LABOR REFORM

Official data as of November 2023 (the requests submittal process finalized on May 1st, 2023) indicate that about 31 thousand legitimization processes had been conducted, vs. 139 thousand CBA dossiers. Out of these, 30,552 were approved; 7 million workers were asked to vote; 663 CBAs were not supported, and 398 remained under process. According to some estimates, the vast majority of the existing CBAs in the IAM successfully⁶ passed the legitimization process, and about 13% out of these CBAs would have been rejected.⁷

In the meantime, over 100 thousand CBAs were eliminated. Quite surely, these offered little to their workers, but, should they include advantages, will become part of the workers' acquired rights. Employers must respect them under the strict control of the Labor Inspection service. In short, without ignoring the obstacles that may have been faced to leave behind CCPEs or those offering labor conditions close or equal to the LFT, it can be concluded that through this process the collective bargaining scenario in the IAM has been substantially transformed. It is in this context that this study can be useful to notice the relevance of companies adopting new management strategies, regardless of the origin of the capital.

Data derived from a study conducted by CONASAMI based on the information from CFCyRL, comparing similar workplaces between April 2019 and 2023,⁸ confirms the previous wage gap where collective bargaining agreements were legitimized by the vote of the workers. In the cases where this process did not take place, there was an increase between 6.7% and 7.1%. It also turns out that, after legitimization, wages in companies where workers voted in favor of collective bargaining agreements were on average between 8.6% and 10.0% higher than those where legitimization did not take place. This is likely due to the fact that trade unions having put them to the vote of the workers with positive results were those with better conditions to maintain their loyalty or a better control of the bases, and support from the companies. However, it is also indicated that union presence is associated with better wages, regardless of the quality of representation.

6 Data by the president of the Auto Parts National Industry (*Industria Nacional de Autopartes*, INA), see González (2023).

7 See Martínez (2023a).

8 The CONASAMI study (2023) provides a synthetic review of the research showing the positive effect of trade unions on wages and on the reduction of inequality.

RRM (RAPID RESPONSE LABOR MECHANISM) RESULTS

Up to now (end of 2023), three complaints from the RRM out of 17 were not accepted by Mexico (two of these due to the non-compliance with relevant deadlines), three are pending, and only one has given rise to the creation of an independent expert's panel, which is underway. In two cases –Manufacturas VU and Unique fabricating– the accused companies closed their facilities, after attempts at repairing the violations. The vast majority of complaints (14 out of 17), as was to be expected given their centrality to the external questioning when negotiating the USMCA, as was already said, concern the automotive industry (one assembly plant –GM, Silao– and the rest are auto parts companies), one concerns a company from the air sector, one from the mining sector, and one more from the textile sector.

Thanks to the domestic and international solidarity to profit from this resource, employer and ally unions interference practices were brought to light in and outside the country. Some traditional union leaders with a lot of power were defeated. New enhanced CBAs could be executed (GM Silao, Panasonic, Tridonex, Unique Fabricating, among others), and, maybe as a contagion effect, other cases were solved in favor of the workers without the RRM (as in Saint Gobain and 3M Purification).

However, old anti-union practices sustaining the old corporate deal remain. The reform understands to modify this deal. These practices confirm the risks referred to by the Ergon report (2023). A quick list shows recurring violations to the LS in electoral processes linked to the Legitimization of CBAs in the face of rejection by the workers and irregularities of all sorts in voting processes: disinformation, non-submission of CBAs, count of partial and early votes, destruction and hiding of ballots, etc. (GM-Silao; Mas Air). Harassment, bullying and layoffs on the grounds of independent unionization, agreements between the company and ally unions to prevent the arrival of independent unions, and pressure from the company to join a trade union have been present on more than one occasion.

In short, the RRM balance up to this day shows the limited scope of this instrument, if the small number of complaints is considered, but quick results favorable to the interests of the workers modifying somehow the previous correlation of forces: Most violations to the LS and NC were repaired. In cases where they were not, a second or more complaint concerning the same event could be filed, and a first panel could take place. In any case, it has been made clear that the labor scenario in the IAM is under the scrutiny of diverse parties involved and instances to which will be added the MRI linked to the LDD.

4.

EMPLOYMENT SITUATION IN THE IAM

DEVELOPMENT OF THE STAFF EMPLOYED

From the implementation of the export model in 1994, the automotive industry established in Mexico (IAM: industria automotriz instalada en México) experienced a significant increase in job creation; its volume increased seven-fold between 1994 and 2016 (Bensusán and Florez, 2023). However, this strong growth became more moderate in the following years, being affected by both cyclical aspects, such as the COVID-19 pandemic effect, and structural aspects of the sector and the Mexican economy.

The share of jobs created by the automotive industry in manufacturing employment has shown relative stability since 2018. Even though that year it accounted for 17.1%, this figure underwent a slight decrease by 2021, settling at 16.4%. By 2023, employment in the automotive industry reached 847,140 people. This accounted for 17.2% of the manufacturing employment in total. In this context, auto parts production companies stand out as job creators, contributing 84.2% of all jobs in the automotive industry. In contrast, assembly plants only account for 12.7%, while the sector of car bodies and trailers contributed 3.1%.⁹ This difference is attributable to the restructuring process of the industry when a good share of employment was outsourced to suppliers. These offer fewer quality jobs, as argue Covarrubias (2020), and Bensusán and Florez (2022). In this study, this will be shown upon comparison of the wages and conditions of these with those of assembly plants.

Following the indices provided by the INEGI¹⁰ Monthly Survey of the Manufacturing Industry (Encuesta Mensual de Industria Manufacturera, EMIM), two relevant aspects having contributed to the development of the employed staff in the automotive industry since 2018 to this day have been identified: 1) the effect of the pandemic and the

subsequent recovery; 2) the impact of different amendments to labor standards, particularly the one relating to the reform having limited outsourcing to those specialized activities not part of the core or principal business of the company (Bensusán and Sánchez, 2023).

