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The Superfluous Congress: Executive Dominance and Business Lobbying in Mexico's 2013 Tax Reform

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This paper analyzes the roles played by the legislative, executive, and business sector in Mexico's 2013 tax reform, drawing on original field-research findings. I examine each of these actors' influence over the public period of congressional debate, as well as the typically invisible agenda-setting stage and the adoption of executive decrees following the legislative process. I find that Congress remains subordinated to the executive in budgetary matters and that business is more central in shaping the details of the tax bill. The tax reform achieved little, leaving the overall fiscal capacity of the Mexican State largely unchanged.

Keywords: business power, executive-legislative relations, politics of policymaking, tax reform

Este artículo analiza el papel del legislativo, el ejecutivo y el sector empresarial en la reforma fiscal de 2013 a partir de los hallazgos del trabajo de campo. Se examina la influencia de estos tres actores, tanto en el período de debate público en el congreso como durante el establecimiento de la agenda de la reforma y en los decretos del ejecutivo posteriores al proceso legislativo. Se muestra que el poder legislativo continúa subordinado al ejecutivo en temas presupuestarios y que el sector empresarial tuvo una mayor influencia para definir los detalles de la nueva ley tributaria. La reforma tributaria logró poco, dejando la capacidad recaudatoria del Estado mexicano sin mayor cambio.

Palabras clave: poder empresarial, políticas públicas, reforma tributaria, relaciones ejecutivo-legislativo

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Introduction*

Mexican fiscal history is characterized by a constant: poor tax collection. Despite several attempts to reform the tax system, no change has resulted in a level of tax collection that would place Mexico close to that of countries at similar income levels. Since 1950, Mexico's tax revenue has remained below 12 percent of GDP,[1] while Brazil, Argentina, and South Africa today all collect over 30 percent. While Mexico's economy has grown 3.9 percent annually between 1969 and 2015,[2] this failure to generate revenue has crippled the state's ability to tend to pressing objectives, such as infrastructure investments, anti-poverty programs, public services, or support for industry.

The Mexican twentieth-century tax story begins with the translation of revolutionary ideas into the tax system, which resulted in the creation of the income tax in 1925. This tax was intended to be the backbone of the tax system and would become not only the main source of revenue but also a redistributive tool. By the mid 1940s, the income tax was already the principal contributor to tax revenue, but in order to continue growing, it needed to be reformed. A series of unsuccessful tax reform attempts ensued, the main ones being those of 1953, 1961, and 1972.[3] These three placed the income tax at the core of the reform.[4] Their aim was, broadly, to tax sources of revenue not yet reached and to enhance progressiveness. In other words, these tax reform attempts concentrated on progressive direct taxation and aimed to collect more.

Because these attempted reforms were threatening to higher income groups, particularly capital holders, they encountered

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1. For a comprehensive literature review on the determinants of Mexico's light taxation, see Ondetti 2017.

2. Mexico's GDP in 1969 was equivalent to 2,533,863 million pesos and 14,940,600 in 2014 (constant 2010 pesos).

3. Two other tax-reform episodes were successful: under President José López Portillo (1976–82), creating the value-added tax; and under President Carlos Salinas (1988–94), expanding the tax base and increasing incentives to investment through lower marginal rates (Elizondo 1994). However, these two reforms are essentially different from those mentioned to the extent that they did not purport to enhance tax progressiveness.

4. Unless it is relevant to distinguish between corporate and personal income taxes, the broader term *income tax* will be used.

unsurmountable opposition. The two earlier reforms did not even reach Congress; these were aborted within the Ministry of Finance, which at the time had conflicting views on taxation. This outcome was the result of the consolidation of an alliance between the state and the economic elite, an alliance that prioritized the promotion of private capital accumulation for the sake of economic growth (industrialization) and political stability (Unda-Gutiérrez 2010). In short, tax reform proposals that aimed to make the tax system more progressive and extractive failed; political stability was maintained at the cost of a poor tax state.

However, Enrique Peña Nieto's government's (2012–18) core initial strategy (publicized under the slogan *Mover a México* [Moving Mexico]) was to pass a package of *structural* reforms that would unleash a long-awaited economic growth. The tax reform was part of a broader reform agenda—also including energy, education, financial, electoral, and telecommunications—and great expectations were built around it. Nevertheless, Mexico's 2013 tax reform did not pose a threat to higher income groups or to capital and did not produce structural change. This article analyzes the policymaking process that produced the 2013 tax law and finds that a strong business lobby and a weak legislature—remnants of PRI (Partido Revolucionario Institucional) dominance in twentieth-century Mexico—were determinative.

A mediocre reform was not a foregone conclusion. On the contrary, at the beginning of Peña Nieto's term, circumstances appeared to be conducive for a deep tax reform. The Pacto por México, proposed by Peña Nieto, was a political agreement to smooth the passing of a set of structural reforms agreed upon by the president and the three major parties that took part in this pact (PRI, PAN [Partido Acción Nacional], and PRD [Partido de la Revolución Democrática]). How is it, then, that a tax reform that seemed to have so much potential achieved so little? What were the roles that key actors—legislative and executive powers, and the business sector organizations—played in the policymaking process?

To answer these questions, I reconstruct the 2013 tax reform process using process tracing. I observe three distinct stages of the tax process—agenda setting, negotiation in Congress, and post-approval modifications. At each stage, I make "causal process observations" (Collier 2011, 823), observing the roles played by three central actors—the legislature, the executive, and business lobbyists. Evidence is drawn from original field research, including interviews with congresspersons, cabinet members, and lobbyists; over-time analysis of official fiscal data; and analysis of the text of the tax law.

This analysis provides a case study of executive-legislative relations in a technical realm of policymaking, which offers an opportunity to observe how much has changed since Mexico's transition to democracy in terms of increasing the role of Congress and equalizing its influence to that of the once-hegemonic executive. My ethnographic findings offer a window to observe the *less public* relationship between the business sector and both branches of government, illuminating the means used by business organizations to influence the tax-policymaking process.

My findings offer two central contributions to the literature on policymaking in Mexico in terms of the legislative-executive relationship and the power of business. First, I show that the Mexican legislature remains subordinate to the executive, despite the transition to a more pluralistic democracy in the first three *sexenios* of the twentieth century. This subordination is particularly pronounced in tax policy, a highly technical policy area, confirming and extending previous findings by Mark Eric Williams (2006). The legislators lack the technocratic skills necessary to analyze fiscal data and propose alternative tax bills to the Ministry of Finance, and depend greatly, rather, on the advice, data, and technical skills of the Ministry of Finance staff and the business sector. As a result, the executive has overwhelming power in this area.[5] As I show, the power of the executive branch is illustrated in all three stages: (1) The Ministry of Finance formulated the proposal in an unusually hermetic manner, calculating the response of the business sector and the broader trade-offs implied by the Pacto por México. (2) During the legislative process, the technocrats of the Ministry of Finance were omnipresent. In addition to the dependence of legislators on the Ministry of Finance's expertise, the executive had control over opposition and PRI legislators via the Pacto's agreements and the long-lived PRI dynamics, respectively. (3) Following approval in Congress, the executive, making use of its extensive decree powers, overrode Congress, granting tax exemptions that altered tax burdens.

