

# USMCA Labor Chapter

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# I. Purpose of USMCA's Labor Chapter

- Avoid “**social dumping**”:
  - Unfair competitive advantage to producers or investments in Mexico through the lack of enforcement of labor laws.

## II. Enforcement in USMCA

- Two mechanisms will review executive and judicial Mexican authorities as to labor rights:
  - Institutional Permanent Surveillance
  - Ad hoc *panels* to determine violations
    1. Panels under the Rapid Response Mechanism
    1. “General” Dispute Panels

### III. Will USMCA impact companies?

Yes, through *investigations* and possible *remediation measures*, as a result of a **Denial of Labor Rights!**

The ***Rapid Response Mechanism*** targets specific non-complying facilities.

## IV. What Labor Rights?

Labor rights covered by USMCA are also recognized in the Federal Labor Law:

### ILO Declaration on Rights at Work

- *Freedom of association (and right to strike);*
- *Effective recognition of the right to collective bargaining;*
- Elimination of forced labor;
- Abolition of child labor;
- Elimination of discrimination.

### ILO Declaration on Social Justice for a Fair Globalization

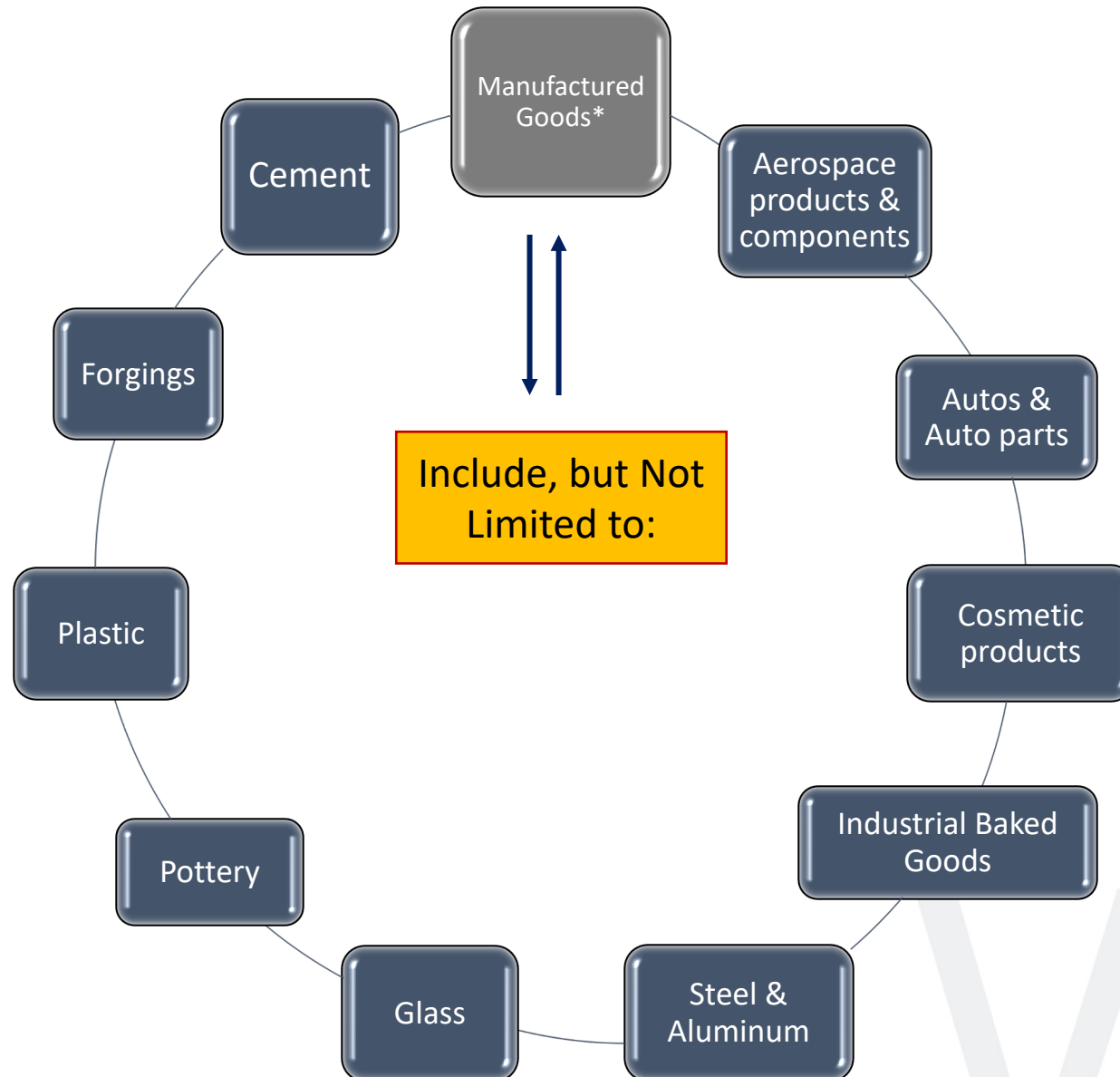
- Employment, social protection, social dialogue, fundamental principles and rights at work;
- Acceptable Minimum wages, hours of work, occupational safety and health.