The trend in job creation (index of the total employed staff, índice del personal ocupado total) remained stable since 2018, with a similar behavior both in the manufacturing sector as a whole and in the different branches specific to the automotive industry. Nevertheless, 2020 represented a break in this trend due to the impact of sanitary restrictions. Still, the decrease was generally moderate (0.6% for all the manufacturing sector, 0.4% for assembly plants, and 1.3% for auto parts companies). The car bodies and trailers manufacturing branch experienced a marked decrease of 21%, while being the smallest branch of the sector. It was from 2022 that a more evident recovery was perceived, since the employed staff in the manufacturing sector increased 3.9% with respect to the base year, while it increased 2.5% at assembly plants. Conversely, the auto parts branch managed to recover until 2023 with a 2% increase.

The other important dimension in the development of the volume of employment is related to the behavior of the outsourced staff (index of the staff provided by another corporate name: índice del personal proporcionado por otra razón social. This provides evidence of an improved quality in jobs. This index underwent a marked decrease in 2021 compared to the base year (2018) and coincided with the entry into force of the reform in the field of outsourcing. The drop in percentage of outsourced staff was 37.6% for the manufacturing sector as a whole, 42% for the transport equipment manufacturing subsector, 19% for the car and trucks manufacturing branch, and 43% for the auto parts subsector. These trends continued in the subsequent years with even more significant reductions and by 2022 outsourced employment had decreased 84.3% in all the manufacturing sector, 92.5% in the transport equipment manufacturing subsector, 91.3% in the car and truck subsector, and 94.6% in the auto parts subsector. This data shows a reduction of job insecurity in the sector, as direct recruitment is associated with greater stability, better labor conditions and unionization possibilities.

9 INEGI EMIM - Total Employed Staff (Number of People). See the full report at Bensusán et al. (2023), Appendices 1 and 2. Indicators from the manufacturing sector and the automotive industry.

10 The index of total employed staff and the index of staff dependent and non-dependent on the corporate name are reintroduced. All have as base year 2018 = 100. All changes reflected in the indices are given with regards to the base year.

WAGES AND COMPENSATION

The labor policy implemented by the current administration has stood out thanks to the remarkable increase of the minimum wage. Even though the first steps were taken between 2015 and 2016 (Esquivel, 2023), this trend has gained additional momentum during the current administration. During the period between 2019 and 2023, the real minimum wage experienced a substantial increase of 69.4%, while the increase in the real IMSS contribution average wage was 42.1%. This meant the reduction of the gap between both indicators, since annual increases in real terms made the relationship move from 25% in 2018 to 32% in 2023. Even though, these increases are significant, there is still some margin for greater equality (Bensusán and Florez, 2023).¹¹

Nevertheless, the trend of the wage increase has not grown consistently, since, compared to increases in the real minimum wage and the IMSS contribution average wage, total contractual wages only grew 5.3% in real terms in five years. This is reflected in the manufacturing industry, where contractual wages increased only 8.2% and 10% in the transport equipment manufacturing subsector between 2019 and 2023. Despite the recorded growth, this could be regarded as low when taking into account the strong economic performance of the automotive sector, its prominent role in exports, and the relatively higher unionization rates (Bensusán and Florez, 2023).

The Monthly Survey of the Manufacturing Industry (EMIM) provides complementary information for the analysis of the compensation dynamics. The index of real average compensation (base 2018 = 100) showed increases in the manufacturing sector and the automotive industry. Increase in this indicator with respect to the base year was slight in nature until 2021. Nevertheless, from 2022, compensation evolved favorably, increasing 17.3% in all the manufacturing sector and 11.6% in the transport equipment manufacturing subsector. The increase in this index for that subsector is mainly due to the 18% increase that real average compensation had in the auto parts branch, since there was a 6.3% decrease in car and truck manufacturing with respect to the base year, and it only rebounded 3.8% until 2023. The trend is also consistent if we observe the real average compensation by hour worked. For the same year, this index increased 24% in relation to the base year in all the manufacturing sector, 4.6% at assembly plants, and 25.7% at auto parts companies.

Given that these indices consider shared profits, it is possible that one of the factors having contributed to their

growth is that a greater number of workers had access to that benefit after 2021 thanks to the reform that limited outsourcing and promoted direct hiring. This phenomenon took place mainly in the auto parts branch, as shown by the index of real average social benefits (índice de prestaciones sociales medias reales) and the figures of the shared profits. The first indicator showed workers of the auto parts companies increases of 7.5% in 2021, 14% in 2022, and 24% in 2023 compared to the base year. In turn, in the assembly plants branch, real average benefits decreased 9.5% in 2021, 5.7% [sic] 2022, and it was not until 2023 that the index experienced a 24.1% recovery. Concerning profit sharing, workers of the auto parts sector jointly received 2,414,701 thousand [sic] (current) pesos in May 2021, while for the same month in 2022, this figure increased significantly to 4,078,497. This represented a 69% increase.¹²

In short, the wage increase policy implemented by the current administration has favorably impacted the working population of all the country. While contractual wages (those wages relevant to the manufacturing sector and the automotive industry) have experienced a more moderate growth, upon review of the information from the EMIM, an upward adjustment in compensation can be observed, in line with the domestic wage increase. However, the wage rises in the automotive industry should not be linked in the future only to governmental measures, but to a greater bargaining power and to strengthened unionism in the sector with unionization rates exceeding the national average.¹³

11 It is important to indicate that upon confirmation of the positive effects of increases on productivity and staff retention, COPARMEX itself has advanced a gradual increase for the next three years for the minimum wage to double its current value (from 6,300 pesos to 12,400 pesos), to reach the welfare threshold to cover two basic food baskets and to improve the quality of life. This increase at private companies would evolve independently from what is set by CONASAMI, estimated at about 8,600 pesos for 2025 (Hernández, 2023).

12 See Bensusán et al. (2023) Table 5 of Annex 1. "Profits shared among workers (thousands of current pesos).

13 For 2018, the unionization rate was 12% for employees, 21.8% for formal employees, 22.9% for formal employees in the manufacturing sector, and 34.2% for those having been employed in the transport equipment manufacturing subsector. For 2023, these rates were 12.7%, 22.1%, 24%, and 35%, respectively (Bensusán and Florez, 2023).

5.

LABOR UNIONS AND THEIR RELATION TO CBAS

26 trade unions hold ownership of the 41 CBAs reviewed in the study (two more considering VWM and Audi), out of which the following seven are CBA owners in more than one plant. However, these agreements are negotiated on an individual basis.

