

RAPID RESPONSE MECHANISM PETITION

on

**DENIAL OF RIGHTS AT PANASONIC AUTOMOTIVE SYSTEMS DE
MEXICO S.A. 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

April 18, 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 on June 30, 2020 at 85 FR 39257. This RRM Petition requests “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 Rights¹ at the Panasonic plants in Reynosa, Tamaulipas.

PETITIONERS

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

Calle España No. 100 A, entre 14 y 16,

Colonia Buenavista, Matamoros, Tamaulipas, México

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COVERED FACILITIES

As defined in USMCA Art. 31-A.15, a “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 in a Priority Sector.”

¹ As defined in Article 31-A.2 of the USMCA.

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

The plants operated by Panasonic Automotive Systems de Mexico S.A. de C.V. in Reynosa, Tamaulipas² produce audio systems and screens for automobiles,³ which are manufactured goods and, more specifically, auto parts. These goods are exported to the U.S. market – thus, traded between the Parties –⁴ and, since the facilities classify within the priority sectors specified in Article 31-A.15, they are Covered Facilities.

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

Article 31-A.2 of the USMCA states that “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 that “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 promulgated a comprehensive reform of the Federal Labor Law intended to implement the Constitutional reforms of 2017 and Mexico’s commitments under the USMCA.⁵ Under this legislation:

² This petition covers Panasonic facilities located at the following address: Carretera Matamoros y Mike Allen, Número 1231, Parque Industrial Reynosa, Reynosa, Tamaulipas.

³ Exhibit E-1. Panasonic Mexico Company’s Review. See <https://www.dateas.com/es/explore/empresas-mexicanas-tamaulipas/panasonic-automotive-systems-de-mexico-sa-de-cv-25283>.

⁴ Exhibit E-2. Panjiva’s Panasonic Mexico Supplier Report. See <https://panjiva.com/Panasonic-Automotive-Systems-De-Mexico-SA-De-Cv/31210804>

⁵ 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, https://www.dof.gob.mx/nota_detalle.php?codigo=5559130&fecha=01/05/2019.

- All collective bargaining agreements (CBAs) existing at the moment the 2019 Labor Law Reform was passed must be submitted to a “legitimation vote” by the covered workers by May 1, 2023 (Transitional Art. XI).
- A CBA would 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).
- To negotiate a new CBA, unions representing workers at the facility must request the issuance of a certificate of representation before the Federal Center of Conciliation and Labor Registry (FCCLR) by demonstrating that they represent at least 30% of the workforce (Art. 387 and 390 Bis).
- When two unions claim to represent workers from the same facility, a personal, free, secret-ballot and direct vote must be held to determine which union has the majority support of the workers. The outcome of that vote determines which union can receive a certificate of representation and, hence, has the right to negotiate a new CBA (Art. 388 and 390 Bis).

These and the other substantive rights established by the reform took effect as of the date of its promulgation. Although the implementation of the new labor courts that will administer and enforce these rights is phased in over a four-year period, starting on November 13, 2021, the FCCLR took over the registry functions assigned to this institution by the law, including those related to registering CBAs and handling the administrative procedures related to them.⁶

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

⁶ ACUERDO por el que se hace del conocimiento el inicio de las funciones registrales a nivel nacional del Centro Federal de Conciliación y Registro Laboral, Nov. 13, 2021. Available at: http://dof.gob.mx/nota_detalle.php?codigo=5632587&fecha=13/10/2021.

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

Background

Panasonic is a multinational business group with 243,540 employees worldwide, net sales of nearly 6,700 billion yen (around US\$54 billion) and operations in several countries.⁷ Panasonic Automotive Systems is the group's division that develops, manufactures and sells automotive infotainment systems, such as display audio, stereos, car navigation systems, etc.⁸

Panasonic Automotive Systems de Mexico S.A. de C.V. (Panasonic Mexico), a Mexican subsidiary of the Panasonic Automotive Systems division,⁹ operates two manufacturing plants in Reynosa, Tamaulipas, Mexico, where approximately 2,000 workers are employed producing auto parts, including audio systems and screens, for sale in the United States and other international markets.