## IV. Does USMCA's protects all workers?

**Yes**, at first glance... but “**priority**” economic sectors are being specifically targeted:

- produces manufactured goods:
- supplies services, or
- involves mining.

## IV. What “Priority” Sectors?



## IV. Additional “Enforcement” Considerations

- **Outbound: Trade G/S**
- **Inbound: G/S that Compete**
- **Investment**



### **Rapid Response Mechanism**

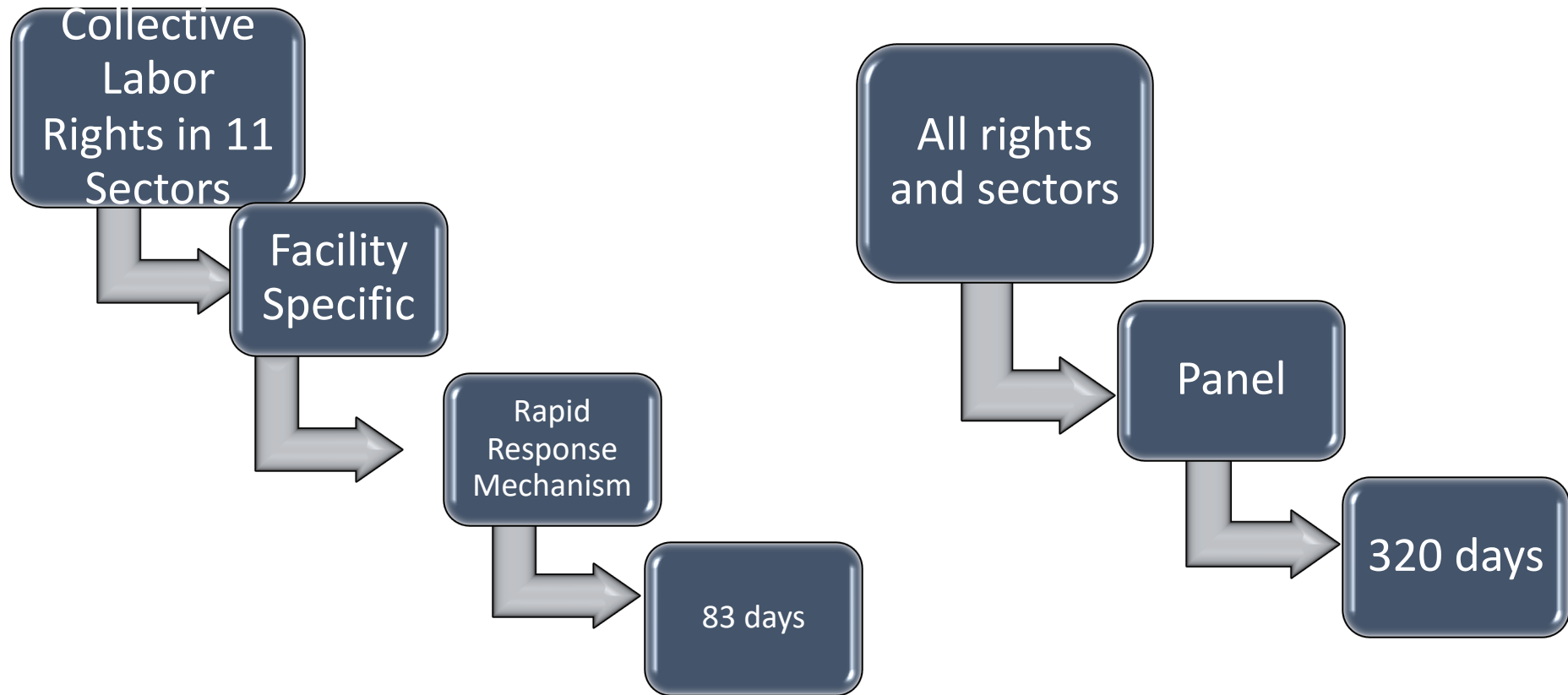
- Specific Facility in Priority Sector.
- Collective Labor Rights