1. **Sindicato Nacional de Trabajadores de la Industria Metalúrgica y Similares (CTM)** – 2 plants (Daimler Toluca and Santiago Tianguistenco).
2. **Sindicato Nacional de Trabajadores de la Industria Automotriz de la República Mexicana (FNSI)** – 2 plants (Daimler García and CONMET Ciénega de Flores).
3. **Sindicato Nacional de Trabajadores de la Industria Automotriz y Servicios en General, Similares y Conexos de los Estados Unidos Mexicanos (CTM)** – 3 plants (BMW, Boysen and Edscha, in San Luis Potosí).
- 4) **Sindicato Industrial de Trabajadores de Fabricación de Autopartes, Aeronáutica, Inyección de Plásticos, Fundición, Similares y Conexos (CTM)** – 3 plants (ZF El Marqués I and II; Bosch Querétaro).
- 5) **Sindicato Nacional de Trabajadores de la Industria Arnesera, Eléctrica, Automotriz y Aeronáutica de la República Mexicana (CTM)** – 4 plants (All 3 Brose locations in Querétaro; ZF Santa Rosa Jauregui).
- 6) **Sindicato Industrial de Trabajadores en Plantas Maquiladoras de Ciudad Reynosa Tamaulipas (FTT-CTM-FTR)** – 2 plants (ZF Reynosa I and II).
- 7) **Sindicato Nacional de Trabajadores de la Industria Metal-Mecánica, Sidero- Metalúrgica, Automotriz y Proveedoras de Autopartes en General, de la Energía, sus Derivados y Similares de la República Mexicana, "Miguel Trujillo López" (CTM)** – 2 plants (ZF Gómez Palacio, Durango; Emerson Arteaga, Coahuila).¹⁴

In relation to their characteristics, 24 are industry trade unions (10 with national scope and 14 with state-level scope). This means that they can recruit workers from

different plants nationwide or in a single state of the country. Only two trade unions limit their scope to a single company.

Given their size according to membership at the plants included in the study –an indicator that should be associated with better bargaining conditions (with a few exceptions), the five largest¹⁵ trade unions are the following:

- **Sindicato Nacional de Trabajadores de la Industria Automotriz Integrada, Similares y Conexos de la República Mexicana:** 20352 (Daimler Saltillo)
- **Sindicato Industrial de Trabajadores en Plantas Maquiladoras de Ciudad Reynosa Tamaulipas:** 15564 (ZF Reynosa I and II)
- **Sindicato Nacional de Trabajadores de la Industria Metalúrgica y Similares:** 9598 (Daimler: Toluca and Tianguistenco; Bosch Toluca; ZF Toluca)
- **Sindicato Industrial de Trabajadores del Estado de Coahuila, CTM:** 7955 (ZF Ramos Arizpe)
- **Sindicato Industrial Estatal de Trabajadores de Producto de Acero, Cobre Manufacturas Metalicas, Conexos y Similares del Estado de San Luis Potosí, CROM:** 4416 (Borgwagner SLP).

The five smallest trade unions are the following:

- **Asociación Sindical de Trabajadores, Empleados y Servicios de la Industria en General del Estado de San Luis Potosí, CTM:** 20 (Seglo SLP)
- **Sindicato Nacional de Trabajadores de la Industria Arnesera, Eléctrica, Automotriz y Aeronáutica de la República Mexicana:** 30 (Brose, 3 QRO plants)
- **Sindicato de Trabajadores de la Industria Metalmeccánica, Autopartes, Químicos, Plásticos, Resina y Derivados, CTM:** 54 (ZF Aguascalientes)
- **Sindicato de Trabajadores de la Industria Metalica, Fundiciones, Maquinados, Manufactureros, Maquiladoras, Farmaceuticas y de Servicios**

¹⁴ For the full list of the trade unions and their characteristics, see Annex 3. Review of association dossiers (union information).

¹⁵ It is known that the "Miguel Trujillo López" Trade Union has a large number of CBAs (over 100) and tens of thousands of members. However, in the last update of the association's dossier that appears in the labor repository, the membership register shows only 2978 members as of September 27th, 2020.

Anexos y Conexos del Estado de Queretaro
Fernando Amilpa, CTM: 65 (Durr Querétaro)

- **Sindicato Único de Trabajadores y Empleados de la Industria Automotriz, Metálica, Autopartes, Servicios e Instalaciones Mecánicas y Electrónicas en General de la República Mexicana:** 108 (Daimler Ciénega de Flores).

It is confirmed in this sample of companies that the CTM is the majority central, since 18 out of the 26 trade unions are members thereof. The rest belong to different organizations: one to the Federación de Sindicatos Independientes de Nuevo León (FNSI), created in 1936; another one to the Confederación de Agrupaciones Sindicales Mexicanas (CONASIM) (created in 2000); two more to the Confederación Regional Obrera Mexicana (CROM), created in 1918; and finally, one linked to CATEM (Confederación Autónoma de Trabajadores y Empleados de México, created in 2008). Three of the trade unions included in the Annex, CBA owners, have no link to another organization.

Although 18 trade unions negotiate with the studied companies belong to the CTM (as well as 17 out of 23 assembly plants), they negotiate on an individual basis and do not even share information among them about their achievements. This could be remedied with access to information on CBAs through the CFCyRL labor repository. As far as it is known, there is no joint strategy nor a space within the central to define a bargaining policy in the IAM sector. This aligns with the companies' strategy to distribute their activities among different plants, thus weakening union bargaining power. While there is an agreement with the central in the sense that member trade unions must not fight one another over CBA ownership, and even when there is a diversity in management styles and cases where distancing from the bases would give way to replacements, the truth is that in the new institutional context these types of agreements can be weakened. In fact, the strong discipline that traditionally existed within the Central would be eroding also because of political reasons, since weakening of the PRI (Partido Revolucionario Institucional, political party) -an ally of the CTM- weakens the incentives to maintain unity at all costs. This is favored by the possibility to develop political careers through these alliances (Bensusán et al., 2022).

In short, even if it is important to highlight that it would be a mistake to assume that trade union members of the CTM are by this single fact necessarily antidemocratic, corrupt, or accomplices of companies, the problem is that membership of this central was regarded throughout history as a guarantee of labor peace for different governments. For businesses, this was a promise of stability and unilateralism in the determination of working conditions. However, in the current context, should union leadership of this or other centrals or even of the trade unions, supposedly independent, not transform and look for new resources of power (such as access to knowledge or alliances with other organizations, in order to renew union structures) to defend the interests of their members, the risk of the bases being questioned could increase substantially.