Since 2000, Panasonic has shut down facilities in the United States with 3,343 workers losing their jobs. Of those 3,343 lost jobs, roughly one-third were offshored to Mexico, including at least 500 that corresponded to previous Panasonic Automotive Systems operations in the United States.¹⁰

Panasonic Mexico had a collective bargaining agreement (CBA) with the Panasonic Automotive Systems de Mexico S.A. de C.V. Workers Union (Company Union). In accordance with Transitional Art. XI of the 2019-Reformed Federal Labor Law, in October 2021 the Company Union organized a vote for workers to legitimize the existing CBA. After tallying the votes, the FCCLR certified that a majority of workers voted against the CBA: From the 2,042 eligible workers, there were 1,531 valid votes of which 888 were against the contract and 643 in favor.¹¹

⁷ Panasonic Group Overview as of Mar. 31, 2021. Available at:

<https://holdings.panasonic/global/corporate/about.html>

⁸ Panasonic Automotive Systems Co., Ltd. "About Us." Accessed on Apr. 13, 2022. Available at:

<https://automotive.panasonic.com/en/corporate/profile>

⁹ Panasonic Automotive Systems Co., Ltd. "Office list, Overseas" Accessed on Apr. 13, 2022. Available at:

<https://automotive.panasonic.com/en/corporate/office>

¹⁰ Public Citizen, Trade Adjustment Assistance Database, 2021, extracted on Apr. 13, 2022. Available at:

<https://www.citizen.org/article/trade-adjustment-assistance-database/>. See [Trade Adjustment Assistance decisions on Panasonic at https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=58103;](https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=58103)

[https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=63396;](https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=63396)

[https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=64159;](https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=64159)

[https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=64135;](https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=64135) and

[https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=74180.](https://www.doleta.gov/tradeact/petitioners/taadecision.cfm?taw=74180)

¹¹ Exhibit E-3. Federal Center of Conciliation and Labor Registry Minute of the Legitimation Vote.

This outcome meant that any union could file a request before the FCCLR to receive a certificate of representation giving it the right to negotiate a new CBA with the company.

On March 4, 2022, the FCCLR issued a notice that the Sindicato Industrial Autónomo de Operarios en General de Maquiladoras de la República Mexicana (SIAMARM), which is affiliated to the Confederación de Trabajadores de México (Confederation of Mexican Workers – CTM), had requested the issuance of a certificate of representation over workers from Panasonic Mexico.¹²

A few days later, on March 11, the Sindicato Nacional Independiente de Trabajadores de Industrias y Servicios “Movimiento 20/32” (SNITIS) filed a request for a certificate of representation before the FCCLR, demonstrating that it had the support of at least 30% of Panasonic Mexico workers.¹³

Consequently, on March 29, the FCCLR issued a notification clarifying that two unions claimed to represent Panasonic Mexico workers.¹⁴ Later, the FCCLR issued a decision calling for a union election (consulta) to be held on April 21 and 22, 2022. This election will determine whether SIAMARM or SNITIS has the support of the majority of the workers and, consequently, the right to negotiate a new contract with the company.¹⁵

However, and disregarding its obligations under the Federal Labor Law, starting on March 14, Panasonic Mexico allowed SIAMARM’s staff to go into the plants and impose its delegates. Workers at the plants report that SIAMARM representatives have tried to bribe workers in exchange for their votes, offering them sums of money up to \$1,500 Mexican pesos and other items.¹⁶

Moreover, on March 25, Panasonic Mexico started withholding union dues for SIAMARM from its employees’ paychecks in spite of the lack of workers’ consent for these deductions and the fact that the election to determine whether SIAMARM had the support of a majority of the workers had not yet taken place.¹⁷

Further undermining the process being carried out by the federal authorities, on April 4, the company and SIAMARM circulated a CBA signed between them and deposited before the Tamaulipas Conciliation and Arbitration Board (CAB) and

¹² Exhibit E-4. Federal Center of Conciliation and Labor Registry Notification of SIAMARM Certificate of Representation Request.

