

December 18, 2024

To the Mexican Section of the USMCA Secretariat:

On July 23, 2024, the Liga Sindical Obrera Mexicana (LSOM), International Lawyers Assisting Workers Network (ILAW Network), United Steelworkers (USW), and American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) filed a USMCA Rapid Response Labor Mechanism (RRM) petition, in which they alleged a Denial of Rights by Pirelli Neumáticos, S.A. de C.V. at its facility in Silao de la Victoria, Guanajuato. The United States reviewed the situation and found a good faith basis to believe that a Denial of Rights was occurring. On August 23, 2024, the United States requested, pursuant to Article 31-A.4.2 of the United States-Mexico-Canada Agreement (USMCA), that Mexico conduct its own review of the situation.

On October 7, 2024, Mexico sent a report to the United States in which it determined no Denial of Rights to exist. Specifically, Mexico asserted that the situation at the Covered Facility was not covered by Annex 31-A of the USMCA, because in its view: (1) since the sector-wide agreement (“*contrato ley*”) in place for the rubber manufacturing industry¹ has not been revised since 2017, a singular, facility-specific collective-bargaining agreement (CBA) has allowed workers to exercise their collective bargaining rights; and (2) there is no evidence showing that workers have been discouraged from advocating for the application of the *contrato ley* through misinformation, or that they have been harassed and threatened with dismissal for affiliating with or organizing for LSOM. Mexico also indicated that on August 7, 2024, and October 7, 2024, the company signed harmonization agreements with the titular union that would allegedly bring the superior *contrato ley* benefits into the singular CBA over time.

The United States disagrees with Mexico's determination² and continues to have a good faith basis to believe that a Denial of Rights is occurring at a “Covered Facility.” To the extent that

¹ See Secretaría de Gobernación, *Contrato Ley de la Industria de la Transformación del Hule en Productos Manufacturados con vigencia del 13 de febrero de 2015 al 12 de febrero de 2017*.

² USMCA Article 31-A.4.5 provides: “If the respondent Party has determined that there is no Denial of Rights, the complainant Party may agree that the issue is resolved or it may communicate in writing its reasons for disagreement with the respondent Party's determination and immediately may request a panel verification and determination pursuant to Article 31-A. 5.” The United States has communicated to Mexico in writing its reasons for disagreement with Mexico's determination. The U.S. communication is attached as Annex A to this request.

Mexico considers that any actions taken by STPS or the Covered Facility have remediated the Denials of Rights, the United States also disagrees.

Therefore, pursuant to Article 31-A.5.1(a) of the USMCA, the United States is “requesting the establishment of a panel to request that the respondent Party allow the panel an opportunity to verify the Covered Facility’s compliance with the law in question and determine whether there has been a Denial of Rights[.]”

As defined in Article 31-A.2, a Denial of Rights occurs when workers at a “Covered Facility” are being denied the right of free association and collective bargaining under laws necessary to fulfill a Party’s obligations under the USMCA.

A “Covered Facility” is one that is in a sector that produces manufactured goods, supplies services, or involves mining, and that (a) produces a good or supplies a service traded between the United States and Mexico or (b) produces a good or supplies a service that competes in the territory of a Party with a good or service of the other Party. In this instance, the facility at issue converts rubber into finished tires and exports them for sale in the United States. Due to the significant bilateral trade between Mexico and the United States in tires, the Pirelli facility is a “Covered Facility.”

The United States considers that workers at the Covered Facility are being denied the right of free association and collective bargaining. Specifically, the United States considers that:

- (1) Instead of applying the *contrato ley* to determine workers’ terms and conditions of employment, the Covered Facility is applying a singular CBA held by a union colloquially known as the “Miguel Trujillo Lopez” union (MTU), which is affiliated with the *Confederación de Trabajadores Mexicanos* (CTM). Several sections of the singular CBA provide benefits that are inferior to the benefits required by the *contrato ley*. Also, the negotiated harmonization agreements do not bring the company into compliance with the *contrato ley*.
- (2) The Covered Facility is interfering with workers’ rights because workers have been discouraged from advocating for the application of the *contrato ley* through misinformation, and have been harassed and threatened with dismissal for affiliating with or organizing for LSOM by the Company or by the MTU.

The Denial of Rights described above appears to be the result of noncompliance with several provisions of Mexican law, including the following sections of the Federal Labor Law (FLL):

- Article 404 defines the *contrato ley* as “the agreement made between one or several unions of workers and several employers, or one or several unions of employers, for the purpose of establishing the conditions under which those who must render service in a specific branch of industry, and declared obligatory.”
- Article 416 states that, “once the [*contrato ley*] has been published, its application will be mandatory for the entire industrial branch that it covers,” and, “[w]hen there is a contract-law in force in an industrial branch, the Federal Conciliation and Labor Registration

Center will not process the deposit of any collective labor contract in that same industrial branch.”

- Article 421 states that the *contrato ley* “will end only by mutual consent of the parties representing the majority [of covered workers], after consulting by personal, free and secret vote of the workers.”
- Article 357 states that organizations of workers “[m]ust enjoy adequate protection against any act of interference by some with respect to the others, either directly or through their representatives.” “Acts of interference” are defined to include “acts or measures tending to encourage the constitution of organizations of workers dominated by an employer . . . or to support in any way organizations of workers in order to place them under their control.”
- Article 378 prohibits a union from performing acts of “discrimination” against “third parties,” Art. 378.IV, from participating “in acts of simulation assuming the character of employer, so that the true employer may evade their responsibilities,” Art. 378.V.

