

ORIGINAL ARTICLE

# The Rapid Response Labor Mechanism of the US–Mexico–Canada Agreement

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## Abstract

The US–Mexico–Canada Agreement (USMCA) introduced a new compliance institution for labor rights in trade agreements: the facility-specific Rapid Response Labor Mechanism (RRM). The RRM was developed to tackle one particular thorn in the side of North American integration – labor rights for Mexican workers – as it had had detrimental, long-term political–economic consequences for the US–Mexico trade relationship. This article reviews the unique political–economic moment in the United States and Mexico that prompted the creation of this tool. It describes how the RRM works and the considerable financial and human resources the US and Mexican governments deployed to operationalize it. The article then reports a number of stylized facts on how governments used the RRM during its first three years, largely in the auto sector. It proposes paths of potentially fruitful political–economic research to aid understanding of the full implications of the RRM and concludes with preliminary lessons as well as a discussion on the potential for policymakers to assess facility-specific mechanisms for labor or other issues, such as the environment, in future economic agreements.

**Keywords:** USMCA; RRM; labor; auto industry; unions; collective bargaining; dispute resolution

**JEL code:** F13

## 1. Introduction

In 2019, US Congressional Democrats announced the creation of a new tool – the facility-specific Rapid Response Labor Mechanism (RRM) – in the revised North American Free Trade Agreement (NAFTA), known in the United States as the US–Mexico–Canada Agreement (USMCA). The RRM allows a government to take action against a worksite in another country if it believes that workers are being denied their right to organize and bargain collectively. The inclusion of the RRM was seen as the primary reason for the broad bipartisan support the USMCA garnered. It was seen as the commencement of a new era for trade and an important step forward for progressives – who had been increasingly critical of US trade agreements – as even organized labor in the United States supported the USMCA.

This article investigates the RRM and is organized as follows. Section 2 begins with an outline of the political–economic events in the United States and Mexico that led to the countries agreeing to this unique tool. It describes the importance of the North American automotive supply chain and the sector’s protests that drove the Trump administration’s renegotiation of the NAFTA, which led to the birth of the RRM.

Section 3 reviews the underlying problems the RRM is purportedly designed to tackle: the inability of Mexican workers to unionize and bargain collectively to overcome monopsony power. It explains

the importance of Mexico's labor reform to the renegotiation of the NAFTA and to the first few years of the USMCA, a reform process that policymakers could ultimately use the RRM to support.

Section 4 describes how the RRM works and analyzes the penalties the RRM sets out that may incentivize actors in Mexico that otherwise may be reluctant to go along with the labor reforms. It also documents the considerable financial and human resources the US and Mexican governments have deployed to operationalize the RRM and complement the Mexican government's own efforts on labor reform. To the extent that the RRM improves political support for open trade between the two countries, the process and the expenditures share some similarities with policies of trade facilitation.

Section 5 presents some stylized facts on the RRM during its first three years. The RRM started slowly, with the US government investigating situations at just ten different facilities in Mexico during this period. Unsurprisingly, most of these investigations were of the automotive sector. Nevertheless, there were some interesting and important differences across the situations.

The last two sections look to the future. Section 6 turns to the political-economic literature on trade agreements and issue linkages and proposes additional research needed to understand the implications of the RRM, including the need to assess its impact on workers and Mexican suppliers at facilities affected and those unaffected by RRM situations. Section 7 draws on lessons learned so far and examines the potential for transposing facility-specific RRM-like structures for labor or other areas, such as the environment, into future economic agreements.

## 2. US Origins of the Rapid Response Labor Mechanism

Reaching agreement on the RRM required a perfect storm of political-economic events in the United States. These events included the election of Donald Trump in 2016; the unique way and position through which the Trump administration was able to renegotiate the NAFTA, including its timing with respect to the election calendars in both Mexico and the United States; and the way Democrats in the US Congress renegotiated the USMCA after Trump's deal arrived at their door.

### 2.1 Candidate Trump and the Anti-NAFTA Campaign

Candidate Donald Trump demonized Mexico during the 2016 presidential campaign. His nativist approach began the day he kicked off his bid, in June 2015, with 'They're bringing drugs. They're bringing crime. They're rapists.'<sup>1</sup> His approach stoked fear over migrants crossing the southern border. He pledged to build a wall to stop them, which, he assured voters, Mexico would pay for, and he promised a massive new deportation program.

During the 2016 campaign, Trump also ran against trade with Mexico and against the NAFTA, which he called the 'worst trade deal ever.'<sup>2</sup> He targeted American automakers. In April 2016, when Ford announced it was building a new assembly plant for small cars in Mexico, Trump stated that this 'is an absolute disgrace' and predicted that such investments in Mexico by American companies would continue 'until we can renegotiate NAFTA to create a fair deal for American workers'.<sup>3</sup>

<sup>1</sup>K. Reilly (2016) 'Here are All the Times Donald Trump Insulted Mexico', *Time*, 31 August.

<sup>2</sup>Trump also claimed the World Trade Organization was 'the single worst trade deal ever made' (J. Micklethwait, M. Talev, and J. Jacobs (2018) 'Trump Threatens to Pull US Out of WTO If It Doesn't "Shape Up"', *Bloomberg*, 30 August; 'China's Entrance into the World Trade Organization Has Enabled the Greatest Jobs Theft in History: Full transcript: Donald Trump's Jobs Plan Speech', *Politico*, 28 June 2016). Even 'the European Union treats us, I would say, worse than China, they're just smaller' (R. Rampton, 2019), 'Trump Says EU Treats US Worse than China Does on Trade', *Reuters*, 17 May).

<sup>3</sup>D. Shepardson and B. Woodall (2016) 'Trump Calls Ford Building Plant in Mexico "an Absolute Disgrace"', *Reuters*, 5 April. Anti-free trade talk is, of course, not new. In the 1990s, presidential candidates Ross Perot and Pat Buchanan ran on anti-NAFTA platforms. The main difference in 2016 was the success of the candidate at winning the election and getting the chance to implement such policies.

Trump best played on American fears about the NAFTA when Carrier, a US-headquartered company that produced air conditioners and furnaces, announced plans in February 2016 to close a unionized plant in Indiana and open a new factory in Mexico. Trump made the company a pariah. He inserted Carrier into his stump speech, naming and shaming and threatening the company on the campaign trail for months. If elected, Trump promised, ‘I will call the head of Carrier and I will say, “I hope you enjoy your new building. I hope you enjoy Mexico. Here’s the story, folks: Every single air conditioning unit that you build and send across our border – you’re going to pay a 35% tax on that unit.”’<sup>4</sup>

Trump exploited the narrative through the election, waiting until after 8 November to cut a deal. The chief executive of United Technologies (Carrier’s parent), Trump, and his vice president-elect, then-Indiana governor Mike Pence, worked out a face-saving arrangement through which, in exchange for \$7 million of state subsidies, Carrier would keep the Indiana plant open but still lay off half of the facility’s 1,350 workers.<sup>5</sup> When Trump oversold the benefits of the deal publicly, the president of the local union representing Carrier workers called him out. Trump retaliated on Twitter with ‘Chuck Jones, who is President of United Steelworkers 1999, has done a terrible job representing workers. No wonder companies flee the country!’<sup>6</sup>

## 2.2 The NAFTA on the Chopping Block to Fix the Trade Deficit

As promised during his campaign, on Trump’s first Monday as president, he pulled the United States out of the Trans-Pacific Partnership (TPP) Agreement – an agreement the Obama administration had signed with Mexico and ten other countries in February 2016 but that had been stuck in limbo, with Congressional leaders refusing to put it to a vote.

Trump’s approach to US trade policy, including toward Mexico, would be nontraditional and confrontational. His administration announced its intention to renegotiate the NAFTA in May 2017, releasing a set of negotiating objectives in July.

Trump’s negotiations began from a place of disappointment and grievance. The preamble of the negotiating objectives document stated:<sup>7</sup> ‘Since the deal came into force in 1994, trade deficits have exploded, thousands of factories have closed, and millions of Americans have found themselves stranded, no longer able to utilize the skills for which they had been trained ... In June 2016, then-candidate Donald J. Trump made a promise to the American people: He would renegotiate NAFTA or take us out of the agreement.’

Trump was not interested in achieving a mutually beneficial outcome for the United States, Canada, and Mexico. To Trump, trade was a zero-sum game. His goal was not the traditional one of reducing trade barriers, increasing economic efficiency, and growing a larger economic pie for the three countries to share. His intent was to shift a larger share of the pie toward the United States, even if the size of the pie shrank.

Such an approach in trade negotiations has historically been difficult to pull off. When the negotiating starting point already had high trade barriers, unconstrained by an agreement, raising them further was often an idle threat. Put differently, countries could always choose not to participate in a trading partner’s proposed deal if they would not gain from it.

That was not the starting point with the NAFTA in 2017. The three countries began with policies of nearly free trade toward each other and considerable asymmetry in the sizes of their economies and their resulting trade dependencies. The implication was that Trump could make the Mexican and Canadian economies worse off by raising trade barriers in ways that would hurt the United States but by less than it would hurt its partners. He often threatened to do so by

<sup>4</sup>J. Fechner (2016) ‘Fact-Checking Donald Trump’s Carrier Claims’, WRTV Indianapolis, 2 March.

<sup>5</sup>N.D. Schwartz (2018) ‘At Carrier, the Factory Trump Saved, Morale Is through the Floor’, *New York Times*, 10 August.

<sup>6</sup><https://twitter.com/realDonaldTrump/status/806660011904614408?s=20>.

<sup>7</sup>USTR (2017) ‘Summary of Objectives for the NAFTA Renegotiation’, 17 July. For an early review of the negotiating objectives, see Lester and Manak (2018).

ripping up the NAFTA, including in the negotiations objective preamble.<sup>8</sup> He also did so through specific trade policy actions described in more detail below.