It is important to highlight that the "responsible unionism" style that supposedly some CTM leaders have been exercising -which the "Miguel Trujillo" Trade Union referred to in an interview (Bensusán et al., 2022)- would be adapted perhaps to operate thereafter as some kind of service unionism as a way to legitimization. Therefore, it would not be substantially different, for instance, from the style of the historic FNSI (known as white unionism), even though this federation was born in the City of Monterrey to prevent the penetration by the CTM in Nuevo León businesses. In both cases, it would be about micro-corporate arrangements (alliances between trade union and company without State involvement) that can be questioned in the face of the full validity of freedom of association and collective bargaining in the country. The FNSI preserves characteristics similar to what is known as services unionism, where workers are offered some forms of protection in matters of social security. This, in turn, constitutes a business for the federation through the fees from both workers and employers that are received in this regard. This can be corroborated in the CBA under their control at the selected companies.

Up to now at least, no substantial changes in the union structure are observed. Out of the 26 trade unions, 14 amended their by-laws in 2019, another one did so in 2020, and another one in 2023 to adapt to the new rules in the LFT (usually through addenda). There is no information for the remaining nine in the CFCyRL labor repository. This could be due to a problem of registration or to the possibility that these would be inactive trade unions. This constitutes a risk of potential questionings by workers.

Given that the registration of union members included in this repository does not systematically provide information on gender with regards to its members, it was not possible to determine whether these trade unions comply with the gender proportionality demanded by the 2019 reform for the integration of steering committees. However, barely as anecdotal evidence, as can be seen in Annex 3, we found that the ZF Aguascalientes trade union does have gender parity in its Steering Committee. The other six trade unions are close to reaching such parity, and the vast majority (20) are very far away from doing so.

6.

CBAS: ASSEMBLY PLANTS AND SUPPLIERS

THE CBA AS OBSERVATION UNIT OF THE EMPLOYMENT SITUATION AT BUSINESSES

In order to characterize the employment situation at plants of the selected companies, a total of 41 CBAs was analyzed, out of which five concern companies of the terminal automotive industry, twenty-nine are Tier 1 suppliers of some of these assembly plants, and seven are Tier 2 suppliers (see diagram in Annex 1). We also included, as it was already indicated, two additional CBAs from two German assembly plants for illustrative purposes of what can be achieved during an authentic bargaining through trade unions with democratic practices: Audi and VWM.

Most analyzed agreements cover exclusively one plant and set forth clauses relating to rank-and-file workers covered by the CBA (all those who are not trusted employees), union prerogatives, and working conditions (benefits and wages). CBAs covering more than one facility will be indicated later.

The review of the CBAs was conducted from collective bargaining agreements published by the CFCRL [sic] up to July 31st, 2023. These agreements are the ones that trade unions presented upon legitimization of the CBA. Therefore, these are found on a web page called "Legitimized Agreements (Contratos Legitimados)". However, upon publication on September 20th, 2023, of the CFCyRL labor repository, an attempt was made to update the information concerning wages and wage categories.¹⁶

The reviewed CBAs may have changed in some areas (such as wages) due to the wage and contract reviews after July 2023. However, they provide an account of the recent employment situation at the selected companies, and, given that they have not experienced changes in the owner trade union, no substantial changes are to be expected in the

short term for the CBA risk level, except in cases as those previously analyzed.¹⁷

The analysis of the content of the agreements was conducted from their grouping according to the industry terminal level and by comparing their level of protection. This means that the contractual conditions of the assembly plants are presented first, and then those of the suppliers, according to their level. All relevant information of every collective bargaining agreement is presented in the Annex. This allows for a more detailed outlook of the situation of every company.

THE CONTENT OF THE CBAS AND OF THE RISK LEVELS OF ACTIONS FOR VIOLATIONS OF FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The examination of working conditions and, above all, of wages allows for the differentiation up to some extent and tentatively of the levels of risk. Thus, we assume the risk to be the higher when: 1) the trade union has little prerogatives in the selection of staff, promoting a lack of knowledge thereof among workers or their will to keep away therefrom; 2) working conditions are at the LFT level or are close thereto, with little improvement; 3) there are no additional benefits improving such conditions; and 4) wages of the lowest category barely exceed the legal minimum wage or are farther from half of the average wage, as established by the ILO. This would mean that these are low and insufficient (2022). Even Coparmex itself is starting to acknowledge that the minimum wage paid by the country's companies, regardless of the one set by the CONASAMI, should be at least twice the current one for it to be a living wage.¹⁸ However, it is important to also acknowledge that, in the case of Mexico, the level of protection offered by the LFT and the non-wage cost (even if

¹⁶ Given that, by that date the information relating to the other working conditions contained in the CBAs had already been completed, it was not possible to review all such clauses again; therefore, the update was limited to wage matters based on the reviews that could be identified.

¹⁷ Only in this case conditions can be expected to change in the short term, given that the trade union was replaced by another one last year, upon ownership loss of the agreement in the corresponding lawsuit against another trade union which won the action. This is the case with the Mercedes-Benz joint venture in Aguascalientes (with Nissan). This is why we deemed important the analysis of the CBA in the near future when new negotiations take place or wages are reviewed.

¹⁸ The amount to reach would be \$12400. See Hernández (2023a).

some areas have fallen behind, such as vacation -before the 2022 reform, vacation pay, or Christmas bonus) is already relatively high compared to other countries in the region. This creates less margin of negotiation between work and capital (Bensusán, 2006).

On that basis, selection of the clauses included in the analysis of the CBAs aims at mainly evaluating which are the advantages that workers obtain through collective bargaining, under the criteria included in the considerations on the CBAs, given that the goal hereof is precisely to enhance the rights established in the LFT. In other words: a CBA offering no advantages is not functional and, strictly, it should not be validated, even though the LFT only establishes as a *sine qua non* condition for registration, with regards to content, the inclusion of a wage tabulator.