5. The predominance of the Ministry of Finance can be traced back to the regime of Porfirio Díaz (1876–1910), whose economic policy was run by the *científicos* led by the treasurer José Yves Limantour (Cockcroft 1968). The power of the Ministry of Finance was also evident during the "stabilizing growth" period (1958–72) (Camp 1992, 176; Izquierdo 1995, 43–47; Ortiz Mena 1998, 47–49), and although this ministry's central role was reduced during the time of "shared development" (1972–82), the Ministry of Finance recouped its dominant role after the debt crisis of 1982 (Centeno and Maxfield 1992).

Second, I show the strategies and resources that business groups continue to deploy to exert influence over the process of economic policymaking. Business groups influenced all three stages of the reform. First, the noninvestment-threatening nature of the reform suggests that the business sector's tacit *structural power* set the agenda for the reform proposed by the Ministry of Finance. Second, during congressional negotiations, business lobby groups also exercised significant *instrumental power*, deploying a variety of political resources (organization, money, technical expertise, and media access) to influence the legislators' decisions. Third, continued business lobbying, after Congress approved the revenue law, pushed the executive to make decrees that softened the blow of increased taxation for certain influential business groups.

The executive-legislative power imbalance has important implications for policymaking in Mexico. In contexts where the executive is so empowered, the influence of external groups may be more difficult to observe (compared to the legislative floor), and the opaque agenda-setting stage becomes particularly decisive. This hypercentralization of policymaking is even more pronounced in highly technical areas—such as tax policy—where legislators lack the capacity to research the various provisions and their impact. The incapacity of the legislature to match the technical prowess of the executive weakens checks and balances, and jeopardizes political representation, as Congress is marginalized from the policymaking process (Williams 2006, 122–23). Moreover, these two factors—executive hegemony and technical incapacity of the legislature—are common characteristics of transitional democracies and speak to the limits of theoretical approaches developed to understand tax policy in the United States and other democracies.

This study proceeds in six sections. The first section introduces and engages two areas of literature to which my analysis contributes: executive-legislative relations in Mexico and business power. This is followed by the analysis of the changes introduced by the 2013 reform and their impact on tax collection. The next three sections trace and analyze the agenda setting, the legislative process, and the postcongressional approval stages of the tax reform process, respectively. These three sections concentrate on the role played by business interests and the executive and legislative branches. The evidence drawn from interviews, the analysis of fiscal data, and the text of the tax law allows me to trace the ways in which each of these actors sought to influence the tax reform outcome in each of these steps. The last section concludes.

Explaining Tax Reform: Legislative Subordination and Business Power

This article builds on two literatures to explain Mexico's tax reform process, both of which concern executive-legislative relations and business power. The subordination of Congress to the executive has been long understood in the Mexican case. Congress's legislative and nonlegislative constitutional powers *formally* endow it with sufficient capacity to legislate and control the executive (Casar 1999, 86–87). The Presidential Legislative Powers Index produced by Mathew Soberg Shugart and John M. Carey (1992), for instance, scores the Mexican presidency equally as the US presidency, discarding the notion of an all-powerful executive. However, during the period of one-party dominance, *informal* practices precluded the Mexican legislature from using these powers (Weldon 1997, 101–2). The federal executive has historically been dominant horizontally (over the legislative and judicial powers) (Weldon 2002a), as well as vertically (over state and local governments) (Williams 2002, 177–79). The president and his cabinet routinely interfered with Congress's representative function by crafting legislation themselves with the confidence that legislators would not object (Casar 1999; Weldon 2002b; Williams 2002; Yamin and Noriega 1999). On the one hand, the executive counted on the support of a great number of legislators. On the other, legislators who may have opposed the president on legislation found it in their best interest not to oppose, for fear that he would use his position as leader of the party to thwart their professional trajectories. Both of these tools were possible given that the president interfered in party and electoral matters (Casar 1999, 91), translating into a highly disciplined party and loyalty to the executive's decisions.

However, the 1997 election in which the PRI, the president's party, lost the absolute majority in the lower chamber altered the balance of power that had long prevailed between the executive and the legislative branches (Del Rosal 2008, 11). Thus, opposition party leaders and scholars alike had high expectations that the legislature would, for the first time, act as an effective counterbalance of the executive.[6] The executive, after 1997, had lost the ability to automatically pass fiscal bills in Congress, such as the revenue law (Ley de

6. Reflecting this potential expansion of legislative strength, lobbying in Congress is relatively new. Prior to 1997, business lobbying was conducted almost exclusively with the executive branch, targeted at the president or cabinet members (Lerdo de Tejada and Godina 2004, 30).

Ingresos) and the federal budget (Presupuesto de Egresos de la Federación).[7] Research has documented marginally greater leverage for the legislature in the area of expenditure (Diaz Cayeros and Magaloni 1998; Sour and Munayer 2007; Ugalde 2014; Weldon 2002b, 2004). However, few studies have addressed the influence of the legislature over revenue policies in contemporary Mexico.[8] This paper helps fill this gap, confirming that the legislature remains subordinated to the executive branch in fiscal matters, which in consequence incentivizes business sectoral groups to prioritize their lobbying on the Ministry of Finance.

A second literature on which this article builds is that of business's power over economic policy. Mexico's powerful business organizations are another carry-over from the twentieth century, as documented by Matilde Luna (1995), Ben Ross Schneider (2002), and Brian Palmer-Rubin (2016). I observe, however, a modernization in their tools of influence, such as the employment of technical experts and economic data—beyond the capacity of Congress—to shape the debate.

The 2013 tax reform also reveals the continued influence of business groups in the executive and legislative branches. The proposition that business groups have undue access and influence over tax policymaking is widely understood (Witte 1986). Structural and instrumental power are two particularly useful concepts when analyzing this influence. According to Jacob Hacker and Paul Pierson (2002, 281), structural power is a function that depends on the crucial role of firms in the production of wealth and wages. In other words, the consequences of investment decisions give firms structural power. In contrast, instrumental power involves deliberate action; it is exercised by explicit political action to affect policy. While structural power is crucial in the agenda-setting stage—determining whether a reform proposal is introduced or not and the shape of the initial proposal—instrumental power becomes most relevant in the following stages of policymaking, determining how the specifics of the reform are shaped (279–86).

7. The revenue law is the legal instrument proposed once a year by the executive to Congress, establishing all the revenue categories to cover the next year's budget. The federal budget is proposed by the executive every year to Congress to establish expenditure categories.

8. Kenneth Shadlen (1999) analyzes the 1998 congressional approval of the value-added tax (VAT), concluding that, while the 1998 VAT conflict implied unprecedented public scrutiny and cabinet officials were subjected to intense questioning by Congress, the president's original proposal was adopted with only minor modifications.

The analysis of the 2013 tax reform suggests that the agenda-setting stage put on the table a proposal that was not investment threatening and thus allowed the reform to move forward. A first impression may suggest that the introduction of a revenue-increasing tax reform was indicative of *weak* business structural power, as conceptualized by Tasha Fairfield (2015). In her proposition about structural power operationalization, Fairfield qualifies weak business structural power as the situation in which policymakers are not concerned about the investment response (7). My findings, however, point to the opposite: *strong* business structural power kept off the agenda a more revenue-enhancing or more progressive reform that would had been more threatening to capital. As I suggest in the following section, the reform was rather *petty* (not investment threatening) since it only aimed to recoup some of the revenue loss resulting from declining public oil revenue.