In August 2017, the three countries began negotiating, aiming to reach a new deal by December. By October, after four rounds of talks, it had become clear that the governments were not on the same page, and negotiations were halted. Trump's US Trade Representative (USTR), Robert Lighthizer, said 'Frankly, I am surprised and disappointed . . . . We have seen no indication that our partners are willing to make any changes that will result in a rebalancing and a reduction in these huge trade deficits.'<sup>9</sup>

### 2.3 Autos at the Center of Trump's Trade Deficit Policy

The Trump administration's overarching trade policy goal was to reduce America's trade deficit. Mexico had the second-largest bilateral trade surplus with the United States,<sup>10</sup> and to Trump, the fault rested with the auto sector. In 2016, Mexico exported \$293.5 billion of goods to the United States and imported only \$230.2 billion, a \$63.3 billion difference. For autos, US imports from Mexico were \$64 billion larger than US exports, leading Trump's Commerce Secretary, Wilbur Ross, to argue in a *Washington Post* op-ed that 'the United States would enjoy a trade surplus with its NAFTA partners were it not for the trade deficit in autos and auto parts'.<sup>11</sup>

Trump's objective was political, as there is no well-accepted economic reason for policymakers to focus on bilateral trade balances overall, let alone balanced trade within a sector. Moreover, Trump was looking only at the bilateral trade deficit defined in terms of gross trade flows which do not account for the fact that, for example, an American-made auto part may cross a border multiple times before being embedded in the final vehicle assembled in Mexico being exported back to the United States. When the US trade deficit with Mexico was measured in value-added terms – taking into consideration the fact that much of the final value of a good imported from Mexico was US content embedded in that export – the bilateral deficit was considerably smaller (Johnson and Noguera, 2012). Furthermore, Mexican customs data showed that the share of US content in imported Mexican manufactures was 30% – much larger than Ross's estimate of 18% (de Gortari, 2017).

The Trump administration was channeling a narrative of decline within the massive, multi-decade transformation of the American automobile industry, including during the NAFTA period, even though the beginnings of that transformation predated the NAFTA by years. The challenges facing America's unionized autoworkers also reflected economic shifts taking place within the United States. In the 1950s and 1960s, America's Big Three automakers – Ford, General Motors (GM), and Chrysler<sup>12</sup> – were at the center of the world's new automobile industry, making cars for the growing middle class, with the United Auto Workers (UAW) union at its core.

Many changes took place in the following decades – and much of the change was painful for American automakers and the UAW. The European and Japanese manufacturing economies had

<sup>8</sup>Trump also threatened to rip up the US agreement with South Korea (D. Paletta (2017) 'Trump Preparing Withdrawal from South Korea Trade Deal, a Move Opposed by Top Aides', *Washington Post*, 2 September).

<sup>9</sup>USTR (2017) 'Closing Statement of USTR Robert Lighthizer at the Fourth Round of NAFTA Renegotiations', 17 October.

<sup>10</sup>The overriding objective for the Trump administration was to 'reduce the trade deficit with the NAFTA countries' (USTR (2017) Summary of Objectives for the NAFTA Renegotiation, 17 July).

<sup>11</sup>W. Ross (2017) 'These NAFTA Rules are Killing Our Jobs', *Washington Post*, 21 September. See also Flatness and Rasmussen (2017). Despite Trump's renegotiation (the details of which are described below), these numbers are little changed. The bilateral goods trade deficit with Mexico in 2021 was \$106 billion, and the deficit in the auto sector alone had grown to \$80 billion ([www.trade.gov/automotive-trade-data](http://www.trade.gov/automotive-trade-data)).

<sup>12</sup>Chrysler was founded in 1925. It was acquired by Daimler-Benz (renamed Daimler-Chrysler) in 1998. Daimler divested Chrysler in 2007. The stand-alone company filed for Chapter 11 bankruptcy protection in 2009, during the global financial crisis, when the US government bailed it out. Fiat acquired the company in 2014, making it a subsidiary of Fiat Chrysler Automobiles (FCA). In 2021, FCA merged with Peugeot Société Anonyme (PSA Group) and was renamed Stellantis, with Chrysler a subsidiary.

recovered quickly from the devastation of World War II, creating successful auto industries of their own. In the 1970s, OPEC weaponized oil supplies, causing US gasoline prices to spike and long lines to form at gas stations. US automakers – which had mainly developed large gas guzzlers – were caught flatfooted in the face of a large shift in American consumer demand. The result was a surge of imports from Japan of smaller, fuel-efficient, and less expensive cars. Chrysler nearly went bankrupt in 1979 and required a federal bailout.

In 1981, the United States demanded that Japanese automakers voluntarily restrain their export penetration into the US market. Those voluntary export restraints only accelerated the decision by Japanese automakers to build plants in the United States to produce locally for American consumers. With those plants, Japanese car companies such as Honda, Toyota, and Nissan created tens of thousands of American jobs. The first plant, churning out Honda Accords, was located not far from Detroit, in Marysville, Ohio. But most of the new plants from Japanese and then European automakers were located in southern states: Tennessee, Kentucky, Alabama, Georgia, and South Carolina – the right-to-work states in which most of the new workers were not unionized, to the frustration of the UAW.<sup>13</sup> Much of this new local competition for the Big Three and their unionized workforces thus pre-dated the NAFTA, which came into force in 1995.

Total vehicle production at US plants actually increased by 2.4 million units between 1990 and 2016 – roughly the NAFTA period – but that growth often arose far away from Detroit.<sup>14</sup> Over time, assembly plants and many of the auto parts suppliers in the United States became clustered around a North–South corridor referred to as ‘auto alley’, defined as the area within 100 miles of US interstate highways I-65 and I-75 (Klier and Rubenstein, 2008). In part, the alley emerged to accommodate just-in-time suppliers shipping parts to multiple plants (often run by different automakers) and to minimize the cost of transporting finished vehicles to American consumers.

At the same time, the North American automotive supply chain deepened into Mexico. By 2016, Mexico was making 19.5% of all light vehicles assembled in North America, up from 6.5% in 1990. Mexican production thus accounted for about half of the 5.5 million unit increase in light vehicles produced in North America over this period.

These plants and their supply chains were doing more than simply assembling cars for sale into the United States. By 2016, Mexico had signed trade agreements with 16 countries that gave it potentially tariff-free access to 47% of the global new vehicle market and likewise gave those countries duty-free access to the Mexican market (Swiecki and Maranger Menk, 2016). From the US perspective, one fear was that Mexico’s reduction in trade barriers toward the rest of the world meant that parts that did not originate in North America – especially parts imported into Mexico from China, which had a growing auto sector of its own – would find their way into vehicles being assembled in Mexico for sale in the United States, further squeezing out American parts suppliers.

The automotive sector was thus important economically and politically to both countries at the time of the NAFTA renegotiations. Combining assembly and parts, autos made up a disproportionately large share (26%) of Mexico’s manufacturing exports to the world, even though they accounted for just 3.5% of Mexico’s GDP.<sup>15</sup> Roughly 830,000 people worked in Mexico’s automotive sector, about 2% of Mexico’s total employment in 2016.<sup>16</sup> By comparison, the United States employed 806,000 workers in the sector. Although they represented only 1% of the American

<sup>13</sup>Right-to-work laws make it legal for workers who are protected by a union contract to opt out of paying membership dues, which unions often argue erodes worker rights by hurting unionization (UAW, 2015, ‘Major Laws Affecting Working People’, October).

<sup>14</sup>See Klier and Rubenstein (2017, Table 1). This section describes key facts about the automobile sector across North America at the time NAFTA was being renegotiated and draws heavily from Klier and Rubenstein (2017).

<sup>15</sup>Instituto Nacional de Estadística y Geografía (2018) ‘Conociendo la Industria automotriz’, November.

<sup>16</sup>Data from INEGI (Instituto Nacional de Estadística y Geografía [National Institute of Statistics and Geography]), [www.inegi.org.mx/sistemas/bie/](http://www.inegi.org.mx/sistemas/bie/).

workforce, autoworkers held roughly 7% of US manufacturing jobs, and policymakers had worried about declining US manufacturing employment for decades.<sup>17</sup>

Comparative advantage was responsible for some of the fragmentation of the automotive supply chain and its geographic reallocation of segments into Mexico. For example, wage costs were significantly lower in Mexico. Estimates available at the time of the NAFTA renegotiation suggested that Mexican wages in assembly averaged about one fifth of US levels, whereas Mexican wages in auto parts manufacturing were only about one-eighth as high, with the resulting difference in labor costs averaging \$674 per car (Swiecki and Maranger Menk, 2016). Some of those labor cost differences reflected not productivity differences but differences in worker rights and collective bargaining power that trace back to concerns with Mexico's labor laws and their enforcement, as detailed below.

#### 2.4 Getting to 'Yes' on the USMCA

At the time of the renegotiations, automakers were fairly content with the NAFTA; they organized politically to try to fight the Trump administration's proposals.<sup>18</sup> The industry argued that Trump's proposed new rules would raise their costs – and hence prices for American consumers – and make the North American industry less competitive globally.

The original US proposals for renegotiating the NAFTA were extreme. For autos, the Trump administration reportedly wanted to raise the regional content requirement from 62.5% to 85%.<sup>19</sup> Stressing America first, Trump also wanted an unprecedented US-specific content requirement of 50%. The administration also proposed a five-year sunset clause for the agreement, which would reduce certainty for firms investing in Mexico regarding their future duty-free access to the US market.

US trading partners were troubled by these early proposals. Canada's foreign minister and chief negotiator, Chrystia Freeland, called Trump's requests 'unconventional', indicating that they would 'turn back the clock on 23 years of predictability'.<sup>20</sup>

In the following months, the Trump administration turned to credible threats that the alternative for Canada and Mexico was something worse and to actions that would punish their economies in ways that went beyond the threatened withdrawal from the NAFTA (Table 1 shows the chronology of events). In June 2018, Trump imposed tariffs on steel and aluminum from Canada and Mexico. (From March to May of 2018, Canada and Mexico had been given a chance to negotiate a quick resolution to the NAFTA on Trump's terms, but they did not accept.<sup>21</sup>) The move was costly for Canada, Mexico, and the United States, both economically and politically. The American aluminum industry association came out against the tariffs, as the sector was highly integrated across North America, with primary aluminum smelted in Canada sent downstream to US factories to make refined aluminum products.<sup>22</sup> The United Steel Workers (USW) union argued against imposing steel tariffs on Canada because the union represented workers at plants in both countries.<sup>23</sup>

The Trump administration then turned to automobiles. In late May 2018, the Commerce Department began an investigation that threatened tariffs on autos and auto parts. The self-inflicted harm of the steel and aluminum tariffs showed partners that Trump was serious about redistributing the economic pie toward the United States, even if it meant shrinking it for everyone. US tariffs on automobiles were a much bigger economic threat. Canadian and Mexican exports of

<sup>17</sup>Data are from the US Bureau of Labor Statistics.

<sup>18</sup>D. Shepardson (2017) 'Auto Industry Tells Trump "We're Winning with NAFTA"', *Reuters*, 24 October.

<sup>19</sup>J. Leonard (2017) 'Sources: USTR to Demand 50 Percent US Content in NAFTA Auto Rules of Origin', *Inside US Trade*, 5 October.

<sup>20</sup>K. Harris (2017) 'Freeland Calls US NAFTA Demands "Troubling" and "Unconventional"', *CBC News*, 17 October.