¹³ Exhibit E-5. SNITIS Certificate of Representation Request.

¹⁴ Exhibit E-6. Federal Center of Conciliation and Labor Registry Notification of SNITIS request.

¹⁵ Exhibit E-7. Federal Center of Conciliation and Labor Registry Vote Order and Announcement.

¹⁶ Exhibit E-8. Panasonic Mexico Workers Petition to Initiate a RRM Case.

¹⁷ Exhibit E-8. Panasonic Mexico Workers Petition to Initiate a RRM Case and Exhibit E-9. Panasonic Workers’ Paystubs.

demanded that workers sign a document endorsing this contract.¹⁸ By doing so, the Tamaulipas CAB is usurping a legal authority that since November 13, 2021 lies exclusively with the FCCLR.

Most workers refused to endorse this new CBA that the company and SIAMARM were trying to force on them and this triggered work stoppages throughout the plants, which have lasted for more than a week.¹⁹

Since April 7, more than 300 workers have filed written petitions with management requesting that Panasonic Mexico stop deducting dues for SIAMARM from their pay, in accordance with Article 110.VI of the Federal Labor Law.²⁰ Very few of these petitions have even been accepted by management.

Panasonic Mexico has retaliated against SNITIS supporters with mass firings: More than 60 workers that support SNITIS have been dismissed. The company even fired 15 workers who were representing SNITIS supporters in a meeting that was called by management to try to negotiate a resumption of activities in the plants.²¹

Furthermore, the company has announced that it will not sign a different CBA with the union that receives the majority of the votes on the April 21-22 election. The company also even refused entrance to a FCCLR official who was supposed to post materials about the election within the plants.²²

On April 8, Panasonic Mexico representatives told workers that they could not expel SIAMARM delegates from the plants because the company had signed a CBA with this union.²³ The same day, a large number of Panasonic workers signed a petition in which they assert that there has been a flagrant denial of rights under

¹⁸ Exhibit E-8. Panasonic Mexico Workers Petition to Initiate a RRM Case and Exhibit E-10. SIAMARM-Panasonic CBA.

¹⁹ “Trabajadores realizan paro de labores en empresa de Tamaulipas,” Milenio, April 12, 2022. Available at: https://www.milenio.com/politica/comunidad/trabajadores-panasonic-reynosa-manifiestan-paro-labores?fbclid=IwAR3dwOv62D0nofCU6nqGR5Ut9KHAvn8bvL2h3WwIbCXueA1Tb48GVmENM_k; “Plantón de trabajadores afuera de Panasonic,” El Mañana, April 12, 2022. Available at: https://www.elmanana.com/local/reynosa/planton-de-trabajadores-afuera-de-panasonic/5528162?fbclid=IwAR0zPoRirSTMjl3Atd9UdOwTSdD_XLUAZxBIYfnX-nKbyk6BII08uRx5ncs

²⁰ Exhibit E-11. Panasonic Mexico Workers’ Petitions on Union Dues Withholding.

²¹ Jared Laureles, “Denuncian ‘despidos injustificados’ de Panasonic en Reynosa,” Periódico La Jornada, April 13, 2022. Available at: <https://www.jornada.com.mx/2022/04/13/politica/013n2pol?fbclid=IwAR2rYqRrspmeUJQRZAAFG0IDm52AAw8b5-BAMdmTMU5nELSQayQ7fiqCrGA>

²² Jared Laureles, “Denuncian ‘despidos injustificados’ de Panasonic en Reynosa,” Periódico La Jornada, April 13, 2022. Available at: <https://www.jornada.com.mx/2022/04/13/politica/013n2pol?fbclid=IwAR2rYqRrspmeUJQRZAAFG0IDm52AAw8b5-BAMdmTMU5nELSQayQ7fiqCrGA>

²³ Exhibit E-8. Panasonic Mexico Workers Petition to Initiate a RRM Case.