Similarly, this work shows that the details of the tax bill were shaped by business groups' instrumental power—"the multiple means and mechanisms through which business can exert influence" (Fairfield 2015, 10). Mexican business organizations deployed different political resources (organization, money, technical expertise, and media access) to influence the tax-policymaking process more effectively. They used their informal ties to legislators and bureaucrats during and after the legislative process to create bias in their favor. The interviews conducted provide evidence of the strategies and political resources used by them in order to shape the tax bill. This account helps to explain how they lobbied in Congress, organized collective action, and shaped public opinion.

The Impact of the 2013 Tax Reform

This section explains the changes proposed by the 2013 tax reform and the reform's impact on subsequent tax revenue and composition. The overall picture is of a reform that increased revenue only marginally, with the burden falling disproportionately on the lower classes.

The 2013 reform instituted six main changes. (1) Four new excise taxes were created: on flavored beverages, high-calorie food, pesticides, and carbon emissions. (2) The value-added tax (VAT) in the border region (twenty kilometers from the border), which previously had been set at the reduced rate of 11 percent, was raised to the national tax rate of 16 percent. (3) Two direct taxes were eliminated: the IDE (Impuesto sobre Depósitos en Efectivo), a tax on cash deposits, and the IETU (Impuesto Empresarial a Tasa Única), a flat tax on individual and corporate revenue. (4) The tax reform also

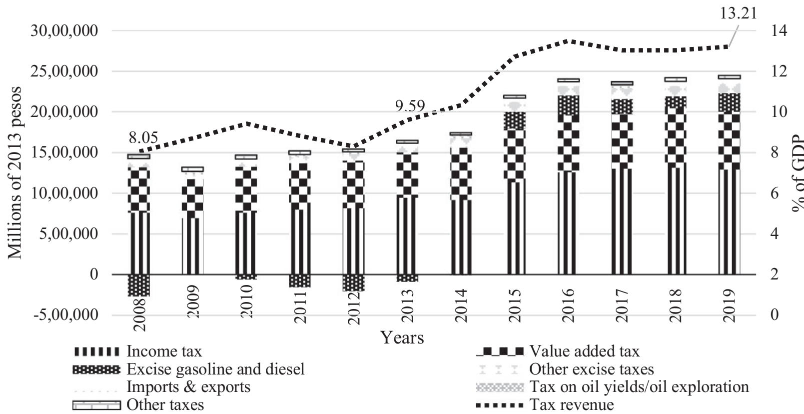

Figure 1. Tax composition and revenue as percentage of Mexican GDP. Source: Own elaboration based on data from INEGI 2020b and SHCP n.d. (b).

introduced a "new" regime aimed at taxing the informal sector. This regime would incorporate informal individuals and corporations in order to gradually tax them; the scheme was designed to tax them fully by the tenth year after incorporated (2023). (5) The income tax on individuals and corporations was modified, increasing the maximum rate on personal income from 30 percent to 35 percent and including higher income brackets.[9] The tax deductions permitted to individuals were limited to the lowest of either 10 percent of an individual's annual salary or four annual minimum wages. Finally, individuals' stock exchange profits, which had never been taxed, were taxed by the income tax at 10 percent. (6) Changes to the corporate income tax included the cancellation of both the tax consolidation system and the simplified and special regimes, and the introduction of a 10 percent income tax on dividend revenues. Of these changes, all but the third (the elimination of IDE and IETU) were designed to increase revenue.

The above changes generated heated debate in public opinion; it was perhaps the most visible and contentious tax reform since President Carlos Salinas's reform in the early 1990s. At first glance, it may appear that the reform increased revenue substantially. Since 2013, tax revenue has increased from 9.6 percent of GDP to 13.2 percent in 2019 (see fig. 1). However, one-third of the increase has

9. Previously, in 2013, the highest bracket was equivalent to 41,667 pesos per month. In 2014, the highest bracket includes revenue from 250,000 pesos per month and above.

been due to the IEPS (Impuesto Especial sobre Productos y Servicios) on gasoline and diesel, an excise tax that was not altered during the 2013 reform.

The increase in IEPS revenue is due to two factors. First, IEPS revenue increased in comparison to previous years, as the need to subsidize gasoline and diesel prices waned given the decreasing international oil prices. These fuel subsidies are counted as negative tax revenue. Thus, in times of high oil prices, the subsidy necessary to keep prices stable is reflected in lower levels of IEPS collection (see the negative IEPS revenue for 2008 and 2010–14 in fig. 1). The 2015–19 period has featured low global oil prices and thus a lower subsidy. Second, the IEPS law was reformed in 2015, softening the subsidy mechanism to gradually liberalize oil prices (COFECE 2019). As result of the reform and lower international oil prices since the end of 2014, there has been revenue generated by the IEPS. This has represented around 1.12 percent of GDP in the last five years.

The remaining contributors to the overall tax increase have mostly been due the income tax and the VAT. Unfortunately, no disaggregated information on income tax or VAT is public, as in the case for the IEPS. The lack of transparency on tax incidence data further limits the assessment of each of the changes brought about by the tax reform. It is difficult to know, for instance, if the new taxes on dividends and stock exchange profits—progressive measures—have yielded results or how much was recouped from limiting tax deductions and cancelling special income tax regimes. In other words, tax-data opacity obstructs knowing who is paying and how much, consequently preventing us from better assessing the tax system.[10]

In the grand scheme of things, the postreform tax revenue gains have mirrored the losses in oil revenue. Figure 2 shows a negative correlation between tax and oil revenue and a total government revenue. The oil-revenue loss resulting from a decline in both international oil prices and Petróleos Mexicanos' (PEMEX) oil production has been offset by tax revenue. On the one hand, keeping the federal government revenue constant despite the oil-revenue reduction is an achievement. Indeed, 3.6 percent of GDP has been gained through

10. The Ministry of Finance provides more disaggregated tax data in the appendixes of the quarterly reports that it sends to Congress. These data, however, are still not sufficiently disaggregated to be able to calculate the revenue from each of these distinct tax instruments. These reports are available at SHCP (Secretaría de Hacienda y Crédito Público) database, https://www.finanzaspublicas.hacienda.gob.mx/es/Finanzas_Publicas/Informes_al_Congreso_de_la_Union.