<sup>21</sup>A. Swanson (2018) 'White House to Impose Metal Tariffs on EU, Canada and Mexico', *New York Times*, 31 May.

<sup>22</sup>D. Wiener-Bronner (2018) 'Big Aluminum Says the Aluminum Tariff Won't Work', *CNN Business*, 7 March.

<sup>23</sup>USW (2018) 'USW: Canada Must Be Exempt from Tariffs', Press release, 31 May.

**Table 1.** Timeline of the US–Mexico–Canada agreement, the rapid response labor mechanism, and Mexico’s labor reform agenda

Date	Event
8 November 2016	Donald J. Trump elected president of the United States.
20 January 2017	Trump inaugurated as president of the United States.
17 July 2017	United States releases objectives for renegotiating the NAFTA.
16 August 2017	United States, Canada, and Mexico start negotiations on revised trade agreement.
17 October 2017	After four rounds of negotiation, United States, Canada, and Mexico abandon a December target for completion of negotiations and extend talks into 2018.
23 March 2018	Trump administration imposes tariffs on imports of steel and aluminum under Section 232 of the Trade Expansion Act of 1962. Canada and Mexico are granted temporary reprieve, pending Trump’s review of the NAFTA renegotiations.
23 May 2018	Trump administration launches Section 232 investigation into whether imports of autos and parts, including from Canada and Mexico, threaten national security.
1 June 2018	Trump extends 23 March tariffs on steel and aluminum to imports from Canada and Mexico. Canada and Mexico immediately retaliate with tariffs.
1 July 2018	Andrés Manuel López Obrador elected president of Mexico.
27 August 2018	United States and Mexico announce agreement for a revised NAFTA.
30 September 2018	United States and Canada announce agreement for a revised NAFTA.
6 November 2018	In midterm elections, Democrats win control over US House of Representatives.
23 November 2018	Mexico deposits with the International Labor Organization the instrument of ratification of the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), after its Senate votes to ratify the Convention.
1 December 2018	López Obrador inaugurated as president of Mexico.
1 May 2019	Mexico amends its Federal Labor Law to implement its constitutional reforms and provisions alongside USMCA Article 23 and Annex 23-A.
17 May 2019	United States, Canada, and Mexico reach agreement for United States to change its import tariffs on Canadian and Mexican steel and aluminum to voluntary export restraints. Canada and Mexico remove their retaliatory tariffs.
30 May 2019	Trump threatens Mexico with tariffs escalating to 25% under the International Emergency Economic Powers Act if Mexico does not address border crisis.
7 June 2019	Trump suspends his scheduled tariffs on Mexico related to border crisis.
13 June 2019	US Speaker of the House of Representatives Nancy Pelosi announces formation of a USMCA working group.
10 December 2019	Deal announced between Congressional Democrats, the Trump administration, and Mexico on additional tweaks needed to pass USMCA, including the RRM.
19 December 2019	US House of Representatives votes 385–41 to pass the USMCA.
16 January 2020	US Senate votes 89–10 to pass the USMCA.
29 January 2020	President Trump signs the USMCA into law.
11 March 2020	World Health Organization declares COVID-19 a pandemic.
1 July 2020	The USMCA, including the Rapid Response Labor Mechanism (RRM), enters into force.
3 November 2020	Joseph R. Biden, Jr. elected president of United States (election called 7 November).
20 January 2021	Biden inaugurated as president of United States.

*(Continued)*

Table 1. (Continued.)

Date	Event
10 May 2021	First (known) petition filed with US government under the RRM concerning a Tridonex facility in Matamoros, Tamaulipas, Mexico
12 May 2021	US Trade Representative (USTR) initiates first RRM request for Mexican government to examine whether workers at GM plant in Silao were denied right of free association and collective bargaining.
1 May 2023	Deadline for Mexico to legitimate all existing collective bargaining agreements with at least one new vote.

steel and aluminum to the United States were only about \$15 billion annually. Their combined exports to the US of automobiles and parts were over ten times that, at \$160 billion.<sup>24</sup>

These economic threats arrived on Mexico's doorstep at the moment of a national election. On 1 July 2018, Andrés Manuel López Obrador was elected president, with 53% of the popular vote. It soon became clear that he wanted an agreement in place on a new NAFTA before taking office on 1 December. Legal calendars surrounding the approval of the deal in the US Congress meant the deadline for its conclusion had to be the end of August. The United States and Mexico pushed Canada to the side and began negotiating bilaterally, thus reaching agreement in August. With the new bilateral deal with Mexico within reach, Trump once again threatened to terminate the NAFTA and implement a tariff on auto imports from Canada.<sup>25</sup> One month later, Canada signed as well.

The USMCA that was sent to Congress differed from the NAFTA in several important ways. As Trump wanted, it included more restrictive rules of origin for the automotive sector. Although the initial US proposals were scrapped, the regional content provisions increased from 62.5 to 75%. Furthermore, at least 40% of the value of North American content had to be manufactured with wages of \$16 an hour or more. This requirement likely ensured that more content was from the United States (or Canada), as wages in Mexico were much lower. Next, more expansive binding state-to-state dispute settlement provisions for labor and environment were added. Finally, Article 32.10 allowed any country to terminate the agreement if either of the other partners signed a free trade agreement with a non-market economy (i.e., China).

Trump's threat of tariffs on Mexican and Canadian autos was sufficiently credible that both countries also negotiated side letters – getting the administration to allow a certain import volume annually before the tariffs would kick in – in the event that the United States followed through with the auto tariffs that remained under threat.

Such was the initial 2018 agreement that Trump sent to Congress. But House Democrats had made clear that Trump's USMCA was insufficient. Rep. Sander Levin (D-MI), former Chair of the House Ways and Means Committee, said that the labor provisions in the deal would garner little if any Democratic support for votes in the House.<sup>26</sup> Democrats wanted more, in part because of discontent over the perceived failure of labor provisions and enforcement mechanisms in US free trade agreements preceding the USMCA.

The original NAFTA renegotiations had begun within months of a final decision by the only arbitral panel constituted under a US trade agreement to address labor matters. The United States lost the case, which it had brought over Guatemala's failure to effectively enforce its labor laws in a process that had begun more than a decade earlier (Claussen, 2020). This protracted enforcement exercise prompted the emphasis on *rapid* response in the development of a new tool to combat labor violations.

<sup>24</sup>Data from Commerce Department.

<sup>25</sup>B. Fortnam (2018) 'Trump Says He Will Terminate NAFTA in Light of Deal with Mexico', *Inside US Trade*, 27 August.

<sup>26</sup>I. Hoagland (2018) 'Levin: Little Chance of Dem Support for Labor Provisions in Mexico Deal', *Inside US Trade*, 30 August.



### 2.5 How House Democrats Added the RRM

In November 2018, the Democrats won back control of the House of Representatives. The Trump administration would need to engage in bipartisanship to approve the USMCA. It took over a year before Congress finally agreed to do so.

Before the House would take up the USMCA, the Republican-controlled Senate had to work through its main objections. Senator Chuck Grassley (R-IA) indicated that the Senate would not consider passing the USMCA until Canada and Mexico removed their retaliatory tariffs on American agriculture exports. Canada and Mexico said that they would not do so unless Trump removed his steel and aluminum tariffs on their exports. Only in May 2019 did the United States, Canada, and Mexico agree to remove those tariffs so that the deal could push ahead.<sup>27</sup>

In mid-June, House Speaker Nancy Pelosi set up a USMCA working group with eight Democrats under Ways and Means Chairman Richard Neal (D-MA) to address four main issues: labor, the environment, enforcement, and drug pricing.<sup>28</sup> (Katherine Tai, who would become the US Trade Representative under the Biden administration, was Chief Trade Counsel on the Ways and Means Committee.)

On 10 December 2019, Congressional Democrats announced a deal on a set of amendments to the 2018 version of the agreement that would secure enough support to approve the USMCA.<sup>29</sup> The most substantive change was the creation of the RRM. It was important politically because it caused significant groups of organized labor to support a US trade agreement for the first time.<sup>30</sup> AFL-CIO President Richard Trumka, stated ‘I am grateful to House Speaker Nancy Pelosi and her allies on the USMCA working group, along with Senate champions like Sherrod Brown and Ron Wyden, for standing strong with us throughout this process as we demanded a truly enforceable agreement.’<sup>31</sup>

The UAW was more circumspect. It neither rejected nor endorsed the deal, emphasizing the need for enforcement. ‘USMCA will not bring back the hundreds of thousands of good US manufacturing jobs that have already been shipped to Mexico’, it noted. ‘We will be watching. We will be aggressive in pushing for enforcement of provisions. And we are under no illusion that this revised agreement alone will restore America’s middle-class manufacturing base.’<sup>32</sup>

The USMCA Implementation Act passed with overwhelming bipartisan majorities in both the House (385–41) on 19 December 2019, and the Senate (89–10) on 16 January 2020. On 29 January 2020, President Trump signed it into law; on 1 July 2020, the agreement came into force.

## 3. The Rapid Response Labor Mechanism from the Perspective of the Mexican Labor Reform Movement

For Mexico, getting the RRM required its own perfect storm of political–economic events. One was the timing of the Mexican presidential transition. Another was the decision to focus on the

<sup>27</sup>To offset any domestic political concerns that his administration might be looking soft on Mexico, in late May 2019 Trump threatened Mexico (under the International Emergency Economic Powers Act [IEEPA]) with 25% tariffs unless it fixed the migration crisis at the southern border, where he was also building a wall. On 7 June, Trump called off the tariffs after Mexico agreed to increase enforcement against ‘irregular migration’.

<sup>28</sup>J. Sherman (2019) ‘Pelosi Names Members of Key Trade Working Group’, *Politico*, 13 June.

<sup>29</sup>M. Cassella (2019) ‘“We Ate Their Lunch”: How Pelosi Got to “Yes” on Trump’s Trade Deal’, *Politico*, 10 December.

<sup>30</sup>See also USW (2019) ‘USW Supports Adoption of Improved USMCA’, 10 December; International Brotherhood of Teamsters (2019) ‘Teamsters Union Supports Improved USMCA’, News release, 18 December.

<sup>31</sup>AFL-CIO (2019) ‘AFL-CIO Endorses USMCA after Successfully Negotiating Improvements’, Press release, 10 December.

