

**RAPID RESPONSE MECHANISM PETITION**

**on**

**DENIAL OF RIGHTS AT BBB INDUSTRIES DE MEXICO S. DE R.L. DE  
C.V. FACILITIES IN REYNOSA, TAMAULIPAS, MEXICO**

**Submitted to the**

**OFFICE OF TRADE AND LABOR AFFAIRS  
BUREAU OF INTERNATIONAL LABOR AFFAIRS  
U.S. DEPARTMENT OF LABOR**

**by**

**Sindicato Nacional Independiente de Trabajadores de Industrias y Servicios  
“Movimiento 20/32”**

**and**

**Rethink Trade**

**August 2, 2022**

The “Sindicato Nacional Independiente de Trabajadores de Industrias y Servicios “Movimiento 20/32” [National Independent Union of Industry and Service Workers – 20/32 Movement] (SNITIS) and Rethink Trade, a division of the American Economic Liberties Project, submit this Rapid Response Mechanism (RRM) Petition under the Interim USMCA Procedural Guidelines published in the Federal Register at 85 Fed. Reg. 39257 (June 30, 2020). This Petition requests the activation of the RRM mechanism and establishment of a panel under Annex 31-A of the Protocol of Amendment to the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) to address the Denial of Rights<sup>1</sup> at the BBB Industries de Mexico S. de R.L. de C.V. (BBB Industries) plants in Reynosa, Tamaulipas.

## PETITIONERS

**Sindicato Nacional Independiente de Trabajadores de Industrias y Servicios “Movimiento 20/32”**

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## COVERED FACILITIES

As defined in Article 31-A.15 of the USMCA, “Covered Facility means a facility in the territory of a Party that: (i) produces a good or supplies a service traded between the Parties; or (ii) produces a good or supplies a service that competes in the territory of a Party with a good or a service of the other Party, and is a facility

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<sup>1</sup> As defined in Article 31-A.2 of the USMCA.

in a Priority Sector;” and “Priority Sector means a sector that produces manufactured goods, supplies services, or involves mining.”

The plants operated by BBB Industries in Reynosa, Tamaulipas<sup>2</sup> produce auto parts. Specifically, BBB Industries workers manufacture starters, alternators and hydraulic pumps, among other products, for the automotive aftermarket.<sup>3</sup> These goods are exported to the U.S. market. Just in 2019, BBB Industries exported goods with a value over \$118 million to the United States.<sup>4</sup> Thus, BBB Industries’ products are traded between the Parties and, since its facilities produce goods listed within the priority sectors specified in Article 31-A.15, the latter are Covered Facilities.

### LAWS, AND SPECIFIC PROVISIONS THEREOF, OF MEXICO WITH WHICH THERE IS NON-COMPLIANCE

Article 31-A.2 of the USMCA states: “The [Rapid Response] Mechanism shall apply whenever a Party (the “complainant Party”) has a good faith basis belief that workers at a Covered Facility are being denied the right of free association and collective bargaining under laws necessary to fulfill the obligations of the other Party (the “respondent Party”) under this Agreement (a “Denial of Rights”).”

Footnote 1 to Article 31-A.2 further states: “With respect to Mexico, a claim can be brought only with respect to an alleged Denial of Rights under legislation that complies with Annex 23-A (Worker Representation in Collective Bargaining in Mexico).”

On May 1, 2019, Mexico enacted a comprehensive reform of the Federal Labor Law intended to implement the Constitutional reforms of 2017 and Mexico’s commitments under the USMCA.<sup>5</sup> Under this legislation:

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<sup>2</sup> This petition covers BBB facilities located at the following address: Avenida Mike Allen 53, Industrial Reynosa, C.P. 88788, Reynosa, Tamaulipas.

<sup>3</sup> Exhibit E-1. BBB Industries’ Locations. See <https://www.bbbind.com/locations>.

<sup>4</sup> Exhibit E-2. Veritrade’s BBB Industries Foreign Trade, imports and exports Report. See <https://www.veritradecorp.com/en/mexico/importaciones-y-exportaciones-bbb-industries-de-mexico-s-de-rl-de-cv/rfc-m970930u44>.