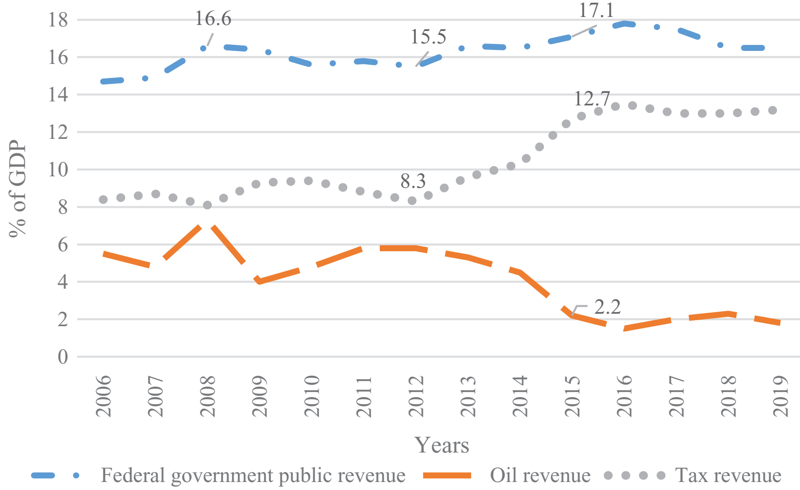

Figure 2. Mexican federal government revenue composition. Source: Own elaboration based on the SHCP's (Secretaría de Hacienda y Crédito Público) online database Estadísticas Oportunas de Finanzas Públicas (SHCP, n.d. [a]).

additional taxation. On the other hand, the overall stability of federal government revenue can be seen as a missed opportunity, given that Mexico continues to collect much less in taxation than other middle-income countries.

Agenda Setting: Pacto por México and Business Power Set the Limits

This section analyzes the agenda-setting stage, when the Ministry of Finance designed the tax bill months before it was presented in Congress on September 8, 2013. Using data from interviews, I elucidate the negotiation that took place during this typically opaque period in the policy process. I interviewed (1) deputies in the Finance Committee, (2) this committee's staff, and (3) lobbyists who approached legislators and members of the Ministry of Finance.[11]

11. Eleven interviews were conducted in Mexico City: (1) Deputy Javier Treviño, April 19, 2013; (2) Deputy Margarita Licea, December 3, 2013; (3) Deputy Javier Treviño, December 4, 2013; (4) Eduardo Obregón, committee staff member, December 4, 2013; (5) Mario Fuentes, committee staff member, Finance Committee's technical secretary, October 22, 2014; (6) Eduardo Obregón, committee staff member, October 22, 2014; (7) Deputy Carlos Alberto García, October 23, 2014; (8) Raúl Rodríguez, CONCAMIN (Confederación de Cámaras Industriales [National Confederation of Industrial Chambers]) and CANACINTRA (Cámara Nacional de la

The Finance Committee is one of the fifty-two ordinary committees by which the lower chamber is organized; its members (forty-four in 2013) are responsible for analyzing and assessing public revenue bills, including tax reform proposals.[12]

I find that the agenda-setting stage resulted in a tax bill that found its boundaries within the Pacto por México and business's structural power. The options put on the negotiation table by the Ministry of Finance were discussed and determined by the high leadership of the three main political parties in the broader picture of structural reforms, far from the more public and democratic discussion that the legislative process entails. Business interest groups mattered too. As suggested by Fairfield (2015, 3–9), business structural power is a critical variable in explaining the agenda-formulation outcome. Thus, if business's structural power is weak, policymakers can carry on with their proposal even if business interests are negatively affected. Likewise, if policymakers do not perceive the reform to produce disinvestment with consequential aggregate economic impacts, the agenda-formulation stage will continue as planned (3–9), as happened in the Mexican case. Indeed, decision makers at the Ministry of Finance did not perceive the tax bill as investment threatening. Economic investment in Mexico increased postreform.[13] The need to raise a *little* more tax revenue to offset the oil-revenue loss and keep the overall public revenue constant made the political cost of those who bore the new tax burden palatable to the executive.

The Pacto's underlying agreement assumes that the main obstacle to passing economic reforms had been a Congress that had had no absolute majority in the hands of a single party since 1997. Even though a divided Congress—an additional veto player—can hinder structural reforms, it is not a sufficient explanation for the reform stagnation in Mexico (Lehoucq 2007). This is evident by the lack of *structural* tax reforms before and after the transition to democracy (Aboites and Unda 2012). Ultimately, a political pact of this nature required several different negotiations (as many as reforms presented) and trade-offs among the negotiating actors. As

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Industria de Transformación [National Chamber of Industry]) lobbyist, October 23, 2014; (9) Ignacio García, CCE (Consejo Coordinador Empresarial [Business Coordinating Council]) lobbyist, October 23, 2014; (10) Fernando Coronel, CCE lobbyist, October 23, 2014; (11) Alehira Orozco, Polithink lobbyist, October 24, 2014.

12. Article 39 and 43 of the Ley Orgánica del Congreso General de los Estados Unidos Mexicanos rule on the Chamber of Deputies Committee and the Finance Committee, respectively.

13. Economic investment in Mexico went up after 2013. The gross fixed investment index (2013 = 100) was 103.1 in 2014 and 108.2 in 2015 (INEGI 2020a).

Deputy Javier Treviño put it when speaking about the electoral reform and the energy reform, "If you want that one [electoral reform] and you need us, I need the other one [the energy reform] and I help you" (Interview 3; see n11 for numbered list of all interviews conducted). The tax reform was one of the most valuable bargaining chips.

During the agenda-setting phase, the Office of the Undersecretary of Revenue of the Ministry of Finance kept the reform proposal under wraps. Interviewees highlighted the government's level of secrecy and refusal to provide any hints as to the type of tax bill that was being formulated; some even stressed the contrast between Peña Nieto's government and the previous two, arguing that Vicente Fox and Felipe Calderón's terms were characterized by the leaking of information in similar situations.

Contrary to previous experiences and their own expectations, legislators were not informed about the tax bill. Members of the Finance Committee were briefed on the tax bill one day before it was presented in the Chamber of Deputies. Some legislators disagreed with the government's approach and emphasized that "previous reforms [referring to the financial and communications reforms] were done, as well, by a small group" and that "they didn't say anything or consult with anybody" (Interview 3).

The Ministry of Finance's discretion did not mean that interest groups did not try to influence the tax bill. The Mexican government has long had the habit of informally consulting private sector associations before implementing major policy initiatives (Schneider 2002, 87–88). Business groups, such as the national confederations of Chambers of Commerce (CONCANACO [Confederación de Cámaras Nacionales de Comercio, Servicios y Turismo]) and Industry (CONCAMIN [Confederación de Cámaras Industriales]), and the Business Coordinating Council (CCE [Consejo Coordinador Empresarial]), presented their suggestions and demands to the Office of the Undersecretary of Revenue. They stressed and even praised the "sensitive attitude of the Ministry of Finance," the "always listening attitude of Miguel Messmacher" (the undersecretary of revenue), and the fact that "the door of the undersecretary of revenue was open" (Interviews 8, 9, 10, 11). As Raúl Rodríguez, one of the interviewees, expressed, "The Minister of Finance went out of his way to listen to the monologues of interest groups, but there was never a dialogue. They were very good at 'putting on a poker face'" (Interview 8).