However, it is difficult to achieve major improvements when it comes to trade unions with little power, given the isolation in which negotiations with the company take place. This is the general trend. The problem is that this study did not have enough information about the company, the workers or the trade union. This could give rise to interpretation mistakes of the employment situation at the company.

For instance, a CBA with LFT-level conditions, or little or little-value additional benefits could be considered as CCPE when this is actually accounted for by the little bargaining power at plant level of a given trade union, the low-level of qualification of the workers or of productivity, or because it is about a relatively smaller and recent company. These new or recently created companies want to split and sustain low labor costs in order to survive and take off, as we will illustrate with Audi's CBA. Therefore it is noted that this study has a mainly exploratory scope and that a confirmation of the results of this documentary study would need to be complemented in the future by the fieldwork necessary to understand the dynamics of labor relations.¹⁹

It is important to mention that, in order to have at least one approximative comparison parameter of what a collective bargaining agreement would be –signed by an employer-independent trade union and with autonomy from the government– with final assembly businesses, we took as reference two agreements. Firstly, Audi's collective bargaining agreement signed in 2014, reviewed in subsequent years, and legitimized in 2023. Audi Trade Union, just like that of VWM, that of Nissan Cuernavaca, and from 2021 that of GM, Silao, Guanajuato are the only ones recognized as independent trade unions within assembly plants, whose majority belongs to the CTM. The analysis of Audi's CBA is relevant, since this is a company of German origin (covered by the Due Diligence Act) and relatively new (it began operations in 2016 and has 4002

unionized workers in 2023).²⁰ Secondly, we reviewed VWM's CBA. This is a company dating back to 1960, while its CBA was restructured in 1992. It has been improving working conditions ever since. While it is only natural that this agreement has development and protection levels greater to those of Daimler Manufactura (1999) or BMW (it started operations in 2019, with 3500 employees), it is a good example of how seniority and co-responsibility in productive success would have to be translated into improvements for the workers.

The content analysis of the 41 CBAs confirms, as has been recorded by previous studies, that CBAs of the plants of manufacturing companies (OEMs) have better conditions than those of supplier companies and a lower or moderate risk in case of typical employer protection agreements. For instance, two of Daimler's plants (Santiago Tianguistenco and Ciénega de Flores) have CBA wages and benefits close to those of VWM and Audi, negotiated with democratic unions of the Unión Nacional de Trabajadores (UNT). CBAs can have almost twice the days of rest, five times the minimum number of vacation days prior to the 2022 LFT reform, and up to six times the vacation pay granted by the LFT. Furthermore, they allow for the substantial improvement of the income level throughout different categories. One exception is BMW's agreement that, while having improved the initially agreed wages at the beginning of its operations in 2014, has labor conditions barely exceeding those of the LFT. This is the only CBA of assembly plants considered as high risk given its union situation, as well as that of MB Aguascalientes (for the same reason). In short, two CBAs are high risk, one moderate risk, and five low risk.²¹

In turn, Tier 1 supplier plants are below the assembly plants. Their level of working conditions is lower or unequal and there are some CBAs without extralegal benefits. In short, in this category there are only eight low risk CBAs, five are moderate risk, and eleven high risk.²² Finally, in the case of Tier 2 suppliers, six out of seven agreements are high risk and one moderate. Risk levels for assembly, Tier 1 supplier, or Tier 2 supplier plants²³ are included below.

19 For an analysis on the relevance of problems characterizing collective bargaining in Mexico, see Alcalde Justiniani (2020).

20 Audi conducted its first union democracy process upon vote on the wage review of its CBA in December 2022, when it rejected the offer by majority. A new negotiation concluded successfully, but it was no longer put to vote. www.lajornadadeorientemexico.com.mx/puebla/rechazan-trabajadores-audi-dos-propuestas-de-alza-salarial and www.jornada.com.mx/notas/2023/01/11/sociedad/conjuran-huelga-en-audi-de-mexico-acuerdan-9-4-de-aumento-salarial

21 Five collective bargaining agreements are in the hands of a family, and, in the case of the BMW plant, the agreement was executed before contracting workers with a wage equivalent to half the IAM average in 2019 (1.10 dollar an hour vs. 2.05 dollars on average). See Bensusán et al. (2023).

22 One of the CBAs (Brose Puebla) has no wage tabulator; therefore, it could not be evaluated.

23 Wage levels, working conditions, and extralegal benefits of the 41 plants are detailed in Bensusán et al. (2023).

The most relevant information of the CBAs is summarized below, considering the size of the plants, working conditions, extralegal benefits, and wages.

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Table 2

Analysis summary of the CBAs - OEM

Company	Plant	Size	Wages (minimum wage)	Working conditions	Extralegal benefits	Risk balance
AUDI	San José de Chiapa (PUE)	4200	More than twice	Higher than LFT	Yes	Low
VOLKSWAGEN	Puebla (PUE)	6827	More than twice	Higher than LFT	Yes	Low
BMW	Villa de Reyes (SLP)	1, 351	Less than twice	Close to LFT	Yes	Moderate
DAIMLER MERCEDES	Aguascalientes (AGS)	2,135	Less than twice	Higher than LFT	Yes	Moderate
	García (NL)	148	Less than twice	Close to LFT	Yes	Moderate
	Santiago Tianguistenco (QRO)	2,977	More than twice	Higher than LFT	Yes	Low
	Saltillo (COAH)	4,771	Less than twice	Higher than LFT	Yes	Low
	Toluca (EDOMEX)	333	More than twice	Higher than LFT	Yes	Low
	San Luis Potosí (SLP)	47	Less than twice	Higher than LFT	Yes	Low
	Ciénega de Flores / Tlalnepantla	22	More than twice	Higher than LFT	Yes	Low

Source: own preparation based on contract reviews

Table 3

Analysis summary of the CBAs - Tier 1

Company	Plant	Size	Wages (minimum wage)	Working conditions	Extralegal benefits	Risk balance
ZF	El Marqués I (QRO)	393	Less than twice	Higher than LFT	Yes	Low
	El Marqués II (QRO)	358	Less than twice	Higher than LFT	Yes	Low
	Santa Rosa Jáuregui (QRO)	1475	Less than twice	Higher than LFT	Yes	Low
	Reynosa I (TAMPS)	3555	Less than twice	Higher than LFT	Yes	Moderate
	Reynosa II (TAMPS)	42	Less than twice	Higher than LFT	Yes	Moderate

Table 3 (cont.)

