



August 14, 2020

Office of the United States Trade Representative (USTR)  
The Interagency Labor Committee for Monitoring and Enforcement (Interagency Labor Committee)

Via email to: Joshua Kagan, Deputy Assistant U.S. Trade Representative for Labor,  
[Joshua.M.Kagan@ustr.eop.gov](mailto:Joshua.M.Kagan@ustr.eop.gov)

RE: Comments on Docket No. USTR-2020-0028

On July 1 the United States-Mexico Canada Agreement (USMCA) entered into force. The U.S. Council for International Business (USCIB) has been supportive of the agreement throughout the process and the implementation of this agreement comes at a critical time of restoring certainty to U.S. industry in the North American market, as the global market is working toward recovery from the impacts of the current crisis. USCIB and its members have been vocal supporters of the inclusion of the Labor Chapter (Chapter 23) and its Annex in the United States-Mexico-Canada Agreement (USMCA) for its ability to increase protections for workers abroad and promote business continuity, as well as efficiency.

USCIB represents approximately 300 of the largest U.S. multinational organizations, law firms and trade associations, and is dedicated to advancing the global interests of American business through international advocacy for an open system of world trade where business can flourish and contribute to economic growth, human welfare and environmental protection. As the U.S. affiliate of the International Chamber of Commerce, the International Organization of Employers and Business at OECD, USCIB provides business views to policy makers and regulatory authorities worldwide, and works to facilitate international trade and investment.<sup>1</sup> We appreciate the opportunity to provide feedback on Docket No. USTR-2020-0028 as published in the *Federal Register* on June 30, 2020.

USCIB makes the following recommendations:

- The process for determinations requires
  - greater elaboration. For example, there is no indication as to how a committee makes a finding, whether by a vote or some other method, and if there is a right to dissent;
  - details regarding what happens following a committee determination and informs USTR;
  - confidentiality to ensure due process and protect against spurious allegations, and reputational and/or commercial damage;
  - consultation with the company in question, including the ability for the company to present its own evidence as well as challenge allegations made by a petitioner. Under no circumstance should a company be left out of the process for determinations;
  - stipulations to avoid double jeopardy and extraterritorial forum shopping by not reviewing petitions for claims on matters that have already been resolved by mediation, arbitration, by consent of the parties or through the legal process
- Rapid response petitions need to balance speed with the application of a fair process, including the ability to provide a full defense to any allegations.

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<sup>1</sup> More information is available at [www.uscib.org](http://www.uscib.org).

- USCIB, as the national employer body recognized by the ILO, should be able to participate and provide information to the committee as labor unions are invited to do
- Regarding Panels
  - clarify what a panel is authorized to do (interview employees, review documents, etc.), as well as the role of “observers” during the Panel’s verification process
  - ensure that the Panel’s “verification” process (to determine whether there is a denial of collective bargaining rights) is limited to the specific allegations in the petition/claim
  - clarify whether the pre-Panel remedies and post-Panel remedies are the same
  - provide that remedies are not only facility-specific, but also limited to the area of the facility where the goods in question are produced (i.e. the bargaining unit) and not broadly applied in instances where an alleged violation occurred in a limited section of the facility

In sum, greater elaboration of specific procedural provisions is needed; the interests of all stakeholders should be considered when carrying out labor-related mandates; and due process needs to be safeguarded. We are grateful for your consideration of our views and look forward to lending USCIB’s unique expertise in our continued work with USTR.

Sincerely,

Peter Robinson  
President and CEO