The government's strategy of secrecy was so successful that most people, including legislators, interest groups, and the general public,

were surprised by the tax bill—and especially that it did not propose to eliminate the zero-VAT tax rate on food and medicine. In March 2013, the PRI Assembly reformed the party statutes, since these had previously forbidden support for the VAT on food and medicine and for private sector involvement in PEMEX. The exclusion of VAT on food and medicine was not the only surprise; the excise taxes (IEPS) on flavored beverages and high-calorie foods were also not expected by many, not even by those affected.[14]

The interparty bargaining contained in the Pacto por México explains the exclusion of the VAT on food and medicine in the tax bill. The PRI negotiators conceded this to the leaders of the left-wing PRD, who were openly opposed to taxes on food and medicine. In exchange, leaders of the PRD supported other reforms presented by the federal government, such as the energy reform. According to the Ministry of Finance's annual reports on tax expenditure,[15] a VAT on food and medicine in 2014 would have been equivalent to 0.90 percent and 0.07 percent of GDP respectively (see fig. 4 for tax expenditure data). This "negotiation cost" was likely one of the factors that encouraged the government to increase revenue through other changes, such as the leveling of the VAT rate in the border area and the adoption of four new IEPS (excise taxes). The PAN opposed these two changes, and, as a result, almost all of the PAN deputies ended up voting against the bill in Congress. In sum, business groups assured that the tax bill was not investment threatening both through invisible structural power and through concerted actions of lobbying with the executive branch. The Pacto's broader set of negotiations between the three major political parties led to further modification yet did not alter the generally modest outline of the reform.

The Legislative Process: *Mucho ruido y pocas nueces*

While much fanfare was made about consideration of the reform during the legislative period, very little was changed from the version of the bill originally submitted by the executive. The actions of business lobbyists and the negotiation in Congress were oriented more to a public spectacle to increase public support for the reform. The

14. Lobbyist Alehira Orozco, explaining the failure of the soft drink industry, suggested that the industry, because it never expected that the government would "do that to them," was late in lobbying against the new taxes (Interview 11).

15. Tax expenditure is defined as any reduction in government tax revenue due to preferential tax treatments, such as deductions, reduced tax rates, or credits. Taxpayers who are subject to preferential treatments are effectively receiving a subsidy from the government.

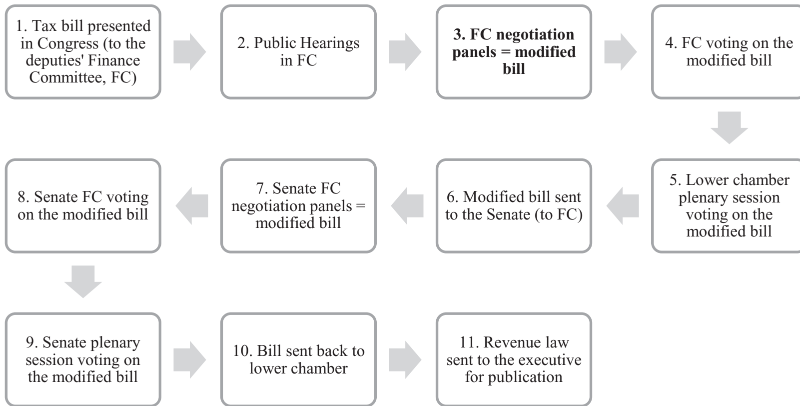

Figure 3. The legislative process of a Mexican tax reform. Stage 3 is highlighted as the stage on which the analysis is focused.

executive presented the tax bill to the Chamber of Deputies on September 8, 2013, and the approved law was sent back to the executive on October 31, 2013, for publication in the *Official Federal Gazette*. Figure 3 describes the eleven stages of the tax bill process that took place during these two months. This section mainly focuses on the first five, which correspond to the debate and negotiation in the lower chamber, where the bulk of the legislative decisions on public revenue and expenditure were made.

The legislative process started with the presentation of the tax bill in the Finance Committee by the Office of the Undersecretary of Revenue. Several meetings were spent going through the bill in detail, and, as Deputy Treviño said, “It is as if the people from the Ministry of Finance move in to live with us at the Finance Committee” (Interview 1).

Subsequently, the Finance Committee members called for public hearings, in which, over four days, eighty-six different organizations presented their views on the tax bill, discussed its impacts, and proposed changes. However, the public hearings had little influence on the tax proposal. According to interviewees, the public hearings were a formality; they were attended by very few Finance Committee members, and their format (many presentations in a very short time) was not conducive to engage legislators to listen. As the lobbyist Rodríguez said, “[Public hearings] are frustrating. You prepare your case well, and there are only three or four legislators. . . . It seems like a medical consultation of a village doctor” (Interview 8). The stage in which the bill can change the most is during the deputies’ Finance Committee negotiation panels (*mesas de trabajo/negociación*;

Interviews 2, 3, 4, 8, 9, and 10). The Finance Committee has to deliver a modified bill (*dictamen*) to the lower chamber plenary session, which is the result of negotiations between Finance Committee members, interest group lobbyists, and the Office of the Undersecretary of Revenue officials.

However, even during this stage, little changed in the bill. As I show here, three elements help to explain of the irrelevance of this stage: the legislature's lack of technical capacity, the small percentage by which Congress changes the tax revenue target, and the inconsequential nature of the legislators' amendments. Each of these elements provide confirmation of the legislature as a minor player, submissive to the Ministry of Finance and the business sector in budgetary and tax policymaking.

Even though there was little reason to expect substantive change during this phase, business sector groups, as well as representatives from the Ministry of Finance, are constantly present during the congressional process. Lobbyists from the CCE, CONCAMIN, and CANACINTRA (Cámara Nacional de la Industria de Transformación) used very similar strategies to influence the tax outcome while the bill was debated in Congress. First, after analyzing the tax bill among their members and fiscal specialists,[16] they met with parliamentary coordinators and presented their views about the tax bill. For decades, business groups in Mexico have enjoyed access to seats on boards of public entities or economic commissions. This has created incentives for business associations to invest in research departments, such as the Centro de Estudios Económicos del Sector Privado, to exert their influence better (Schneider 2002, 87). Second, business organizations' lobbyists approached key Finance Committee members and met with them regularly; they first discussed the issues for which business groups constituted a common front, then moved to more specific tax matters relevant to each business group. Some lobbyists call this "the bubble strategy," given that they approach only a few Finance Committee members—"never more than ten"—usually the Finance Committee's president and secretaries, from different parties (Interviews 8, 9, 10).[17]

16. Business groups rely on the Private Sector Economic Studies Center (CEESP), and most business organizations also have fiscal committees that produce technical reports.

17. The party composition of the 2013 Finance Committee was the following: PRI, 40.91 percent; PAN, 25 percent; PRD, 20.45 percent; PVEM (Partido Verde Ecologista de México), 6.82 percent; PANAL (Partido Nueva Alianza), MC (Movimiento Ciudadano), and PT (Partido del Trabajo), 2.27 percent each.

The fact that lobbyists engage in negotiations with legislators does not mean that they leave the executive aside. As a lobbyist expressed, "We approach the legislature but don't leave the executive. It is a fundamental issue, it is a practice, and it has always been like that: the control of the Ministry of Finance in the legislative is absolute" (Interview 8). In sum, congresspersons and lobbyists recognize "that the ability to make changes in the legislature without the executive's consent is minimal" (Interview 9). In this light, lobbyists seem to be active in Congress to make sure that legislators do not go off the rails by changing the bill too far from what was determined before presenting the bill in Congress.

Lobbyists used a wide variety of resources to influence the negotiation panels. Aside from direct lobbying (participation in public hearings, formal and informal contact with legislators and members of the executive), they also lobbied indirectly, aiming to influence public opinion through the media. Business groups and other interest groups, such as those supporting the tax on flavored beverages, were particularly active in this area (Interviews 8, 9, 10, 11), organizing press conferences, publishing statements in newspapers, and disseminating their views on social networks and their websites.