<sup>32</sup>UAW (2020) ‘UAW Statement on Signing of the USMCA’, 29 January. The UAW had long recognized the underlying problem with Mexico’s labor laws: ‘We will also fight to make sure Mexico fully implements its labor law reforms and puts an end to company unions and sham contracts that pave for US companies to send jobs south of the border’ (‘Statement of the UAW on USMCA’, 11 December, 2019).

lack of democratically elected unions as a major source of the problem holding back Mexican workers, who had long suffered from low wages, long hours, and hazardous working conditions (OECD, 2019). Their economic livelihoods had failed to significantly improve despite the opportunities presented by Mexico opening up to the global economy when it joined the General Agreement on Tariffs and Trade (GATT) in 1986 and integrating supply chains with the United States and Canada more closely under the NAFTA.

To some observers, the longstanding structural problem – which would become the RRM’s main target – was Mexico’s ‘protection contracts’. Mexico had a long history of collusion against worker rights. Labor advocates argued that ‘since the 1940s, government officials, employers, and the ‘official’ unions have colluded to prevent strikes, keep down wages, and to fire workers who stood up for their rights all for the purpose of encouraging foreign investment’ (Alexander and LaBotz, 2014, 49). Areas of Mexico were dominated by corporatist or state-controlled unions, such as the Confederation of Mexican Workers (CTM).

Some labor scholars saw the Mexican government as complicit in allowing sham unions to masquerade as representing workers and to sign collective bargaining agreements that were unfavorable to their workers’ own interests. These ‘protection unions’ would negotiate ghost contracts with firms without the participation of the workers they were supposed to represent (Department of Labor, 2019; Santos, 2019b). The underlying problem was well documented, including by the International Labor Organization (ILO) and the US government.<sup>33</sup>

Under outside pressure, the Mexican government had promised to undertake labor reforms on numerous occasions, especially during the US-led negotiations of the Trans-Pacific Partnership Agreement (TPP). However, when the Trump administration pulled the United States out of the TPP, domestic progress on labor reform in Mexico once again stalled (Santos, 2019a; LeClercq and Curtis, 2021).

In 2017, Mexico adopted a constitutional reform intended to transform its labor justice system. In 2018, it ratified the ILO Convention on the Right to Organize and Collective Bargaining. As required by the USMCA (November 2018 version), in May 2019 Mexico enacted amendments to its Federal Labor Law to implement its constitutional reforms of 2017. The overhaul included changes to its domestic institutions for registering unions and resolving labor disputes. The Mexican government also appropriated over \$70 million to implement the new labor courts, inspectors, and other administrative bodies that would form its new labor justice administration (Department of Labor, 2019).

With the Federal Labor Law, and as required by the USMCA, Mexico established a four-year transition that set 1 May 2023 as the deadline for full implementation of its reforms. Full implementation could have meant that all of Mexico’s estimated 139,000 existing collective bargaining agreements would need to be voted on by workers at least once by that date, which in some instances would require voting out an existing protection union, voting in a new union, and having the employer and the Mexican government recognize the new union.<sup>34</sup> Throughout this period, some saw the RRM as a way to use external enforcement – e.g., naming and shaming firms, backed by US trade sanctions – to complement the Mexican government’s own reform efforts to empower workers to navigate this new system.

<sup>33</sup>See International Labour Organization, ‘CEACR, Observation, Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), Mexico (Ratification: 1950)’, adopted 2017, published 107th ILC session, 2018; US Department of State, *Mexico 2017 Human Rights Report*; and Labor Advisory Committee on Trade Negotiations and Trade Policy, *Report on the Impacts of the Renegotiated North American Free Trade Agreement*, 27 September 2018. See also IMLEB (2020, 2021).

<sup>34</sup>As of the deadline, only 17,098 of the estimated 139,000 collective bargaining agreements had been legitimated. They covered 4 million workers, an estimated 87% of the 4.6 million union members in Mexico. See <https://reformalaboral.stps.gob.mx/#container2> (accessed 23 July 2023). According to IMLEB (2023), unions represent about 21.3% of Mexico’s 21.6 million formal sector workers and 9.7% of the total workforce of 47.4 million.

## 4. Explaining the Rapid Response Mechanism

The RRM is a facility-specific mechanism that seeks to address violations of freedom of association laws and rights. If, for example, the US government believes that workers at a facility in Mexico are being denied the right to bargain collectively, it can take punitive action against the facility (Claussen, 2019). The belief must relate to a ‘covered facility’ – a plant producing for export or that competes with exports in a ‘priority sector’, defined as one that produces manufactured goods, supplies services, or involves mining.

The typical situation to emerge is a denial of rights at a plant in Mexico initiated by the US government under the bilateral US–Mexico RRM (there is also a Canada–Mexico RRM).<sup>35</sup> Although it is reciprocal in its commitments, facilities in the United States and Canada are largely shielded from Mexico’s review, as a result of a limiting condition on the eligibility of those facilities for consideration in the agreement text.<sup>36</sup>

### 4.1 How the RRM Can Work

Under the RRM, any individual, group, or government can file a petition with the US government; the US government can also initiate an investigation into potential situations at a facility in Mexico on its own. An anonymous web form and phone hotline allow individuals to report rights violations, while remaining shielded from retribution. Figure 1 shows how the RRM can work.

Within the US government, a petition is reviewed by the newly established Interagency Labor Committee for Monitoring and Enforcement, co-chaired by the USTR and the Secretary of Labor. If the committee finds sufficient evidence of a denial of rights, it can accept the petition and ask Mexico to review the matter. Upon delivering such a request to Mexico, the USTR may ask the US Secretary of Treasury – the chief tax collection official in the United States – to suspend liquidation of import duties on goods from that facility until the issue is resolved. This move has the effect of putting in limbo the tax bill for all transactions between the Mexican facility and US importers of its merchandise.

If Mexico agrees that a denial of rights took place or is ongoing, the United States and Mexico may pursue a ‘course of remediation’, designed to rectify the violation of rights. The text of the agreement does not offer specific content for the course, but agreements have included requirements to hold a new union vote and for external observers to monitor the election. Where no course of remediation is concluded or successful, the United States can impose penalties on the company until the problem is fixed. Where the United States and Mexico disagree, either party is entitled to convene a panel of labor experts to review the matter and make a factual determination about any denial of rights.

### 4.2 US Government Support for the RRM and Mexico’s Labor Reform

The RRM requires significant financial resources.<sup>37</sup> The US Congress appropriated \$30 million over 2020–2027 to ‘monitor compliance with labor obligations’, including by allocating funding to support full-time employees from the US Department of Labor’s Bureau of International Labor Affairs (ILAB) to staff the committee.<sup>38</sup> The Department of Labor sent five full-time employees to

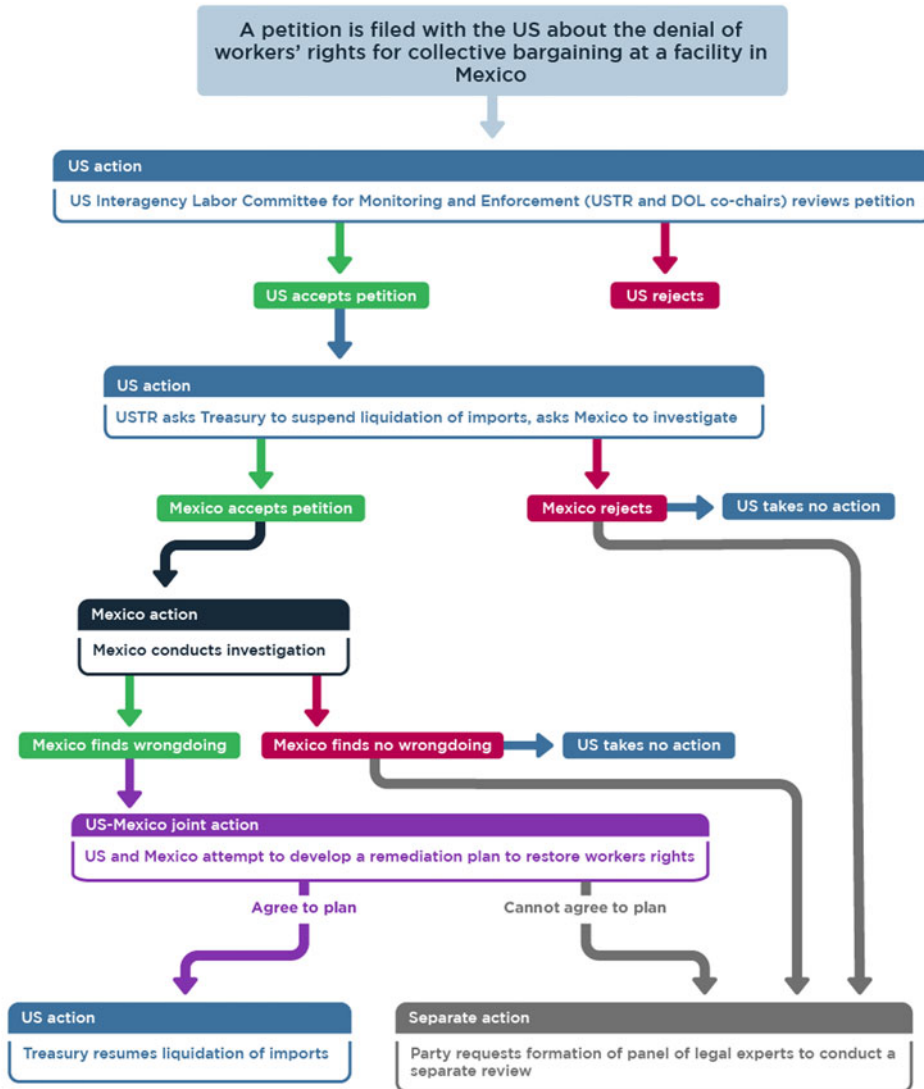
<sup>35</sup>The mechanism is bilateral between the United States and Mexico and between Canada and Mexico.

<sup>36</sup>For a discussion, see Claussen and Bown (2024).

<sup>37</sup>The US government also provided funding for technical assistance and capacity-building to Mexico before implementation of the USMCA; some of it has continued through the USMCA implementation period. See, for example, Department of Labor (2022) and Department of Labor-funded programs such as Equal Access to Quality Jobs for Women and Girls in Mexico (EQUAL).

<sup>38</sup>US Public Law No: 116-113 (01/29/2020), Title IX–USMCA Supplemental Appropriations Act, 2019 ([www.congress.gov/bill/116th-congress/house-bill/5430/text/pl](http://www.congress.gov/bill/116th-congress/house-bill/5430/text/pl)).

How the Rapid Response Labor Mechanism can work to address a situation at a Mexican facility



**Figure 1.** The US–Mexico–Canada Agreement implements a strict review process meant to improve workers’ rights in Mexico

Note: USMCA = US–Mexico–Canada Agreement; RRM = Rapid Response Labor Mechanism

Source: Compiled by the authors.

the US Embassy and consulates in Mexico to help monitor and support RRM actions and to report back to Congress quarterly. Appropriations also supported the hiring of several additional attorneys and labor-focused staff at the USTR, as well as the USTR official detailed to the US Embassy in Mexico City.