Chapter 23 of the USMCA and request that the U.S. government activate USMCA's labor enforcement mechanisms.²⁴

Denial of Rights under USMCA

- Panasonic Mexico and SIAMARM are jointly denying Panasonic Mexico workers the rights they obtained by not legitimizing their preexisting CBA, which meant that they should be able to elect the union of their choosing through a personal, free, secret and direct vote. This violates Transitional Art. XI and Art. 390 Ter of the Federal Labor Law.²⁵
- Panasonic and SIAMARM are jointly denying Panasonic Mexico workers' right to not be forced to join a union they did not choose, in violation of Arts. 358.I and Art. 133.IV of the Federal Labor Law.
- Panasonic Mexico retaliated against workers who refused to endorse the CBA being forced upon them by firing more than 60 workers, including those who volunteered to act as representatives of the workforce, in violation of Article 133.V of the Federal Labor Law.
- By allowing Panasonic Mexico and SIAMARM to deposit a CBA in the state CAB despite the fact that a vote to determine the union that represents Panasonic Mexico workers is pending and the state CAB does not have jurisdiction over CBA registration under the new regime, the Government of Tamaulipas, along with Panasonic Mexico and SIAMARM, is denying Panasonic Mexico workers the right to a personal, free, secret-ballot and direct vote to elect the union of their choosing, as guaranteed by Art. 388 of the Federal Labor Law.
- By usurping the FCCLR's legal authority to register CBAs, the Government of Tamaulipas is violating Art. 590-A.II and Transitional Art. III of the Federal Labor Law.
- By signing and depositing a CBA despite the fact that a vote to determine the union that represents Panasonic Mexico workers is pending, Panasonic Mexico and SIAMARM are jointly denying Panasonic Mexico workers the right to bargain

²⁴ Exhibit E-8. Panasonic Mexico Workers Petition to Initiate a RRM Case.

²⁵ The Supreme Court has affirmed the constitutionality of Art 400 Bis. *Amparo en Revisión 18/2020*. Nov. 25, 2020, p. 58. Note that the requirement for contract ratification under Art. 400 Bis is distinct from the requirement for contract legitimation established in Transitional Art. XI, although both use the procedures established in Art. 390 Ter.

collectively and vote on any proposed CBA through a personal, free, and secret-ballot vote, as guaranteed by Arts. 386 bis and 390 bis 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 Panasonic Mexico 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 systematic and continuing violations of labor rights.

RELIEF REQUESTED

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

- Immediately cease deduction of dues to SIAMARM and reimburse workers for all union dues deducted since March 25, 2022.
- Offer reinstatement and full back pay, with interest retroactive to the date of termination, to all of the approximately 60 workers who have been fired since March 2022.
- Terminate the contract signed between Panasonic Mexico and SIAMARM and order the company to negotiate in good faith with the union that wins the April 21-22 vote, provided that the election is carried out in a transparent and fair fashion.
- Allow national and international observers for the April 21-22 union vote. Mexican federal authorities such as the Electoral National Institute (INE) and the National Human Rights Commission should be allowed to guarantee the transparency and fairness of the vote as well.
- Grant SNITIS representatives reasonable access to Panasonic plants in the period prior to conducting the election, so that both contending unions are on equal footing.
- The U.S. government must immediately suspend liquidation for unliquidated entries of goods to the U.S. territory from Panasonic Mexico 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

No.	Description of the Document
E-1	Panasonic Mexico Company's Review
E-2	Panjiva's Panasonic Mexico Supplier Report
E-3	Federal Center of Conciliation and Labor Registry Minute of the Legitimation Vote
E-4	Federal Center of Conciliation and Labor Registry Notification of SIAMARM Certificate of Representation Request
E-5	SNITIS Certificate of Representation Request
E-6	Federal Center of Conciliation and Labor Registry Notification of SNITIS request
E-7	Federal Center of Conciliation and Labor Registry Vote Order and Announcement
E-8	Panasonic Mexico Workers Petition to Initiate a RRM Case [Confidential]
E-9	Panasonic Mexico Workers' Paystubs [Confidential]
E-10	SIAMARM-Panasonic CBA
E-11	Panasonic Mexico Workers' Petitions on Union Dues Withholding [Confidential]