<sup>5</sup> DECRETO por el que se reforman, adicionan y derogan diversas disposiciones de la Ley Federal del Trabajo, de la Ley Orgánica del Poder Judicial de la Federación, de la Ley Federal de la Defensoría Pública, de la Ley del Instituto del Fondo Nacional de la Vivienda para los Trabajadores y de la Ley del Seguro Social, en materia de Justicia Laboral, Libertad Sindical y Negociación Colectiva, May 1, 2019. Available at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5559130&fecha=01/05/2019](https://www.dof.gob.mx/nota_detalle.php?codigo=5559130&fecha=01/05/2019).

- By May 1, 2023, all collective bargaining agreements (CBAs) existing at the time the 2019 Labor Law Reform was passed must be submitted to a “legitimation vote” by the covered workers. (Transitional Art. XI)
- A CBA will only be legitimized if a majority of workers approves it through a personal, free, secret-ballot and direct vote. (Transitional Art. XI and Art. 390 Ter)
- If a majority of workers rejects the contract, the CBA is deemed terminated, although workers retain the rights and working conditions specified in the agreement as long as they are more beneficial than those established in the law. (Transitional Art. XI)
- Employers are required to provide workers with a printed copy of their current CBA. (Art. 132.XXX)

These and the other substantive rights established by the reform took effect as of the May 1, 2019 enactment of the new law. On May 1, 2021, the Federal Center of Conciliation and Labor Registry (FCCLR) assumed the registry and oversight functions for the legitimation process of every CBA in Mexico. In furtherance of these functions, the FCCLR issued the Protocol for the Legitimation Process of Collective Bargaining Agreements (hereinafter “the Protocol”).<sup>6</sup>

Under this regulation:

- Workers must receive either from the employer or the incumbent union legitimating its CBA a printed copy of the contract at least three business days before the vote. (Art. 25 of the Protocol)
- The FCCLR, or the notary public in cases where the FCCLR does not designate verifiers to oversee the vote, must surveil the entire legitimation vote process. This includes verifying that workers were not influenced by acts of violence, intimidation or coercion or through false or deceiving information; that only individuals with the right to vote and an official ID were allowed to vote; and that the counting of the votes was carried out in a public and transparent fashion by the incumbent union. (Art. 30 of the Protocol)

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<sup>6</sup> EXTRACTO del Acuerdo por el que se aprueba el Protocolo para el procedimiento de legitimación de contratos colectivos de trabajo existentes, Apr. 30, 2021. Available at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5617321&fecha=30/04/2021#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5617321&fecha=30/04/2021#gsc.tab=0).

- The ballots used for the legitimation vote must be numbered and stamped. (Art. 30 of the Protocol)
- Under Article 38 of the Protocol, potential irregularities that affect the validity of a legitimation vote include:
  - Workers did not receive a printed copy of their CBA from their employer or from the incumbent union. (Subparagraph d)
  - Union representatives and/or employers carried out acts of violence, intimidation or coercion with the intent of impeding workers from voting or to affect the direction of their vote. (Subparagraph e)
  - Union representatives and/or employers diffused false or deceiving information about the legitimation process with the intent of impeding workers from voting or to affect the direction of their vote. (Subparagraph f)
  - Workers eligible to vote who had a valid ID were not allowed to vote. (Subparagraph l)
  - The incumbent union did not carry out a public counting of the votes. (Subparagraph n)

The 2019 reform of the Federal Labor Law complies with Annex 23-A of the USMCA. Therefore, violations of this law and its implementing regulations are actionable under the Rapid Response Mechanism.