Congress also appropriated funding for technical assistance and capacity building within Mexico, including \$180 million for ILAB to support Mexico’s labor reforms made available in 2020–2023 (Table 2). ILAB has since directed some of the capacity building to help the Mexican government create new institutions to register legitimate unions and their collective

**Table 2.** Examples of capacity building and technical assistance by the Department of Labor’s International Labor Affairs Bureau in support of Mexico’s labor reforms under the USMCA

Type of Support	Grant Recipient	Amount (Millions of Dollars)	Grant Period	Purpose of Grant
<i>Capacity building for Mexican government</i>	American Institutes for Research	29	November 2018–December 2026 <sup>a</sup>	Help Mexican government implement labor justice reforms, including creation of the Federal Center for Conciliation and Labor Reform (CFCRL), centers responsible for conciliation services in labor conflicts, and registration of collective bargaining agreements (Strengthening Government Labor Law Enforcement [SGLLE] project).
	US Federal Mediation and Conciliation Services	0.665	June 2019–December 2021 <sup>a</sup>	Strengthen institutional capacity of conciliation bodies, including federal and local conciliation centers.
	American Institutes for Research	5.7	December 2019–March 2024 <sup>a</sup>	Improve working conditions in Mexico’s automotive supply chain and quality of inspections and strengthen ability of labor courts and other institutions to conciliate and adjudicate labor cases (CALLE project).
	American Institutes for Research	10	December 2021–June 2026	Support state-level conciliation institutions to help workers, unions, and employers prevent and resolve labor disputes in a transparent and efficient manner (Enhancing Labor Conciliation in Mexico’ [ENLACE] project).
	International Labor Organization	13	April 2022–March 2027	Build federal government capacity to combat child labor and forced labor and support state interventions in Chiapas, Quintana Roo, and Yucatán.
	American Institutes for Research	12	August 2022–February 2027	Improve government systems for labor compliance by increasing knowledge and technical, legal, data analytic, and technological skills and capacity of federal and state labor inspectors, inspectorate authorities, and technology and training teams (Strengthening Mexican Inspectorate for Enforcement [CAMINOS] project).
	Ergo Group	10	January 2023–July 2027	Support independent state labor courts created by Mexico’s 2019 Labor Law Reform to administer labor justice in an effective, efficient, and consistent manner (Towards Effective Courts and Coordinated Labor Justice [TECLAB] project).

(Continued)

Table 2. (Continued.)

Type of Support	Grant Recipient	Amount (Millions of Dollars)	Grant Period	Purpose of Grant
<i>Technical assistance for civil society</i>	Pan-American Development Foundation	3	November 2020–October 2026	Bring automotive sector employers into compliance with country's labor law reforms while improving working conditions in automotive supply sector (Mexico Auto Employers' project).
	Solidarity Center	10	December 2020–June 2025	Build capacity of workers; support worker engagement and organizing; and strengthen democratic worker organizations in the aerospace, mining, and call center industries.
	Partners of the Americas	10	January 2021–June 2025	Strengthen awareness of Mexican labor justice reform among workers, employers, and union leaders and build capacity of federal and state-level secretariats of labor and social affairs staff to conduct outreach.
	International Labor Organization	5	January 2021–December 2024	Improve occupational safety and health of workers in selected supply chains and help Mexico meet its labor obligations under the USMCA.
	Partners of the Americas	10	December 2021–June 2026	Empower women to gain representation in union leadership to strengthen protections, address discrimination and harassment at work, and augment wages.
	Solidarity Center	10	July 2022–July 2024	Strengthen capacity of unions to organize by legitimizing collective bargaining agreements; supporting internal leadership elections; building partnerships; and providing legal support and training for lawyers in the automotive, auto parts, aerospace, call centers, electronics, garment, industrial bakeries, logistics, and mining sectors.

Notes: <sup>a</sup>Full project began before USMCA was signed into law. Shaded grants focus on the automotive supply chain.

Sources: Compiled by the authors from Department of Labor website (last accessed 15 September, 2023); IMLEB (2021); and Department of Labor (2020).

bargaining agreements, conduct inspections of plants and workplace facilities, and support fair adjudication between firms and workers over the latter's rights. It has funded efforts to digitize all collective bargaining agreements and union registration documents, train labor officials, and develop a career civil service structure (IMLEB, 2021).

Capacity building has also meant working on the ground to provide information to Mexican workers about their rights. Under the Mexican labor reforms, workers had the ability, if they could organize quickly, to vote out the old protection union and vote in a new union that might better represent their interests. Much as trade facilitation can help firms learn about latent foreign demand for their products, this funding could empower Mexican workers by providing information about their rights under the new law and how to exercise them through Mexico's new institutions. (Doing so could facilitate the continuation of trade if improved Mexican worker rights made it politically easier for US government officials to keep the US import market open to goods produced at their place of work.) Toward this end, ILAB provided grants of roughly \$50 million to various NGOs to raise awareness of the new labor systems among workers, employers, and union leaders.

Much of the early funding for capacity building and technical assistance focused on workers in Mexico's automotive supply chain, with potential implications for early use of the RRM itself. In November 2020, ILAB made a \$3 million grant to the Pan-American Development Foundation for a Mexico Auto Employers' Project. Another \$5.7 million grant was allocated to the American Institutes for Research for the Compliance in Auto Parts through the Labor Law Enforcement (CALLE) project, which seeks 'to improve working conditions in the Mexican automotive parts sector by improving government enforcement of labor laws' (Department of Labor, 2020).

## 5. Early Use of the Rapid Response Labor Mechanism

The USMCA entered into force on 1 July 2020. Some observers expected an immediate surge in RRM filings. In early September 2020, AFL-CIO President Richard Trumka indicated plans to submit petitions for consideration that month.<sup>39</sup> Yet, the first (publicly known) petition did not arrive until the following spring.

### 5.1 Some Delay before the RRM is Used

There are a number of reasons why the RRM situations were slow to materialize. First, the COVID-19 pandemic led to lockdowns, social distancing, and supply chain disruptions, including for the North American automobile industry. Many facilities remained idle throughout 2020.<sup>40</sup> Second, organized labor in the United States was busy campaigning against President Trump and on behalf of candidate Joe Biden during 2020; it was unlikely to want to give Trump any political wins that might help his reelection chances.<sup>41</sup> Third, disseminating information about the tool and educating stakeholders about how to use it took time. Fourth, given the political spotlight on the RRM, early uses would likely need to have a high probability of success.

By the late spring of 2021, conditions were ripe for the RRM. The Biden administration had fully staffed the principal positions overseeing the RRM. Appointees were well versed in the details of the mechanism; several, including Katherine Tai, President Biden's choice for USTR,

<sup>39</sup>D. Lawder (2020) 'AFL-CIO Chief Says Union to File Labor Complaint under USMCA This Month', *Reuters*, 3 September.

<sup>40</sup>See J.L. Gonzalez (2020) 'Protests Erupt after Deaths at US factories in Mexican Border Town', *Reuters*, 16 April; and J.L. Gonzalez (2020) 'Workers Return to Mexico's Border Factories as Auto Sector Reopens', *Reuters*, 1 June.

<sup>41</sup>All of the four major US unions that were part of the RRM in the situations described below – the UAW, USW, the AFL-CIO, and the Service Employees International Union (SEIU) – endorsed Joe Biden early in the 2020 presidential election campaign.

had helped write its text.<sup>42</sup> At the Department of Labor, the administration chose Thea Lee to head ILAB, the other key partner in the US interagency process on the RRM, as Deputy Undersecretary for International Affairs.<sup>43</sup> The first invocations of the RRM emerged in May 2021, as these appointees took up their new roles.

### **5.2 US RRM Situations Brought to Mexico's Attention over the USMCA's First Three Years**

The USTR accepted nine petitions and self-initiated two others, seeking Mexico's review on 11 occasions in the first three years of the RRM (Table 3). These situations cumulatively only covered an estimated 16,500 Mexican workers. Some details are known of two other petitions that the USTR rejected during the period. Canada received and pursued one petition under its bilateral RRM with Mexico. (The full set of petitions that USTR and/or Canada rejected is not publicly known.)

In some ways, the US RRM situations with Mexico were all very similar. Most attacked the same problem: a fight at a Mexican plant between two sets of workers. Typically, one set was attempting to oust an old union and then establish itself as the new union (i.e., exactly the concern identified in Section 3).<sup>44</sup> Many of the old unions were affiliates of CTM.<sup>45</sup> The first nine situations targeted facilities in the automobile supply chain, as did the sole situation raised by Canada.<sup>46</sup>

Although the process to resolve each situation was unique, in the majority of situations the old union was thrown out and a new union was installed and legitimated. In some situations, the new union bargained collectively to achieve a wage increase that was greater than the rate of inflation. The governments also sometimes worked to resolve unfair situations facing workers who may have lost their jobs or otherwise been mistreated through restoration of employment and payment of back wages. In one situation, the company chose to shut down the Mexican plant rather than comply with US and Mexican government demands.<sup>47</sup>

There were also some important differences across the 11 situations the US government pursued in Mexico (Table 4). One of the very first invocations of the RRM was against a plant belonging to the Mexican subsidiary of GM. The plant was in the city of Silao, in the state of Guanajuato, in the middle of Mexico (Figure 2). Workers at the plant assembled name-brand Chevy Silverado and GMC Sierra trucks, among other vehicles. The most favored nation (MFN) tariff on these trucks was 25%; suspending liquidation could thus potentially have left GM with a sizable tariff bill to pay if the situation were not resolved. The Silao plant was also large; reportedly, over 5,000 workers eventually voted in the union election.<sup>48</sup> The outcome of the RRM situation with GM was also relatively successful from the perspective of the workers

<sup>42</sup>Other top USTR officials had been advisors to USMCA Senate champions Ron Wyden (D-OR) and Sherrod Brown (D-OH).

<sup>43</sup>Lee had worked at the AFL-CIO for 20 years before taking over as president of the Economic Policy Institute, a progressive pro-worker Washington think tank, in 2018.

<sup>44</sup>The situation involving the Grupo México mine involved strike breaking, with the facility allegedly then 'collectively bargaining with a labor organization not lawfully authorized to represent workers for the purposes of collective bargaining' (Office of the USTR, US Request for Review, Grupo México San Martín mine in Zacatecas, Mexico, 16 June 2023).