Therefore, the United States is requesting the establishment of a panel pursuant to Article 31-A.5.1(a) of the USMCA. In accordance with Article 31-A.5.3, within three business days of the date of this request, the Secretariat shall select the panelists for this panel and transmit the request to the selected panelists.³

Sincerely,

Ambassador Katherine Tai
United States Trade Representative

Annex A: U.S. Communication to Mexico Providing Its Reasons for Disagreement with Mexico's Determination of No Denial of Rights

cc:

Marcelo Ebrard Causaubón
Secretaría de Economía
Pachuca 189, piso 23
Col. Condesa, Demarcación Territorial Cuauhtémoc
C.P. 06140, Ciudad de México, D.F.

Marath Baruch Bolaños López
Secretario de Trabajo y Previsión Social
Blvd. Adolfo López Mateos 1968
Col. Los Alpes, Alcaldía Álvaro Obregón, Ciudad de México, D.F.
C.P. 01010

Vidya Desai
United States Secretary
USMCA Secretariat, United States Section
1401 Constitution Avenue N.W., Room 2061
Washington, D.C. 20230

³ Article 31-A.5.3 of the USMCA states: "The Secretariat shall within three business days from the date of the request for establishment of a panel select by lot one panelist from the complainant Party list, one from the respondent Party list, and one from the Joint List. The Secretariat shall immediately transmit the petition to the selected panelists."

U.S. Communication to Mexico Providing Its Reasons for Disagreement
with Mexico's Determination of No Denial of Rights

December 18, 2024

On August 23, 2024, the United States requested, pursuant to Article 31-A.4.2 of the United States-Mexico-Canada Agreement (USMCA), that Mexico conduct a review of an ongoing denial of rights at a facility operated by Pirelli Neumáticos, S.A. de C.V., in Silao de la Victoria, Guanajuato, Mexico (“the Covered Facility”).

On October 7, 2024 Mexico returned a report to the United States in which it determined no Denial of Rights to exist. The report said the situation at the Covered Facility was not covered by Annex 31-A of the USMCA because in its view: (1) since the sector-wide agreement (“*contrato ley*”) in place for the rubber manufacturing industry¹ has not been revised since 2017, a singular, facility-specific collective-bargaining agreement (CBA) has allowed workers to exercise their collective bargaining rights; and (2) there is no evidence showing that workers have been discouraged from advocating for the application of the *contrato ley* through misinformation, or that they have been harassed and threatened with dismissal for affiliating with or organizing for the Liga Sindical Obrera Mexicana (LSOM). Furthermore, Mexico asserted that on August 7, 2024 and October 7, 2024, the company signed harmonization agreements with the titular union that would allegedly bring the superior *contrato ley* benefits into the singular CBA over time.

As defined in Article 31-A.2, a Denial of Rights occurs when workers at a “Covered Facility” are being denied the right of free association and collective bargaining under laws necessary to fulfill a Party’s obligations under the USMCA.

A “Covered Facility” is one that is in a sector that produces manufactured goods, supplies services, or involves mining, and that (a) produces a good or supplies a service traded between the United States and Mexico or (b) produces a good or supplies a service that competes in the territory of a Party with a good or service of the other Party. In this instance, the facility at issue converts rubber into finished tires and exports them for sale in the United States. Due to the significant bilateral trade between Mexico and the United States in tires, the Pirelli facility is a “Covered Facility.”

The United States disagrees with Mexico’s determination there is no evidence of a Denial of Rights at the Covered Facility. The United States considers that workers at the Covered Facility are being denied the right of free association and collective bargaining. Specifically, the United States considers that:

- (1) Instead of applying the *contrato ley* to determine workers’ terms and conditions of employment, the Covered Facility is applying a singular CBA held by a union colloquially known as the “Miguel Trujillo Lopez” union (MTU), which is affiliated with

¹ See Secretaría de Gobernación, Contrato Ley de la Industria de la Transformación del Hule en Productos Manufacturados con vigencia del 13 de febrero de 2015 al 12 de febrero de 2017.

the *Confederación de Trabajadores Mexicanos* (CTM). Several sections of the singular CBA provide benefits that are inferior to the benefits required by the *contrato ley*. Also, the negotiated harmonization agreements do not bring the company into compliance with the *contrato ley*.

- (2) The Covered Facility is interfering with workers' rights because workers have been discouraged from advocating for the application of the *contrato ley* through misinformation, and have been harassed and threatened with dismissal for affiliating with or organizing for LSOM by the Company or by the MTU.

Therefore, the situation at the Covered Facility represents an ongoing denial of workers' rights as outlined in the USMCA.²

² USMCA Article 23-A.2(a) requires Mexico, among other things, to “provide in its labor laws the right of workers to engage in concerted activities for collective bargaining or protection and to organize, form, and join the union of their choice, and prohibit, in its labor laws, employer domination or interference in union activities, discrimination, or coercion against workers for union activity or support, and refusal to bargain collectively with the duly recognized union.”