Analysis summary of the CBAs - Tier 1

Company	Plant	Size	Wages (minimum wage)	Working conditions	Extralegal benefits	Risk balance
ZF	Aguascalientes (AGS)	42	Less than twice	At LFT level	No	High
	San Luis Potosí (SLP)	79	Less than twice	At LFT level	No	High
	Toluca (EDOMEX)	176	Less than twice	Higher than LFT	Yes	Low
	Gómez Palacio (DGO)	2973	Barely exceeds minimum wage	At LFT level	Few	High
	Ramos Arizpe (COAH)	512	Less than twice	Higher than LFT	Yes	Low
	El Salto (JAL)	1660	Less than twice	Higher than LFT	Yes	Low
BROSE	Aeropuerto (QRO)	381	Less than twice	At LFT level	Few	High
	El Marqués (QRO)	331	Less than twice	Higher than LFT	Few	High
	Benito Juárez (QRO)	440	Less than twice	Higher than LFT	Yes	Moderate
	Cuatlancingo (PUE)	208		Higher than LFT	Yes	Pending
BOSCH	Toluca (EDOMEX)	2650	Less than twice	Improvements on LFT	Yes	Low
	San Luis Potosí (SLP)	2429	Less than twice	Improvements on LFT	Better	Low
	Querétaro (QRO)	389	Less than twice	Improvements on LFT	Yes	High
	Apaseo el Grande (GTO)	210	Twice of minimum wage	At LFT level	Yes	High
	Hermosillo (SON)	60	Less than twice	Improvements on LFT	Yes	Low
BORGWAGNER	San Luis Potosí (SLP)	753	Less than twice	Higher than LFT	Low	Moderate
SEGLO	San Luis Potosí (SLP)	424	More than twice	Close to LFT	No	High
GESTAMP EDSCHA	San Luis Potosí (SLP)	246	Less than twice	Close to LFT	Low	High
BOYSEN	Villa de Reyes (SLP)	120	Less than twice	Close to LFT	No	High
SISAMEX	General Escobedo (NL)	603	More than twice	Higher than LFT	YES	Moderate
MERITOR	General Zuazua (NL)	277	Less than twice	Equal to LFT	YES	Moderate

Source: own preparation based on contract reviews

Table 4

Analysis summary of the CBAs - Tier 2

Company	Plant	Size	Wages (minimum wage)	Working conditions	Extralegal benefits	Risk balance
CONMET	Ciénega de Flores (NL)	1590	Twice of minimum wage	Close to LFT	Yes	Moderate
DURR	Querétaro (QRO)	183	Less than twice	Equal to LFT	No	High
OECHSLER	Querétaro (QRO)	131	Less than twice	Close to LFT	Low	High
EMERSON	Arteaga (COAH)	19	Less than twice	Equal to LFT	Low	High
ESSEX FURUKAWA	Torreón (COAH)	213	Less than twice	Close to LFT	Low	High
UNIQUE FABRICATING	Querétaro (QRO)	237	Less than twice	Equal to LFT	No	High
TEKNIA	Ciudad de México	122	Less than twice	Equal to LFT	No	High

Source: own preparation based on contract reviews

7.

WAGES AND RISKS

Wages are an important risk predictor, and, as indicated by the Ergon Study (2023), these can be of two types: lack of transparency in processes of wage setting and wages stagnating or decreased because of diverse economic circumstances. The wage setting procedure in CBAs is bilateral and annual in nature; however, this does not necessarily entail its transparency. While contract reviews must be approved by the majority vote of workers covered by the CBA, reviews can be agreed upon directly by the trade union and the company. The realization of a vote consultation or of any other kind will be dependent on the union by law and on the more-or-less democratic practices of the trade unions. For instance, it is known that at Audi and VWM, wage agreements are subject to vote, but this is not the rule in the other cases.

Concerning wages, throughout the analysis, the relationship between the wage from the lowest category with the minimum wage and the category of the highest level of the IMSS contribution average wage has been used as a parameter. It is important to indicate that the tabulators of the 40 reviewed CBAs²⁴ have wages in the initial category exceeding minimum wages, but with a wide variation among all of them. Consequently, in the graph in Annex 2, the comparison of the initial category of the 40 CBAs is reflected with respect to half the average wage [a measure considered by the ILO as the minimum in developing countries, so wages are not "low" (2022)] and to the highest category, in relation to the IMSS contribution average wage. To this end, the graph organizes CBAs as they belong to the seven assembly plants considered in this study (the five selected and other two for comparison purposes, since they have admittedly representative trade unions), including among them other three companies linked to one of the selected assembly plants, followed by the CBAs of Tier 1 and then Tier 2 suppliers.

As expected, wages of the assembly plants are higher than those of suppliers, both in the initial category and, above all, in the highest one. In the case of the assembly plants, the wages of VWM are the highest both in the initial category and in the last one. The lowest category is closer to the

average wage contribution, and the highest one exceeds it little less than three times. Daimler MB (Toluca, Edomex) is very close to these wage levels, followed by Daimler MB (Saltillo). Audi also has its lowest category above half the average wage, and, as highest category, a wage doubling the IMSS contribution average wage. This is partially accounted for by the fact that this is a plant with less than ten years of operations. However, it could be assumed that, if the negotiation was conducted jointly by an organization bringing together both VWM's and Audi's trade unions, the wage gap among companies would tend to reduce more quickly.

Likewise, it is observed that wages of the three Daimler companies –which are not assembly plants– are lower, both in their initial category and in the highest one. Once again, it is observed that the atomization of negotiations does not allow for minimum wages that are common among plants of one same company. However, it is to be noted that Daimler and BMW exceed half the average wage in its lowest category.

Wages of Tier 1 suppliers are lower than those of assembly plants in both categories. In four out of the 24 CBAs, the first wage level does not even cover half the average wage (ZF Gómez Palacio and all three of Brose). In the case of ZF Gómez Palacio, the lowest wage level does not even reach half the average wage contribution. It is, as has already been said, the CBA with the highest risk of all those analyzed, especially considering that this is a trade union with hundreds of CBAs and tens of thousands of members that have been previously questioned, and a company with over two thousand workers. In 15 Tier 1 CBAs, the initial wage level exceeds this indicator, but the highest category exceeds the average wage contribution in only 9 CBAs. The CBA of ZF (Ramos Arizpe) is the one with the highest wage at the last level without doubling the average wage contribution.