However, the main mode of influence used by lobbyists was to provide decision makers with technical reports. According to José Gómez Valle (2008, 116), this is the principal way in which lobbyists in the Mexican Congress have tried to influence legislators. Lobbyists consider it a fundamental part of their job to provide strong arguments backed up by data to convince legislators to adhere to the model that they received from the executive (Interview 8). Thus, business groups' research centers are crucial to assure that independent-minded members of Congress do not substantially alter the reform proposal that came out of the Ministry of Finance.

The inability of legislators to access alternative sources of data and research make them beholden to lobbyists' analyses in order to understand the potential impact of the reform. In the words of Rodríguez, lobbyist for CONCAMIN and CANACINTRA, "There is a big weakness in the legislature; the lack of resources prevents them from having professional advisors. The committees do have a technical secretary; however, they do not have information or data. So, we tell them, 'Stop fooling around, you are going to make the decision, but let us give you useful information'" (Interview 8). These findings resonate with scholars who have argued that interest groups are more successful at influencing tax policy than other types of policies, given that "its complex, technical character makes it easier for them

to disguise their real influence in legal and economic jargon" (Peters 1991, 12).

The Finance Committee's lack of technical capacity is not a minor disadvantage. On the contrary, it makes them dependent on information provided by interest groups and the Ministry of Finance. The Research Center on Public Finances (Centro de Estudios en Finanzas Públicas [CEFP]) is intended to serve as technical advisor for deputies on public revenue and expenditure matters. However, according to some of the interviewees and CEFP personnel, the center provides only basic analyses, relying on insufficient and out-of-date data (Interviews 1, 3, 8). One of the center researchers claimed that they do not have access to the Ministry of Finance data besides what is available for everyone in the reports that the ministry must provide to Congress. Deputy Treviño lamented the center's situation and posited that "if the chamber had, as the United States Congress, a Congressional Research Service, which has first-level technical advisors, things would change radically for Congress members, but we still depend a lot on the Ministry of Finance" (Interview 3). The Finance Committee's lack of technical capacity and its subordination to the Ministry of Finance on tax policy constitute a stark contrast to the influence that the Congressional Joint Committee on Internal Revenue Taxation and the Department of the Treasury have had in shaping tax reforms' outcomes in the United States (Verdier 1988).

The weakness of the CEFP underscores the inconsistent nature of the technocratic revolution in Mexican governance. In Mexico, as elsewhere in Latin America, the adoption of neoliberal market reforms was accompanied by the rise of technocrats to power (Domínguez 1997; Centeno 1994; Centeno and Silva 1998). Even though technocrats had long dominated the economic and finance branches of the executive in Mexico (Camp 1987; Smith 1979), it was with the transition to democracy that the technical superiority of the executive vis-à-vis the legislative became a salient concern. As Williams (2006, 137) suggested, "In a technocratic environment, the prospects of greater horizontal accountability via Congress hinge on the legislature's ability to upgrade its technical capacity." In countries like Argentina, the ruling party, tired of rubber-stamping executive's bills, sought a tactic of "negotiated support" with the executive (Corrales 2004, 7), which involved the exchange of concessions among them. This tactic could only work if the legislative branch upgraded its technical skills (by employing more technocrats) to become a capable negotiator. In contrast, the Mexican legislature has

not gained the technical expertise necessary to hold the executive accountable.[18] Even though the CEFP was born in 1998 as a result of the first divided Congress, it has remained weak and poorly staffed.[19]

Once negotiation panels end, the resulting agreements are taken to the Finance Committee technical secretary for drafting of the modified bill. According to technical secretary staffer Mario Fuentes, "The modified bill is written in accordance with the executive bill; it is always in his terms . . . and when the *dictamen* is ready, we share it with the Ministry of Finance. Why? Because we need to be sure there are no legal inconsistencies that result in a loss of revenue" (Interview 5).[20]

Subsequently, the modified bill is sent to the Senate (see fig. 3) for discussion in its Finance Committee, voted on in the full Senate, and sent back to the lower chamber to conclude the process. A new tax on high-calorie foods was introduced during the negotiation panels in the Senate. The passage of the so-called junk food tax was unexpected by many, including staff of the Ministry of Finance. Senators proposed this new tax using the same arguments as the tax on flavored beverages: that it would disincentivize consumption of unhealthy foods and would generate greater fiscal revenue.[21] The Minister of Finance "decided to give it a try" (Interview 11). The tax was so "unplanned" that "there were no revenue estimations, no calculations of its impact. They were lucky—*les cayó del cielo*" (Interview 11). Ultimately, however, this constituted a small percentage of the incidence of the reform.

The weak position of the legislature in budgetary issues can also be evaluated in terms of how much Congress changes the executive's bill. Thus, scholars have assessed the impact of a more plural legislature on the federal budget by measuring the difference between the budget proposed by the executive and the one approved by

18. Explaining why the Mexican Congress has not matched the executive's technical capacity is beyond this paper's aim. For a discussion on the subject and some potential explanatory variables, see Williams 2006, 137–38.

19. The CEFP reported having thirty-one employees, none with a PhD, and 71 percent with only undergraduate degrees. This data was taken from the CEFP organizational chart, published on its website in 2015: https://cefp.gob.mx.

20. The Mexican Ministry of Finance loses a great amount of resources due to the *amparo fiscal* (Elizondo 2009). Taxpayers, who have the economic and technical resources, have used the *amparo fiscal* (loosely, a write of protection) since 1962 to pay less (Elizondo and Pérez de Acha 2006). Wealthy taxpayers often use this legal instrument because tax laws have legal inconsistencies and because of the way in which the Supreme Court has interpreted the law (mostly in favor of the taxpayer).

21. For the explanatory memorandum on the junk food tax, see *Gaceta Parlamentaria* 2013.

Congress. They have found that the legislature has enjoyed *slightly more* leverage in budgetary issues as the two congressional chambers have become more plural (Diaz Cayeros and Magaloni 1998; Sour and Munayer 2007; Ugalde 2014). According to the Organization for Economic Cooperation and Development, the legislature's amendments to the budget in recent years add up to an average of 4.8 percent of the total proposed by the executive, which is very low compared to parliamentary regimes but similar to comparable countries like Brazil or Argentina (OCDE 2009, 83). No similar studies have been conducted to measure the impact that a more diverse Congress has had on the revenue law, as this paper does.

I have found that the changes in the revenue law before and after this bill was discussed in Congress are minimal. The comparison between the revenue laws proposed by the executive and the revenue laws approved by Congress[22] between 2000 and 2016 indicate that the legislature has increased tax revenue by 1.1 percent yearly on average. Nevertheless, real tax collection in most years is below what the revenue law stipulates. On average, from 2000 to 2015, tax collection was 2.9 percent lower than projected by revenue laws.

