



WAYS AND MEANS

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USMCA Labor Enforcement Mechanism Preserves U.S. Sovereignty

- USTR negotiated a fair, narrow, and transparent rapid response mechanism to hold Mexico accountable for high labor standards and prevent Mexican companies from giving themselves an advantage by permitting poor labor conditions.
- No labor union meddling or harassment is permitted – the U.S. government is in charge of the entire government-to-government process.
- While holding Mexico accountable, USTR achieved important safeguards for our companies.
 - The agreement explicitly provides that NO U.S.-based facility can be subjected to the mechanism UNLESS that company is already in trouble under U.S. law because it is the subject of an adverse National Labor Relations Board order.
 - Agriculture producers are NOT included.
 - The activity that is subject to the rapid response mechanism is limited to collective bargaining, unless a government has already been found to be in violation of another type of labor violation (and in such cases, the availability of the mechanism is limited to two years).
 - While interested parties can petition for action, the complaining government retains the final say in deciding whether to bring a case.
 - Before any process begins, the responding government is to conduct its own review and consultations.
 - If the problem is not remediated, then a rapid response labor panel is formed, made up of three labor experts selected from lists put forward by the U.S. and Mexican governments.
 - There is no broad, surprise inspection conducted by unions or the governments. Instead, the three panelists may conduct announced site visits, and a facility may refuse a site visit, although the panel will take that fact into account.
 - If a violation is found, there is ample opportunity to mitigate before remedies are applied.
 - The remedy for the first violation is limited to fines on the company for the goods produced in the facility and a loss of the USMCA tariff elimination benefit.
 - If there is a second violation, then those same penalties can be assessed against the company's parent and affiliates, but only if the entire process is completed from start to finish.
 - If there is a third violation, the goods in question can be blocked at the border, but only if the entire process is completed a third time.
 - Any remedy must be lifted immediately upon remediation by the company.