<sup>45</sup>Not only were eight of the 11 RRM situations seeking to oust CTM-affiliated unions; Tereso Medina Ramirez was also the leader of three of them.

<sup>46</sup>However, as evidence that RRM situations may be moving beyond the auto supply chain, the last two pursued by the United States in the July 2020–June 2023 period involved facilities in the garment and mining sectors. A third situation arising in August 2023 (outside the period of our analysis and thus not discussed here) involved Mas Air, a company in the cargo transportation services sector.

<sup>47</sup>See D.B. Solomon (2023) 'US Labor Dept "Disappointed" by VU Manufacturing Plant Closure in Mexico', *Reuters*, 10 October.

<sup>48</sup>Liga Internacional de los Trabajadores (2022) 'México: Histórico triunfo de los obreros de GM Silao. Sí, se puede derrotar a las empresas y sus charros', 8 February.



**Table 3.** Number of Mexican Rapid Response Labor Mechanism situations brought to attention of US and Canadian governments between July 2020 and June 2023

Item	Situations Brought to Attention of US Government	Situations Brought to Attention of Canadian Government
RRM situations at Mexican facilities <sup>a</sup>	13	1
Government self-initiation	2	0
External petitions	11	1
Petitions rejected	2 <sup>b</sup>	0
Situations investigated	11	1
Panel requests	1	0

Notes: <sup>a</sup>Facilities facing multiple situations (e.g., VU Manufacturing) are counted as separate facilities.  
<sup>b</sup>Additional rejected petitions likely exist, but public data concerning the facilities targeted in those petitions are not yet available.  
 Sources: Information for ongoing situations as of 10 October 2023. Constructed by authors from media reports, petitions, USTR website, Canadian government website, and IMLEB (2023).

**Facilities in Mexico subject to Rapid Response Labor Mechanism petitions or situations between July 2020 and June 2023**



**Figure 2.** Most US Rapid Response Labor Mechanism situations have targeted Mexico’s automobile supply chain  
 Note: With the exception of INISA 2000 (textiles) and Grupo México (mining), all facilities are in the automobile sector.  
 Source: Compiled by the authors, map data © OpenStreetMap.

seeking new representation: After winning the vote, the new union negotiated a collective bargaining agreement in May 2022 that included an 8.5% wage increase the first year. Less than a year later, it negotiated another 10% wage increase. (The inflation rate in Mexico was 7.4% in 2021 and 7.8% in 2022.)

That one of the first RRM situations was so high profile likely put on notice all of the other automakers with assembly facilities and supply chains in Mexico. However, the next RRM situation was very different. It was also more typical of other situations that were about to emerge.

**Table 4.** Descriptions of Rapid Response Labor Mechanism situations brought under the US–Mexico–Canada Agreement between July 2020 and June 2023

Facility (Parent) Start of Situation	Product Examples	Old Union	New union (Petitioners)	Votes	Outcomes
<i>Situations brought to attention of US government</i>					
<b>Tridonex</b> , Matamoros, Tamaulipas (Cardone/US) 10 May 2021	Brakes, steering wheels, pumps, other auto parts	CTM affiliate (SITPME)	SNITIS (AFL-CIO, SEIU, SNITIS and Public Citizen)	1,302	Feb. 2022: SNITIS won vote SITPME appeals to Mexican Supreme Court (delay means SITPME holds CBA for another year)
<b>General Motors</b> , Silao, Guanajuato (GM/US) 12 May 2021	Chevy Silverado 1500 and GMC Sierra 1500 light-duty trucks; auto parts	CTM affiliate (Tereso Medina Ramirez)	SINTTIA (Hotline)	5,478	Feb. 2022: SINTTIA won vote May 2022: New CBA with 8.5% first-year wage increase March 2023: Union negotiated another 10% wage increase
<b>Panasonic Automotive Systems</b> , Reynosa, Tamaulipas (Panasonic/Japan) 18 May 2022	Car audio and display systems	CTM affiliate (SIAMARM)	SNITIS (SNITIS and Rethink Trade)	1,590	April 2022: SNITIS won vote Sept. 2022: New CBA with 9.5% wage increase, one-time 3.5% bonus, reinstatement and back pay for workers protesting earlier illegitimate SIAMARM CBA Feb. 2023: New negotiation results in additional 11.9% wage increase
<b>Teksid Hierro</b> , Frontera, Coahuila (Stellantis/Netherlands) 6 June 2022	Engines, other parts for internal combustion engines	CTM affiliate (Tereso Medina Ramirez)	Los Mineros (UAW and AFL-CIO)	816	Sept. 2022: SNTMMSSRM wins vote Feb. 2023: New CBA with 9% wage increase and additional benefits Oct. 2023: Stellantis sells plant to Cummins
<b>VU Manufacturing</b> (1), Piedras Negras, Coahuila (VU Manufacturing/US) 21 July 2022	Interior car parts such as arm rests and door upholstery	CTM affiliate (Tereso Medina Ramirez)	LSOM (LSOM and CFO)	287	Aug. 2022: LSOM wins vote Dec. 2022: Alleging bad faith and CTM attacks, LSOM and CFO file second RRM petition against company

<b>VU Manufacturing (2)</b> 30 January 2023					March 2023: US and Mexico agree to course of remediation at the plant Oct. 2023: VU Manufacturing announces plant closure instead of adhering to remediation plan
<b>BBB Industrias de Mexico</b> , Reynosa, Tamaulipas (BBB/US) 2 September 2022 (rejected)	Starters, alternators, hydraulic pumps, brakes, other auto parts	CTM affiliate (SIAMARM)	SNITIS (SNITIS and Rethink Trade)	NA (3,000 workers)	US rejects petition because it lacked 'sufficient, credible evidence of a denial of rights' to trigger USMCA enforcement tools
<b>Saint-Gobain</b> , Cuautla, Morelos (Saint-Gobain, France) 27 October 2022 (rejected)	Layered glass for cars, other auto parts	CTC affiliate (Union Workers of the Glass Industry)	Independent Union of Free and Democratic Workers of Saint Gobain (AFL-CIO, USW)	1,535	Sept. 2022: Independent union wins vote March 2023: New CBA with 9% wage increase US decides to monitor the situation, no further action needed, and 'any past denial of rights with respect to the votes no longer existed'
<b>Unique Fabricating</b> , Santiago de Queretaro, Queretaro (Unique Fabricating/US) 6 March 2023	Plastics manufacturer, supplying components for the auto industry	FASIM	Transformation Sindical (Transformation Sindical)	NA (500 workers)	Mexico reviewed and found that the alleged denial of rights at the facility had been resolved during the review period US agreed 'there was no ongoing denial of rights'
<b>Goodyear Rubber Tire Plant</b> , San Luis Potosi, S.L.P., (Goodyear Tire & Rubber Company, US) 22 May 2023	Rubber tires	CTM (Miguel Trujillo Lopez union)	LSOM (LSOM)	1,100 union-eligible workers	April 2023: Vote halted due to irregularities May 2023: 82% of workers vote to terminate CTM union contract and seek new representation July 2023: US and Mexico agree to course of remediation at the plant
<b>Draxton México</b> , Irapuato, Guanajuato (Draxton, Spain) 31 May 2023	Transmission shafts, brakes, other auto parts	CONASIM-BJG (Confederación de Agrupaciones Sindicales Mexicanas)	SINTTIA (USTR self-initiated)	(490 workers)	July 2023: US and Mexico agree to course of remediation at the plant

(Continued)

Table 4. (Continued.)

Facility (Parent) Start of Situation	Product Examples	Old Union	New union (Petitioners)	Votes	Outcomes
<b>INISA 2000</b> , Rincón de Romos, Aguascalientes (Family owned/US) 12 May 2023	Denim jeans, other clothing	CTM	(Frente Auténtico del Trabajo and the Sindicato de Industrias del Interior)	(700 workers)	July 2023: US and Mexico agree to course of remediation at the plant
<b>Grupo México San Martín mine</b> , Sombrerete, Zacatecas (Grupo Mexico conglomerate, Mexico) 15 May 2023	Lead, zinc and copper mine	Los Trabajadores Coaligados*	Los Mineros (Los Mineros, AFL-CIO, USW)	(1,000 workers)	TBD (US requests panel in August 2023)
<i>Situations brought to the attention of Canadian government</i>					
<b>Fraenkische Industrial Pipes México S.A.</b> , Silao, Guanajuato (Fraenkische, Germany) 11 March 2023	Auto parts		SINTTIA (Unifor and SINTTIA)	NA	June 2023: Election, terminated workers reinstated with back pay Canada closes the matter before completing the review process

Notes: NA = Not available, TBD = To be determined.

\*Not a protection union, but during a strike by the petitioning union, 'a labor organization not lawfully authorized to represent workers for the purposes of collective bargaining'.

Shaded potential situations are those in which USTR rejected the petition. Additional rejected petitions likely exist, but public data concerning the facilities targeted in those petitions are not yet available.

Source: Information for ongoing situations as of 10 October 2023. Constructed by authors from media reports, petitions, USTR website, Canadian government website, and IMLEB (2023). Products identified from company and state (not facility) level data shared by S&P Global Market Intelligence for 2022.

Just before the USTR activated the RRM at GM, labor groups filed a petition involving Tridonex, a subsidiary of Cardone, a Philadelphia-based auto parts company. The Tridonex facility was located on the Mexican border with Texas, two states away from the GM plant (see Figure 2). This plant manufactured auto parts such as steering wheels and brakes. Behind the petition were two American unions (the AFL-CIO and the SEIU); a Washington, DC think tank (Public Citizen); and the new Mexican union (SNITIS) struggling to be recognized by the facility and seeking to do so under Mexico's new labor law.

On procedural grounds, the case of Tridonex was different for other reasons. The Mexican government refused to accept the US review request, arguing that the problematic events at the facility occurred before the USMCA entered into force. Not to be deterred, the USTR reached out to Cardone and entered into an agreement directly with the company.<sup>49</sup> Although Tridonex eventually recognized SNITIS as the new union, the protection union managed to delay that outcome by over a year, including through appeals to the Mexican Supreme Court.<sup>50</sup>

As with GM and Tridonex, all but two of the RRM situations to emerge involved Mexican subsidiaries of foreign-headquartered companies.<sup>51</sup> Several reasons may explain why few Mexican-headquartered firms were targeted. The early caseload inevitably reflected the interests of American unions and policymakers, as the capacity building to educate Mexican workers to generate locally motivated petitions would require time to take effect. Workers at subsidiaries of foreign-headquartered companies may also be better informed about their potential rights than workers at Mexican-headquartered companies, thanks to access to information from union activity in other countries that travels through worker networks within the multinational. It also could be that US officials intend to target firms that export to or have brand recognition in the United States.