DESCRIPTION OF THE MATTERS CONSTITUTING VIOLATIONS OF RIGHTS GUARANTEED IN USMCA ANNEX 23-A (WORKERS REPRESENTATION IN COLLECTIVE BARGAINING IN MEXICO)

Background

BBB Industries de Mexico S. de R.L. de C.V. is a subsidiary of BBB Industries, LLC, an auto parts company headquartered in Alabama. BBB Industries, LLC has manufacturing facilities in the United States, Mexico and Spain and operations in 64 countries in total.<sup>7</sup> The company focuses on remanufacturing auto parts, such as starters, alternators, hydraulic power steering products, brake calipers and turbochargers for the aftermarket. BBB Industries, LLC has been expanding its operations aggressively, with six acquisitions of European companies since 2019<sup>8</sup>

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<sup>7</sup> See <https://www.bbbind.com/history-values>.

<sup>8</sup> See <https://www.autoserviceworld.com/bbb-expands-again-in-europe/>.

and, more recently, by being acquired by private equity firm Clearlake Capital Group, L.P.<sup>9</sup>

BBB Industries, LLC started manufacturing in Mexico in 1998. There it operates four manufacturing plants in Reynosa, Tamaulipas, where approximately 3,000 workers are employed producing auto parts, including starters, alternators and hydraulic pumps.

Since 2000, BBB Industries, LLC has shut down facilities in the United States with 264 workers losing their jobs, some of them due to the company's decision to offshore production of starters and alternators to Mexico in 2005.<sup>10</sup>

### CBA Legitimation

In Mexico, BBB Industries has a CBA with the Sindicato Industrial Autónomo de Operarios en General de Maquiladoras de Reynosa, C.T.M. (SIAMARM), which is affiliated to the Confederación de Trabajadores de México (Confederation of Mexican Workers – CTM).

In accordance with Transitional Article XI of the 2019 Reformed Federal Labor Law, in June-July 2022, SIAMARM organized a vote for workers to legitimize the existing CBA. The vote was scheduled for the first week of July. This election was conducted without in-site verification from the FCCLR and only a notary public, hired by SIAMARM, was allowed to witness the proceedings.

On July 11, 2022, a group of 23 BBB Industries workers filed a legal challenge (“*impugnación*”) before the FCCLR questioning the outcome of the vote based on irregularities and violations of Mexico's applicable labor laws that occurred in the process leading up to the vote and the vote itself.<sup>11</sup>

First and foremost, BBB Industries workers' legal challenge revealed while the list of workers eligible to vote crafted by SIAMARM and submitted to the FCCLR included 2,741 individuals,<sup>12</sup> SIAMARM's official tally of the votes shows 3,158 votes cast.<sup>13</sup> This means that 417 more votes were cast than the total number of

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<sup>9</sup> See <https://www.prnewswire.com/news-releases/bbb-industries-announces-acquisition-by-clearlake-to-fuel-continued-growth-for-leading-sustainable-manufacturing-platform-301551470.html>.

<sup>10</sup> Public Citizen, Trade Adjustment Assistance Database, 2021, extracted on Jul. 25, 2022. Available at: <https://www.citizen.org/article/trade-adjustment-assistance-database/>.

See Trade Adjustment Assistance decisions on BBB Industries at: <https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=56394> and <https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=85450>.

<sup>11</sup> Exhibit E-3. BBB Industries Workers Challenge Against Legitimation Vote.

<sup>12</sup> Exhibit E-4. List of BBB Industries Workers Eligible to Vote.

<sup>13</sup> Exhibit E-5. SIAMARM Minute of the Legitimation Vote.

workers eligible to vote. This alone crucially undermines the reliability of the outcome.

Indeed, this irregularity in itself justifies the invalidation of the outcome of the legitimation vote and necessitates the FCCLR to order the scheduling of a new election under its strict oversight and the presence of external observers.