Another way to appreciate the minor role played by legislators is by analyzing the initiatives and changes they proposed. I found that most of these interventions were inconsequential. According to congressional records and the federal gazette during the length of the legislative process, seven tax bills from the Senate and twenty-eight from the Chamber of Deputies were discussed.[23] Out of the thirty-five initiatives in Congress that were discussed, 51 percent were from PAN members, 29 percent from PRD, 11 percent from PRI, and 9 percent from PVEM (the Green Party) members. Most of the tax bills aimed to add tax exemptions or increased deductions to the income and VATs for very specific taxpayers. For instance, (1) income tax deductions on traveling expenses and restaurants were increased, (2) VAT zero tax rate was extended to bulldozers, and (3) investments in real estate in world heritage cities could be deducted from income tax payments. Very few legislators (thirty) made these minor proposals for modifications, which did not alter the executive's initiative in a meaningful way.

The modified draft was passed from the upper to the lower chamber at the end of October 2013. The final vote in the upper chamber approved the 2014 revenue law by 71 votes in favor (59.2

22. Revenue laws proposed and approved are found at SHCP 2000–19.

23. The upper chamber is integrated with 120 members and the lower chamber with 500.

percent) and 45 against, and the lower chamber approved it with 279 in favor (55.8 percent of total deputies) and 136 against. None of the PRI deputies or senators voted against the bill. In contrast, only one PAN deputy voted in favor as the party opposed raising the VAT in the border region and extending the IEPS. The majority in both chambers necessary to pass the bill was achieved through the positive votes of PRI and PRD members alone. The PAN's approval was not necessary to pass the bill, and this party's legislators openly rejected what the executive proposed. The approved law was sent to the executive and published in the *Official Federal Gazette* on November 20, 2013.[24]

Postapproval Executive Decrees Further Favor Business Interests

The mostly invisible period after approval of the tax law in Congress offered a final opportunity for the executive and business to exert influence over the tax law outcome. During this period, through executive decrees, the Ministry of Finance introduced changes that diminished the impact of the new tax law for select contributors. Such "tax expenditures"[25] are a particularly important cause of low tax collection in Mexico. According to the Inter-American Development Bank's study on tax expenditure, Mexico spends more on tax expenditure, relative to GDP, than Argentina, Brazil, Chile, Colombia, and Peru—countries that levy much higher taxes as a percent of GDP (Villela, Jorratt, and Lembruger 2009, 59). Moreover, the amount of resources spent on tax expenditure in Mexico is questionable considering the regressive tendency of these special treatments, tax benefits, and fiscal subsidies.

The Mexican executive has impressive constitutional powers over postlegislative tax policy, including the powers to (1) exempt, totally or partially, from tax payments and to authorize the timing and period of tax payments; (2) rule on tax control, administration procedures, and periods of payment; and (3) establish fiscal subsidies and benefits.[26] Therefore, interest groups continue to lobby with the executive after the revenue law is published. According to the

24. Secretaria de Gobernación, *Diario Oficial de la Federación*, November 20, 2013, https://www.dof.gob.mx/index_113.php? year=2013&month=11&day=20.

25. The Ministry of Finance defines tax expenditures as "fiscal treatments that divert from the federal tax's normal structure considering the in-force tax provisions" (SHCP 2014).

26. Constitutional article 89 I, article 31 IX in the Ley Orgánica de la Administración Pública Federal and article 39 III in the Federation Fiscal Code give the executive such faculty.

lobbyist Rodríguez, it is the strategy of "de lo perdido lo que aparezca" (Interview 8; salvaging gains after a loss). We may expect even greater influence by interest groups during this rather discretionary and opaque executive procedure of modifying minutiae of tax policy, such as deductions and exemptions, which often create loopholes to benefit specific actors (Peters 1991, 12).

According to Rodríguez, at this point business representatives went higher up in the hierarchy; many contacted the president and the treasurer to argue how damaging the new measures would be on different economic sectors and to suggest ways to reduce the impact (Interview 8). Eventually, the executive delivered two decrees, which, according to business lobbyist Ignacio García, were the result of negotiations between their fiscal specialists, the tax administration office, and the Ministry of Finance (Interview 9). Lobbyist Fernando Coronel mentioned that some of the fiscal measures included in the December 2013 decrees were incorporated into the tax law the following year to eliminate the transitory character of the decrees (Interview 10). The timing of these decrees—during winter vacations—appeared to be intentionally selected to avoid public attention.

In the view of private sector lobbyists, "the executive is very clever because once he achieves his aim [referring to the revenue law], he then talks to those affected and through a decree or the fiscal miscellany—not including the legislative, not politicking the issue—the executive can take measures to benefit these groups" (Interviews 8 and 10). Some interviewed deputies and Finance Committee staff described the decrees as complementary to the law, saying that their function was mainly to compensate for the lack of clarity or gaps in the tax laws (Interviews 3 and 7). However, an analysis of the content of these decrees suggests that they constituted much more than an administrative "cleaning up" and were rather designed to compensate specific economic groups.

The two decrees published at the end of December 2013 by the executive were (1) the decree on fiscal subsidies to the manufacturing industry, assembly plants, and exporting companies; and (2) a decree combining several tax benefits and administrative facilities. The former moderated the impact of increasing the VAT from 11 to 16 percent in the border region (Interviews 9 and 10). The latter included some new tax benefits and reinstituted others from previous years. Some of the subsidies from the first decree clearly reduced the impact of tax changes included in the revenue law.[27]

27. For instance, juices and yogurts, regardless of their caloric content, were granted an exemption from VAT. In other words, while these products were newly

In conclusion, the decrees silently changed what had been passed in the legislature and softened the tax reform impact in response to private sector lobbyists. Two deputies publicly disagreed with the decrees and exhorted the executive to inform Congress about the decrees' impact on public revenue. In their opinion, "this tax-concessions package was delivered in an opaque and discretionary context," and "it was unacceptable that the executive did not estimate the costs implied by both decrees to the Ministry of Finance's revenue."[28] According to the deputies, "it was evident that once the tax reform was passed, private sector lobbyists kept pressing the executive; they achieved tax benefits for economic sectors like cargo and passenger transportation, junk food, the mining industry, private schools, and department stores" (Interviews 9 and 10).

The executive, in the *Official Federal Gazette*, justified these decrees on the grounds of economic competitiveness.[29] Unfortunately, there are no studies (or none yet known by this writer) that assess the consequences of these tax benefits. In other words, no accountability in this important policymaking process exists. Moreover, the amount of resources the Ministry of Finance is losing due to the executive's constitutional capacity to define tax administration procedures and to grant tax exemptions, fiscal subsidies, and benefits is not small. Tax expenditure estimations can give us a sense of the amount of resources lost.

Figure 4 shows the estimates on total tax expenditure and composition in Mexico from 2002 to 2019. It includes all types of tax expenditure including those special treatments granted by the executive (like those included in the 2013 decrees) and those granted by the legislature (Villela, Jorratt, and Lembruger 2009, 57). Tax expenditure in 2002 represented 4.4 percent of GDP and increased to 6.3 percent in 2008 (mainly due to the IEPS subsidy on gasoline and diesel, given high international prices). It dropped to 2.8 percent of GDP right after the reform (given that no IEPS subsidy was necessary) and by 2019 had increased to almost 4 percent of GDP. Unfortunately, reports on tax expenditure made by the Ministry of Finance do not provide data about the taxpayers who are subject to

subject to the junk-food tax, their consumers were compensated by not paying the VAT.