In two out of the four CBAs of Tier 2 suppliers, the lowest wage category does not reach half the IMSS contribution average wage (Oechsler and Durr, Querétaro), and the highest category exceeds the contribution average wage only in one case (Emerson).²⁵

24 One of the CBAs (Brose Puebla) does not include a wage tabulator; therefore, it could not be included in the wage analysis.

25 See Annex 2. Relationship between contractual wages and average wage

To briefly compare the situation of the companies, a risk matrix was prepared considering three dimensions: wages start in relation to minimum values (less than double, double, or more than double), working conditions (higher than, close, or equal to the LFT), and extralegal benefits (high, low, or non-existent).²⁶ The information on which the matrix is based on was presented in detail upon analysis of the CBAs of the assembly plants, and the Tier 1 and Tier 2 suppliers.

Thus, as observed in the matrix in Annex 4, only two assembly plants (out of the 40 plants) presented a moderate risk (Daimler-MB AGS and BMW), while the remaining three have a low risk like Audi and VWM. 13 Tier 1 and Tier 2 supplier companies have a high risk. Only one out of the four Tier 2 companies has a moderate risk, while the remaining three have a high risk. In short, despite the diversity of conditions shown throughout the analysis of the CBAs of the selected companies and their suppliers, and, as expected, it is at the level of the latter where the highest risks are faced due to the low wages, little possibilities of improvement, and benefits very close to those of the LFT. All of this could be indicative of non-functional CBAs, and possibly due to obstacles to freedom of association and collective bargaining.

²⁶ It is important to indicate that, in the risk matrix, no union prerogatives were included due to the fact that, in the vast majority of the CBAs, these are very similar.

8.

CONCLUSIONS

This study has shown the favorable institutional context in which the five selected German companies and some of their suppliers operate, and, more generally, the IAM. Since the NAFTA (North American Free Trade Agreement, 1994-2020) got signed 25 years ago, the IAM export success and the opportunities resulting from the relocation of the supply chains have never found such a positive institutional framework, labor policy, and minimum wages favorable for the benefit of workers, in terms of both the quantity and the quality of the jobs created. Therefore, there is a context favorable for promoting a negotiation of contractual wages linking them to the productivity of companies. This had not happened since the mid-sixties. However, the challenges posed by the process of productive restructuring, technological change in AI, and the strong pressure to reduce costs cannot be ignored, nor can improvements be expected to come solely from conditions generated by state intervention. Improving the quality of representation and increasing the bargaining power of trade unions are essential to ensure the link between productive success and socio-labor progress in the IAM. This implies fully guaranteeing freedom of association and collective bargaining in such a way that union restructuring is decided by workers, overcoming artificial divisions and units imposed exogenously.

All the CBAs of the selected companies and their suppliers analyzed in this study underwent legitimization processes. However, lessons from the RRM in terms of inertia in the union world allow to validly suspect that many of the reviewed CBAs were the result of agreements between companies and trade unions having favored the status quo, given the workers' unawareness of the implications of the legitimization process and of the content thereof. Fears derived from the dissemination of false information about the possible loss of acquired rights may also have weighed heavily. Hence the importance of analyzing this content in detail, although it is insufficient to detect whether there is genuine bilateralism in the determination of the working conditions.

Since this study had the information available in the CFCyRL databases on trade unions and legitimized CBAs as its main source, it is not known what the real dynamics between trade unions, companies, and workers are, nor is it possible to know how much these have participated in the negotiations of the CBAs. It is known that this participation has

historically been the exception so that, in principle, it can be thought that all the CBAs inherited from the old model run the risk to some extent of being the product of the simulation or, at least, of the negotiation with trade unions without real support from their rank and file.

In order to analyze the CBAs and to show how far they depart from the old employer protection agreements, negotiated behind workers' backs and non-functional, since they did not serve the purpose of improving the conditions established in the legislation, the working conditions and extralegal benefits were primarily taken into account. In terms of wages, the initial wage levels and those of the highest category, compared with the minimum and average salaries in effect in the years corresponding to those tabulators were especially studied.

Regarding union prerogatives, there were some differences. For instance, some trade unions achieved greater presence in the plants through delegates or more complex representation structures, such as at VWM. However, in principle, since practically all of them have the power to propose the workers for positions, the presence of "ghost unions", totally unknown to the workers, could be ruled out. In turn, the wage graph and the risk matrix (including wage levels, working conditions, and extralegal benefits) analyzed in the last section showed which companies face a higher risk of labor disputes by the workers.

It is confirmed, as predicted by the literature, that as the risk analysis of wages and working conditions moves away from assembly plants, the probability of finding high-risk firms increases. This is exacerbated at Tier 2 suppliers (although the low number of Tier 2 companies included significantly limits the scope of this finding). Other risks, which increase the likelihood of disputes, are those arising from the characteristics of the unions, as is the case of a history of prior questionings for violations of democratic principles and freedom of association. However, in order to give a reliable account thereof, a different type of approach to trade unions and companies should be carried out in subsequent studies to gather evidence that confirms or rejects the exploratory evaluation conducted herein.



















Finally, it is important to highlight the existence of a domestic and international context of greater demand for

compliance with workers' rights. However, it is essential that companies themselves adopt internal protocols and mechanisms to monitor compliance with workers' rights, both individual and collective, for themselves and at least their Tier 1 suppliers, as proposed by the LDD when referring to the risk analysis.