Somewhat puzzling is the fact that many of the Mexican subsidiaries subject to RRM situations were relatively unknown. Aside from GM, in only three other instances (Panasonic, Stellantis, and Goodyear) was the foreign parent close enough to a household name that it had a sufficient public reputation and brand recognition that could be tarnished by bad press and the threat of consumer boycotts in the United States. While both the GM and Tridonex labor situations were covered by the *New York Times*,<sup>52</sup> in part due to their novelty, the others have yet to receive significant media coverage in the United States.<sup>53</sup>

Some of the situations involved Mexican facilities with potentially very small direct exports to the United States. (Data are not available on domestic transactions between Mexican facilities.) Nevertheless, a targeted Mexican facility might be economically sizable through its sales to another Mexican plant of hundreds of millions of dollars of parts (e.g., steering wheels or tires) for assembly by that second plant into, say, final vehicles for export to the United States. An open (legal) question is whether the US government would attempt to sanction inputs embedded by the second plant if the threat of suspension of liquidation of direct US imports was not a big enough penalty to induce compliance at the first facility. Nevertheless, some of the facilities were likely relatively small – e.g., available evidence suggests the VU Manufacturing, Unique Fabricating, and Draxton situations involved fewer than 500 workers.

<sup>49</sup>Office of the USTR, United States Reaches Agreement with Mexican Auto Parts Company to Protect Workers' Rights, 10 August 2021.

<sup>50</sup>See footnotes 90–96 in IMLEB (2023).

<sup>51</sup>One Mexican-headquartered company targeted was Grupo México, owned by Germán Larrea Mota-Velasco, one of the richest people in Mexico. He has been involved in a high-profile labor dispute for ten years (D.B. Solomon, 2023, 'Martin Mine Operations after US Labor Complaint', *Reuters*, 21 June).

<sup>52</sup>See T. Kaplan (2021) 'Complaint Accuses Mexican Factories of Labor Abuses, Testing New Trade Pact', *New York Times*, 10 May; T. Kaplan (2021) 'US Asks Mexico to Investigate Labor Issues at GM Facility', *New York Times*, 12 May.

<sup>53</sup>Reuters has published articles on every US-initiated situation listed in Table 4, the vast majority arising from the efforts of one reporter (Daina Beth Solomon).

In terms of the unions, SNITIS and SINTTIA were the new unions attempting to oust the old union in three petitions each, often with the support of American unions or Washington, DC think tanks. (The AFL-CIO was involved in four petitions, the USW in two, and SEIU and UAW in one each; Public Citizen and Rethink Trade were involved in three of the petitions.<sup>54</sup>) On the ground in Mexico, labor activists like Susana Prieto Terrazas actively worked across multiple situations as well.<sup>55</sup>

Use of this tool – which led to the transition from one union to another – was often accompanied by improprieties. In the Tridonex situation, ‘thugs [were] hired by the incumbent union around the plant to intimidate workers’ during the vote,<sup>56</sup> with workers receiving ‘500 pesos if they snap photos as evidence of casting their ballot in favor of the CTM-affiliated SITPME’.<sup>57</sup> In the case of Teksid Hierro, Teksid fired seven workers after they were interviewed by the Department of Labor Attaché as part of the investigation, and they were not reinstated even with the remediation agreement (IMLEB, 2023). At VU Manufacturing, workers in the protection union took public their concerns over the leader of one of the other unions, raising fears about her personal safety.<sup>58</sup> At Unique Fabricating, there was allegedly interference by an official from the state’s local labor secretariat.<sup>59</sup>

## 6. Insights from and Questions for Political-Economy Research

Answers to important questions for political–economic research may speak to the sustainability of the RRM. These include why and how did Mexico and the United States agree to the RRM? Furthermore, what are the impacts, including unintended consequences, of the RRM on Mexican workers, local firms in Mexico, and multinationals?

### 6.1 Why did the Mexican and US Governments Agree to the RRM?

Multiple strands of political–economic research may be required to fully understand why and how Mexico and the United States agreed to the RRM and whether it will benefit each country in the aggregate and/or have substantial redistributive consequences.

One puzzle is why Mexico would agree to an RRM that is so asymmetric. A contributing explanation may come from the commitment theory of trade agreements (Staiger and Tabellini, 1987; Maggi and Rodríguez-Clare, 1998, 2007). Governments sometimes face a time-consistency problem and are unable to follow through implementing a policy tomorrow even if it was optimal when announced today. By tying its own hands in the future to ward off domestic lobbying forces, the government can sometimes improve aggregate outcomes (increase efficiency) for the country as a whole.

Suppose the pre-USMCA problem was that local firms in Mexico had monopsony power over workers that was entrenched institutionally by protection unions. A welfare-maximizing Mexican government might want to break the status quo by allowing workers to form new unions and

<sup>54</sup>On 1 January 2022, Lori Wallach left Public Citizen to Become the Director of the Rethink Trade Initiative at the American Economic Liberties Project.

<sup>55</sup>See, for example, D.B. Solomon (2022) ‘Mexico Border City Auto Workers Gear Up for Union Vote in Trade Deal Test’, *Reuters*, 17 February; D.B. Solomon (2022) ‘Panasonic’, *Reuters*, 23 April.

<sup>56</sup>M. Spiegelman (2022) ‘AFL-CIO’s Shuler: Mexico Must Probe Reported Moves to “Steal” Tridonex Vote’, *Inside US Trade*, 2 March.

<sup>57</sup>L.F. Leon (2022) ‘A New Union, at Last? Mexican Auto Parts Workers Get to Vote, Three Years after Strike Wave’, *Labor Notes*, 19 February.

<sup>58</sup>G.M. Noticias (2022) ‘Trabajadores de la empresa VU acusan a Julia Quiñones por malos manejos sindicales’, 4 November.

<sup>59</sup>V. Estrella (2023) ‘Unique Fabricating deberá reconocer a sindicato queretano tras resolución de queja en el marco del T-MEC’, *El Economista*, 15 March.

bargain collectively, as doing so could improve efficiency by moving wages closer to the marginal revenue product of labor. (The desire to act could also be politically motivated, as the move would reallocate firm profits toward workers through higher wages.) However, even though it may be optimal to announce such a policy today, the government could renege on its promise tomorrow (after being lobbied to do so) unless it was able to foreclose on the possibility of policy reversal. The RRM in the USMCA could be viewed as an external commitment device the Mexican government had voluntarily adopted to help it follow through with policies it would like to implement in the future.

A second puzzle has to do with the value of the RRM to the United States. The static effect of raising the wages of Mexican workers is higher prices for US imports and a reduction in US economic welfare. The literature on issue linkage – tying labor standards to trade sanctions – suggests at least two potential ways to counteract this static loss.<sup>60</sup> The ‘participation’ strand of that literature often finds that coalitions to coordinate trade sanctions may be needed to encourage other countries to participate in another issue area. (The most familiar issue linkage proposal may be between governments seeking to reduce carbon emissions [see the climate clubs approach of Nordhaus, 2015].) Under this theory, the RRM might play two roles when it comes to participation. Tying labor rights to trade could encourage Mexico to participate in broader efforts to improve worker conditions. Bringing labor into the trade agreement through the RRM could also help the United States find a large enough domestic political coalition willing to support continued open trade with Mexico.

The issue linkage literature on enforcement raises at least one other important question. Enforcement often arises in the context of repeated game models in which at each stage of the game, each government has an incentive to impose high tariffs. The equilibrium of the one-shot game without a trade agreement is the standard (suboptimal) prisoner’s dilemma outcome of each country imposing high tariffs. In the repeated game, governments can cooperate and reduce tariffs (i.e., form a trade agreement) in which enforcement is modeled as one country punishing its trading partner with higher tariffs for cheating. That threat is what sustains lower, cooperative tariffs.

How does the RRM affect cooperation over trade alone (through tariffs)? Does a government’s use of trade sanctions to enforce a partner’s labor commitments dilute its ability to ensure that the partner keeps tariffs low?<sup>61</sup>

Consider a hypothetical example. Suppose the United States deploys its full arsenal of trade sanctions to remediate labor violations at all of Mexico’s facilities and ‘uses up’ its ability to threaten to retaliate against Mexico. Mexico could respond by raising its tariffs on US exports out of recognition that there is no additional penalty to doing so. Does using threats over US imports to improve worker rights make it more difficult to keep Mexico open to US exports? Does the asymmetry in the Mexico–US trade relationship help prevent such an outcome? The fact that Mexico’s exports to the United States are so much larger than its imports may mean that the United States has ‘extra’ enforcement power to deploy tariff threats not only to keep Mexican tariffs on US exports low but also to help the Mexican government enforce domestic labor commitments through the RRM.

## 6.2 What Happens in Mexico When the RRM is Implemented?

This article has only begun to examine the impact of the RRM on labor market outcomes and behavior within Mexico, including its potential unintended consequences.<sup>62</sup> The full impact

<sup>60</sup>For a survey of issue linkage in trade agreements, see Maggi (2016), who focuses on three channels through which non-trade issues such as labor (or the environment) are often brought into trade agreements: enforcement, negotiations, and participation.

<sup>61</sup>For a formal discussion and theoretical model, see Limão (2005).

<sup>62</sup>For example, in a study of 101 developing countries, Abman et al. (2023) provide evidence that child labor bans in regional trade agreements may have paradoxically *increased* employment among 14- to 17-year-olds.

may extend well beyond the effect on workers at facilities facing RRM situations. To help frame how researchers can more systematically study such impacts in the future, we appeal to the theoretical framework provided by Alfaro-Ureña et al. (2022), which examines the implications of multinational firms imposing responsible sourcing codes of conduct policies on their suppliers in developing countries.<sup>63</sup>

Suppose there are three firms: a multinational headquartered in the United States, a local supplier to a multinational in Mexico (Firm A) and a second firm (Firm B) in Mexico that, for some exogenous reason, is outside of the reach of the RRM.<sup>64</sup> Here, introduction of the RRM can be thought of as similar in its economic effects as the multinational firm's voluntary imposition of a responsible sourcing policy on its suppliers. The threat of RRM-type trade sanctions (from the US government) would hit the multinational's import demand for inputs from Firm A in a way similar to the hit the multinational would face if it did not impose responsible resourcing in response to consumer threats of boycotts for its output. Both are designed to raise worker wages at the local supplier to the multinational.

The Alfaro-Ureña et al. (2022) theory identifies a number of competing distributional effects and channels to keep track of and to identify the full effects of the policy. On the positive side, workers at Mexican Firm A would expect to enjoy higher wages and better benefits because of the existence of the RRM and the threat of trade sanctions. (Several examples have arisen among the RRM situations summarized in Table 4, though there is also one where the plant shut down and workers presumably lost their jobs.)