28. The initiative to exhort the executive on the decrees was undertaken on January 8, 2014, by Roxana Luna Porquillo and Carol Antonio Altamirano, both PRD members (*Diario de los Debates* 2014).

29. Secretaria de Gobernación, *Diario Oficial de la Federación*, December 26, 2013, https://www.dof.gob.mx/index_113.php? year=2013&month=12&day=26.

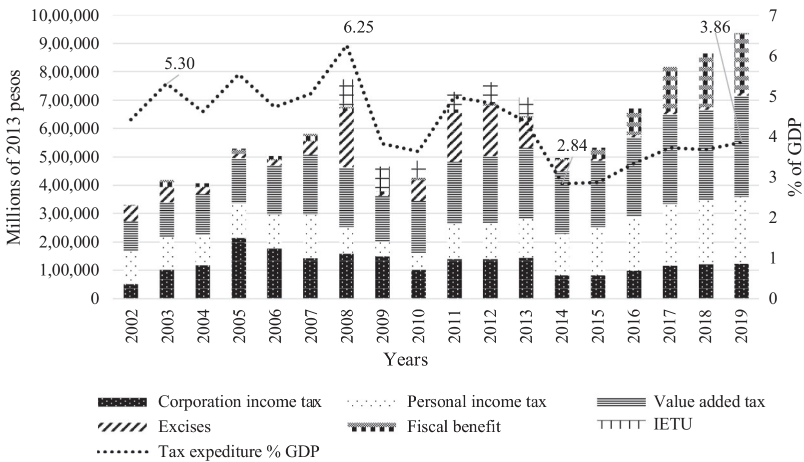

Figure 4. Tax expenditure in Mexico, 2002–19. Source: Own elaboration based on data from the annual reports *Presupuesto de Gastos Fiscales* (SHCP 2002–19).

such special treatments. Moreover, data used in these reports are estimates calculated a year prior to the year reported.

Conclusions

This paper has discussed the scope of Mexico's 2013 tax reform and has analyzed how the reform was modified during three stages: agenda setting, negotiation in Congress, and postapproval executive decrees. The study examines the different actors that tried to influence the tax outcome during these three stages: the Ministry of Finance, members of Congress, and business lobbying groups. It does so employing process tracing to reconstruct the stages of the reform, field interviews with the main actors that shaped the tax-policymaking process, and analysis of fiscal data.

This work's main contribution lies in its comprehensive and close analysis of the decision-making process behind a contentious policy area. It sheds light on executive-legislative relations in a technical realm of policymaking. By doing so, it confirms the subordinated role of the legislative, which has not upgraded its technical capacity to challenge and be able to negotiate with the executive on revenue issues. The minor role played by Congress shows how little things have changed after the transition to democracy in terms of the balance of power between the executive and the legislature. This continued subordination of Congress in tax-policy matters is somewhat

surprising given that it has exhibited a newly found ability to influence fiscal policy on the expenditure side in the period since alternation.

This paper also helps elucidate the role played by business organizations in the tax-policymaking process. The fact that business holds influence over economic policy is not new for Mexico, yet the *ways* in which the private sector exerts this influence have somehow changed. The lobbying industry is relatively nascent in Mexico—having previously been submerged into hierarchical institutions of state corporatism (Luna and Tirado 1992; Grayson 1998; Schneider 2002). The present period displays a diverse set of tools for political influence deployed by business confederations. I uncovered three modes of lobbying: (1) intensive consultation and collaboration with the Ministry of Finance on the design of the proposal; (2) highly public advising of legislators during congressional debate, based on the sharing of analysis gathered by the private sector groups; and (3) behind-closed-doors communications with high-level figures in the executive (including the president) to request decrees granting exemptions.

Despite the encouraging circumstances implied by the Pacto por México, the resulting bill only raised revenue moderately, which I suggest is due primarily to the agenda-setting power of business and only secondarily to the limitations imposed by interparty bargaining in the context of the Pacto por México. Tax collection from 2013 to 2019 increased by 3.6 percent of GDP. However, a third of the increase was due to a non-tax-reform related trend: the transition from a negative collection on the IEPS on gasoline and diesel to a positive one, as shown in figure 1. The rest of the increase was due to higher tax collection of the income tax, VAT, and new excises. However, it is not possible to accurately assess the exact impact of the 2013 tax reform given the lack of disaggregated information. It is unknown, for instance, if the new taxes on dividends and stock exchange profits have yielded results or how much was recouped from limiting tax deductions and cancelling special income tax regimes. Tax opacity, in this sense, obstructs us from assessing the tax incidence implied by the reform. But one thing is very clear: the tax revenue gained after 2013 has perfectly offset the oil-revenue loss resulting from a decline in both international oil prices and PEMEX's oil production, leaving the Mexican government with the same overall fiscal capacity. Thus, we can characterize the reform as an exercise in "changing to remain the same" and squandering a window of opportunity to structurally reform the tax system.

The Ministry of Finance, at the earliest stage of the tax-policymaking process, listened carefully to business sector groups,

which likely communicated the limits posed by capital. In this light, the ministry formulated a proposal to increase tax collection without significantly disrupting the status quo. This stage in the tax-policymaking process appears to be where the main content of the tax reform was determined, confirming that countries with less democratic institutional decision-making structures (like Mexico) are shaped to a greater extent during the agenda-setting stage, away from the eyes of the public. As Deputy Treviño said, “The reforms got to Congress already fully cooked” (Interview 3).

The analysis of the legislative process leads us to conclude that the legislature lacks influence over tax decisions. Congress’s changes to the revenue law have been very small, around 1.1 percent a year from 2000 to 2016. This minor role was reproduced in the 2013 reform, where legislative modifications to the bill were mostly inconsequential. The executive prevails over legislators due to Mexico’s famously strong party discipline—with the president acting as head of the party and because Congress lacks the technical capacity. Such capacity would be particularly necessary in fiscal policy, yet legislators depend greatly on the advice, data, and technical skills of Ministry of Finance staff and the business sector. Upgrading the legislature’s technical expertise is of utmost importance since only then “real and open debates” can help us assess economic policy, “diffuse information among the electorate and enhance accountability, representation and transparency in the process” (Williams 2006, 139).

A final element tilting the balance to the executive is this branch’s extensive constitutional capacities when it comes to tax policy. This branch of government can introduce decrees that end up shaping the tax outcome and are not subject to legislative oversight, as President Peña Nieto did a month after the 2013 revenue law was published. The decrees silently changed what had been passed in the legislature and softened the tax reform impact in response to requests from private sector lobbyists. Moreover, granting tax exemptions, fiscal subsidies, and benefits results in costly tax expenditures, which in 2019 were equivalent to 3.9 percent of GDP. The pay-off of these decrees is questionable in light of Mexico’s historical low tax collection, the tax expenditures’ unknown effectiveness, and the regressive tendency of these special treatments, tax benefits, and fiscal subsidies.

The analysis of the 2013 tax reform shows a legislature with a quite limited voice in tax policy, as opposed to a very powerful executive, which contradicts the healthy balance of power that should exist among branches of government. Moreover, it encourages business groups to direct their heavy lobbying to the

executive. This scenario, in turn, allows business interests to negotiate with the executive away from the public eye, either at the agenda-setting stage or even after congressional approval of the tax bill, given that the president can dictate tax policy by decree.

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