Yet, in their legal challenge, BBB Industries workers denounced even more irregularities:

- SIAMARM and BBB Industries did not timely distribute printed copies of the CBA to the workers. As a matter of fact, the CBA was not available to workers in either printed or digital form up until the day of the vote. Hence, workers voted without any knowledge of SIAMARM's contractual arrangement with the company.
- Several workers eligible to vote were not allowed to do so by SIAMARM and BBB Industries representatives.
- SIAMARM's delegate and BBB Industries HR staff coerced workers to vote in favor of the CBA, including by announcing to workers throughout the facilities' production lines that if they voted against the contract, workers would lose the benefits to which they were entitled.
- The notary public, who was hired by SIAMARM to oversee the election, was not present during the entirety of the vote. This situation allowed the company and union delegates to intimidate and threaten workers. Plus, the notary public did not corroborate that the individuals voting were eligible to vote by cross-referencing their official ID with the eligible voting workers list crafted by SIAMARM.
- The ballots used for the legitimation vote were not numbered. Hence, it is impossible to guarantee that they were not exchanged or altered by the incumbent union or the company.
- Workers were not allowed to witness the counting of the votes. Furthermore, the ballot boxes located in Plant No. 6 were moved to Plant No. 5 without being sealed and in the absence of the notary public.

### Denial of Rights under USMCA

■ BBB Industries and SIAMARM jointly denied BBB Industries workers their right to approve or reject the existing CBA through a personal, free, secret and direct vote. This violates Transitional Article XI and Articles 386 Bis and 390 Ter of the Federal Labor Law.

■ BBB Industries and SIAMARM jointly denied BBB Industries workers their right to approve or reject the existing CBA through a vote that abides by the principles of security, transparency, reliability and certainty in accordance with the Protocol for the Legitimation Process of Collective Bargaining Agreements and its aforementioned provisions.

■ BBB Industries and SIAMARM jointly denied BBB Industries workers' right to not be forced to join a union they did not choose, in violation of Articles 358.I and 133.IV of the Federal Labor Law.

■ BBB Industries denied its workers' right to receive a printed copy of their CBA, in violation of Article 132.XXX of the Federal Labor Law.

All of these actions and omissions, by themselves and collectively, constitute a denial of the rights of freedom of association and collective bargaining of BBB Industries workers as recognized by USMCA parties' obligations included in Chapter 23 of the USMCA and enshrined in the reformed Mexican Constitution and Federal Labor Law. Accordingly, the petitioners respectfully request that the Interagency Labor Committee for Monitoring and Enforcement activate the Rapid Response Mechanism and request the establishment of a panel under Annex 31-A of the Protocol of Amendment to the USMCA to address these labor rights violations.

### RELIEF REQUESTED

Petitioners request relief, which may include, but is not limited to:

■ The immediate invalidation by the FCCLR of the July 2022 legitimation vote and the scheduling of a new vote that complies with the requirements of the law and that is directly supervised by FCCLR verifiers.

■ The guarantee by the FCCLR that the new legitimation vote is monitored via the presence of national and international observers. Mexican federal authorities such as the Electoral National Institute (INE for its acronym in Spanish) and the National Human Rights Commission must be allowed to guarantee the transparency and fairness of the vote as well. Additionally, the FCCLR must issue



an explicit call for outside observers, promptly accept the requests it receives and guarantee reasonable conditions for such persons to carry out the observation role.

- BBB Industries must facilitate the conditions to carry out the new legitimation vote and refrain from trying to influence the outcome through threats, intimidation, violence or any other means.
- The U.S. government must immediately suspend liquidation for unliquidated entries of goods to the U.S. territory from BBB Industries covered facilities, in accordance with Section 752(a) of the USMCA Implementation Act.

### CONFIDENTIALITY STATEMENT

In accordance with Section E of the Interim USMCA Procedural Guidelines, the petitioners respectfully request that the exhibits marked below as confidential are exempted from public inspection, and generally from disclosure to other authorities, given that they include sensitive information about workers who could face retaliation if their identity is revealed.

### LIST OF EXHIBITS

<b>No.</b>	<b>Description of the Document</b>
E-1	BBB Industries' Locations
E-2	Veritrade's BBB Industries Foreign Trade, imports and exports Report
E-3	BBB Industries Workers Challenge Against Legitimation Vote [Confidential].
E-4	List of BBB Industries Workers Eligible to Vote [Confidential].
E-5	SIAMARM Minute of the Legitimation Vote.