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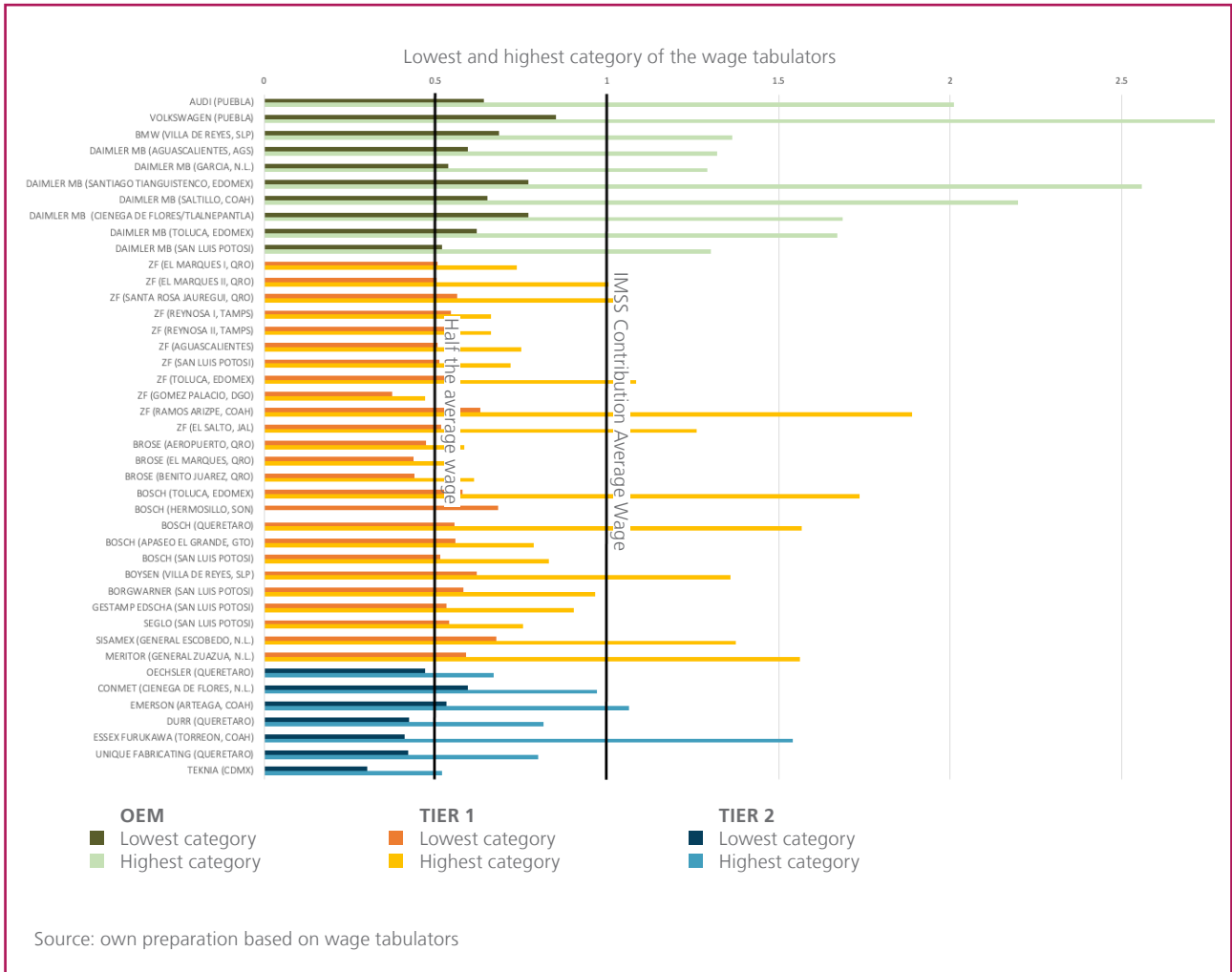
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ANNEX 1. COMPANIES SELECTED IN THE SUPPLY CHAIN

Companies selected in the supply chain of the automotive industry (MRI)		
OEM	TIER 1	TIER 2
 4 assembly plants + 3 smaller size units	Daimler Mercedes' Suppliers  	Daimler Mercedes' Supplier 
	Daimler MB's and BMW's Supplier  5 plants	Bosch's Suppliers   
	Daimler MB's and BMW's Supplier  4 plants	
	Daimler MB's and BMW's Supplier  11 plants	ZF's Suppliers  
 1 armadora	BMW's Suppliers    	BMW's Suppliers 

Source: own preparation

ANNEX 2. RELATIONSHIP BETWEEN CONTRACTUAL WAGES AND AVERAGE WAGE



ANNEX 3. SUMMARY OF THE CBA RISK MATRIX

TYPE OF COMPANY	Low Risk	Moderate Risk	High Risk
OEM	7	3	
TIER 1	9	6	10
TIER 2		1	6

Source: own preparation

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Due diligence in the Mexican automotive industry. The case of 5 German companies and their suppliers.

Executive Summary



Germany's Corporate Due Diligence Act, which came into effect in 2023, provides a fair institutional framework for international subcontracting processes in countries with low labor standards or wages, which holds significant relevance for Mexican workers.

Within the framework of this legislation and the implementation of the pilot test for the Intercompany Grievance Mechanism (later renamed as the Human Rights Grievance Mechanism) in German companies in the automotive industry operating in Mexico, an initial assessment was conducted of the labor and union conditions in three companies (originally five German companies had participated) and some of their suppliers (Tier 1 and Tier 2).



Under various criteria, a total of 41 economic units were included, covering a total of 45,703 workers. All these units had Collective Bargaining Agreements that had successfully undergone the legitimization process between 2019 and 2023.

The purpose of this exploratory assessment was to identify the level of risk in these economic units concerning the authenticity of collective bargaining, which was dominated in the country by widespread simulation and complicity between unions and employers, in the interest of avoiding bilateralism in the determination of wages and working conditions, giving rise to what are known as 'employer protection contracts'.

The research was based on a set of assumptions that made it possible to identify three levels of risk (high, moderate, and low) by comparing working conditions stipulated in the Federal Labor Law with those in the respective collective agreements, the existence of extralegal benefits, and the relationship between minimum wages, the average contributions registered with the IMSS, and those specified in the initial and final categories of the CCT.



The study included the elaboration of a risk matrix that made it possible to systematise the information gathered from collective bargaining agreements and to assess whether a CCT was at risk of being a CPE or at least 'dysfunctional' by not offering relevant benefits to its alleged beneficiaries.

The results of this analysis, detailed in this document, confirm the existence of lower levels of risk in assembly companies, while risk levels increase in Tier 1 and Tier 2 suppliers. Among the units directly linked to assembly companies, low-risk cases predominated, while Tier 1 suppliers showed a higher prevalence of moderate and high-risk cases, and Tier 2 suppliers were mainly classified as high-risk.