On the negative side, workers at Firm B could be hurt through two main channels. Under the first, the higher wage mandated by the RRM could reduce Firm A's demand for workers. If it does, the freed-up workers originally employed at Firm A will leave and seek employment at Firm B. The sudden increase in the supply of workers available to Firm B will put downward pressure on wages at that firm.

The Mexican government's labor reform push to fight monopsony power could prevent wages at Firm B from falling; however, if Firm B is not able to absorb all of the workers displaced from Firm A, the result could be increased unemployment or Mexican workers moving into the informal sector. Alternatively, if the government misdiagnosed the problem and low wages were not the result of firms holding monopsony power, raising wages may shrink (and not expand) employment.

The second channel to consider involves the impact of RRM-induced changes on output prices. Mexican workers are also consumers; they care not only about their nominal wages but also about the purchasing power of their real income. Suppose Firm A supplies both the US-headquartered multinational and domestic firms in Mexico. Firm A will pass along some of the increase in wages in the form of higher local prices, hurting workers through the consumption channel.<sup>65</sup>

A third, potentially positive (offsetting) effect depends on whether the RRM increases the US multinational's demand from Mexico. The analogy is to how responsible sourcing policies could, in theory, lead US consumers to pay more and switch toward multinational brands that adhere to

<sup>63</sup>After a series of industrial accidents led to outrage by Western consumers and increased activism by NGOs and worker rights activists, multinationals began to roll out codes of conduct for how their suppliers in developing countries need to treat workers. Alfaro-Ureña et al. (2022) develop a formal theoretical model to explore the general equilibrium predictions of the imposition of such a responsible sourcing policy and apply the model to data on Costa Rica.

<sup>64</sup>Firm B could be excluded because it supplies only locally within Mexico, so it is not subject to trade sanctions, or because it is not in a 'priority sector' per the terms of the USMCA.

<sup>65</sup>Alfaro-Ureña et al. (2022) note the importance of two additional factors: (a) how much of what Firm A supplies is sold locally relative to the multinational and (b) how much bargaining power Firm A has with respect to the multinational. In the limiting case of (a) in which Firm A sells exclusively to the multinational, there is no increase in local prices associated with RRM. In the limiting case of (b) in which Firm A has no bargaining power and is unable to pass along any cost increase to the multinational, Mexico bears the full cost of the policy.



such policies. Though unlikely, it is possible that some US consumers switch their purchasing toward multinationals that source from Mexico relative to other countries because the RRM signals that Mexican workers are being treated better than workers in countries without an RRM.<sup>66</sup> If they do, the increase in demand for supplies from Firm A could mean more employment and higher wages for its workers.

A key difference between the RRM and responsible sourcing is that the latter was rolled out globally (on suppliers in all developing countries) whereas the RRM currently applies only to facilities in Mexico. Global application meant that there was less of an incentive for a multinational to shift buying away from one developing country to another in response to responsible sourcing. For the period in which only Mexico is subject to RRM review, there may be an incentive for multinationals to switch sourcing to non-Mexican suppliers.<sup>67</sup>

The RRM affects both Mexico and the United States through many channels. Examining data on worker outcomes at facilities facing RRM situations is important, but it is only one part of the story.

## 7. Preliminary Policy Lessons and the Future

With only 11 uses in the first three years of the RRM, data with which to evaluate the mechanism remain scarce. Many aspects of how the RRM works are unknown and difficult to evaluate. For example, the data reveal little about whether the RRM has a deterrent effect, and they shed almost no light on the long-run outcome for Mexican or US workers overall. It will also be important to await studies of the effectiveness of the capacity-building and technical assistance initiatives designed to help Mexico implement its labor reform program. Much of the process remains untested. Only one of the RRM situations had resulted in the request for formation of a panel request, and the outcome of that panel was still unknown as of the time of writing. Furthermore, the United States has not yet applied any of the remedies afforded to it under the USMCA (because all situations to date have been remediated successfully). Nevertheless, we offer here some preliminary reflections on the RRM experience to date.

The RRM is operating somewhat like a pilot program. US policymakers have deployed it cautiously and relatively infrequently to start, though the pace may be increasing (with six situations alone in the first half of 2023, more than half of the three-year total). Most of the situations to date have been resolved successfully, in the views of the two governments, and relatively quickly – an important departure from the US case against Guatemala. The Mexican government and the USTR have claimed victory, at least at some level, for Mexican workers, in most of the RRM situations that have been brought forward. However, some Mexican officials have expressed concern about the asymmetric nature of the RRM and issues of domestic sovereignty and urged the USTR to use the tool as a ‘last resort’ to ‘reinforce’ rather than ‘replace’ Mexico’s labor institutions.<sup>68</sup> Finally, there is at least one situation in which a company did not comply with an announced remediation plan and instead shut down the plant.

Labor-oriented governments in both Mexico and the United States seem intent on using the tool to rebalance the benefits at facilities in Mexico toward workers. Nevertheless, achieving even a common goal requires coordination and cooperation, not one government blindsiding the other with an unexpected or unworkable situation. In practical terms, an effective case requires the

<sup>66</sup>Although this outcome is possible in theory, it seems highly unlikely, as it would require that consumers be incredibly well informed. Alfaro-Ureña et al. (2022) do not find any evidence of the analogous channel arising in the case of responsible sourcing policies in Costa Rica. See also Koenig and Poncet (2022) who fail to find evidence that French consumers cut their import demand from Bangladesh in the aftermath of the Rana Plaza building collapse in 2013.

<sup>67</sup>There is some incentive to shift sourcing away from the developing country toward the United States in both the responsible sourcing and RRM contexts. However, Alfaro-Ureña et al. (2022) did not find evidence of multinationals shifting sourcing out of Costa Rica and toward rich countries.

<sup>68</sup>M. Spiegelman (2023) ‘Mexico Urges US to Use RRM as Tool of “Last Resort”’, *Inside US Trade*, July 7.

complementary organization of two governments that, at any moment in time, may have a different prioritization for their resources.

For the most part, firms appear to have been complying with demands to support a fair process – one that allows workers to vote out old and vote in new unions (and then bargain collectively for higher wages, reinstatement of lost jobs, back pay, etc.) – despite facing tremendous uncertainty about the worst-case scenario for (costs of) failure to do so. At some point, tariff benefits may be withdrawn; greater clarity on their significance could then shape future behavior. The reality of the benefits of tariff-free trade could affect this calculation as well. Put differently, the threat of loss of duty-free trade may lose its bite as a penalty if the rules of origin requirements in the USMCA become so onerous that firms decide to pay the MFN tariff instead. This outcome was foreshadowed by a US International Trade Commission analysis that found that these new cost-raising features of the agreement were likely to drive up the price of buying a car assembled in North America (USITC, 2019). It would redistribute wealth from American consumers to auto workers, especially in the United States, but leave the overall US economy worse off than it was under the NAFTA rules of origin.<sup>69</sup>

US and Mexican labor interests could also diverge from their currently aligned views. For example, suppose unions in the United States push RRM uses so far that compliance increases the costs of production in Mexico to the point at which they outweigh the comparative advantage-based reasons for trade between the United States and Mexico. In this case, firms might leave Mexico, reshoring to the United States or moving to countries not subject to an RRM. The loss of these jobs would hurt Mexican workers; worker outcomes are a function of wages and employment, not wages alone.

Where might facility-specific RRMs go from here? Labor advocates argue that the RRM is the new floor for the United States in any future trade agreements, much like the 10 May 2007 agreement between House Democrats and the George W. Bush administration that created a bipartisan consensus on trade negotiations by inserting enforceable labor and environmental standards into new US agreements (Destler, 2007). The idea of some sort of facility-specific labor compliance tool was agreed as part of the negotiations between the United States and 13 other countries over the Indo-Pacific Economic Framework for Prosperity (IPEF). The ‘proposed Agreement would also create a mechanism to cooperate with partners to address facility-specific allegations of labor rights inconsistencies’.<sup>70</sup> If IPEF precludes market access negotiations in the form of traditional tariff liberalization, one possibility may be that negotiators include only the trade facilitation carrots of grants for capacity building and training and not sticks (such as the suspension of liquidation, as is the case in the USMCA RRM).

Could facility-specific RRMs extend beyond labor to help enforce environmental standards? For example, suppose the trading system accommodates carbon border adjustment mechanisms that allow importing countries to impose differential import taxes based on the carbon intensity of foreign production. How would the ability to enforce – through targeted trade sanctions (sticks) or technical assistance (carrots) rapidly and at the facility-level abroad affect such negotiations and agreements? The RRM seems more likely to work and be useful in trade relationships in which the two governments have a common interest in enforcement and the main concern is a domestic problem of commitment. In future trade agreements, where such agreements are entered into voluntarily, such a prioritization would need to take both sides into account.

Such efforts would also likely need to be tailored to the needs of the local environment. The RRM in the USMCA may help tackle the protection union problem, collective bargaining, and

<sup>69</sup>In the aggregate, this effect was offset only by the fact that implementation of the USMCA was assumed to reduce policy uncertainty and encourage additional investment and trade. See the controversial results of table 2.6 in USITC (2019, 56) as well as the discussion in Bown and Keynes (2019). See also Head et al. (2022).

<sup>70</sup>Department of Commerce (2023) ‘Substantial Conclusion of Negotiations on Landmark IPEF Supply Chain Agreement’, Press release, 27 May.

Mexico's concerns about monopsony power. But Mexican workers (and workers elsewhere) face other problems, including a sizable informal sector in which workers may be treated even worse. Mexico also has a wide gender wage gap as well as low employment and labor market participation rates for women (OECD, 2020). Mexican workers have been exposed to their own China shock of both increased imports from China and competition for the goods they produce in third country export markets (like the United States), as China and Mexico share many of the same comparative advantages (Robertson et al., 2020). Mexico also faces challenges with migration, cartels, human trafficking, and other labor market worries that the RRM is not well positioned to help address.

The RRM is likely to be a transitional policy instrument. As Mexican labor rights improve, or as fatigue grows in its application, it could be phased out or fall into desuetude.

Many stars had to align to craft an RRM that targets the protection union problem in Mexico. Absent Trump, the panel decision in the Guatemala case, the asymmetric nature of North American automobile trade, the timing of the López Obrador transition, or the retaking of Congress by Democrats in 2018, the RRM is unlikely to have emerged in its current form. Policymakers seeking to introduce similar mechanisms in other international agreements will need to find incentives and motivations that are different from those that led to the RRM in the USMCA.

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