### **DS Mechanism**

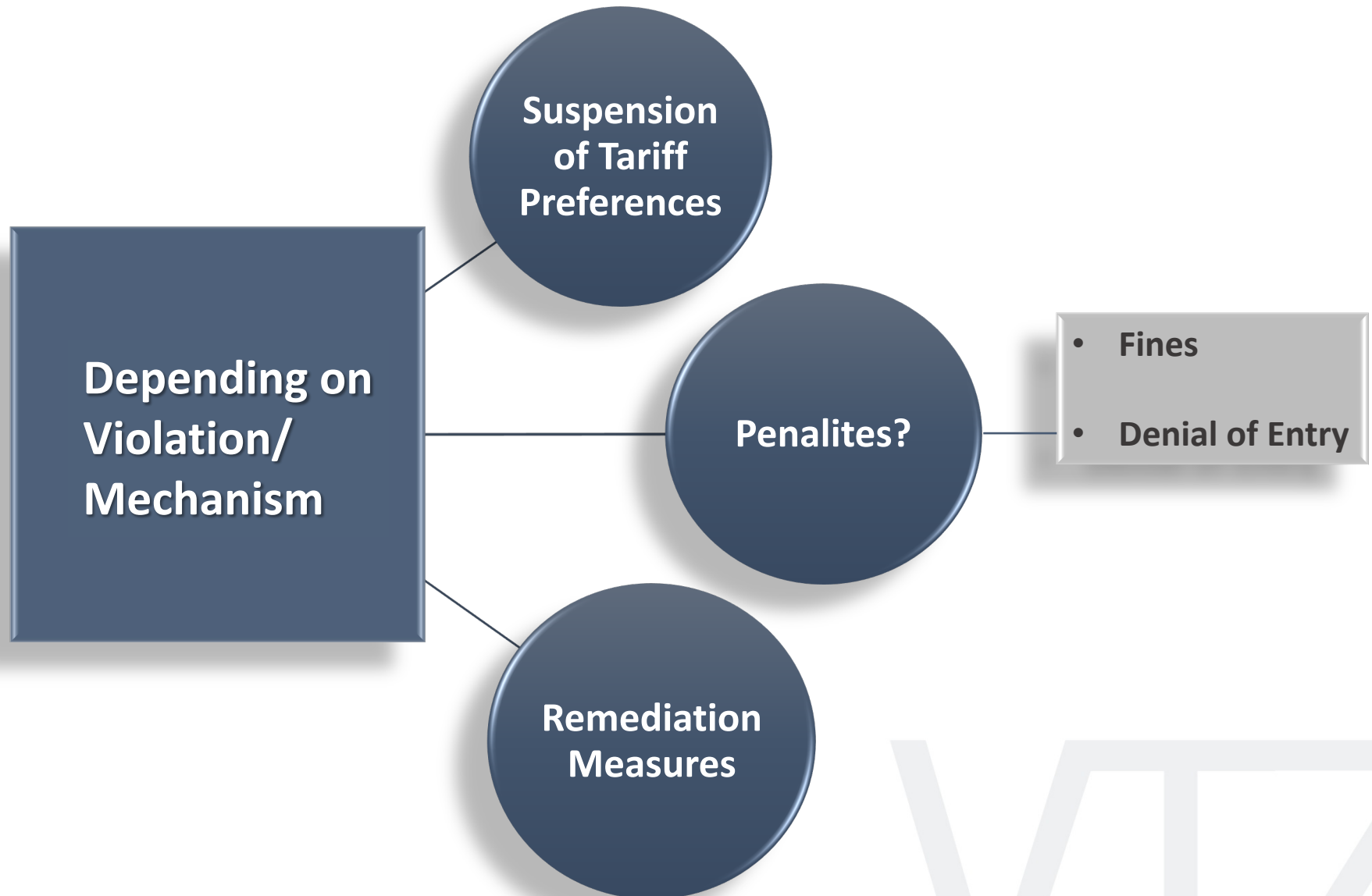
- Person or Industry
- All Sectors
- All Rights or Failure to Enforce Laws



## IV. Enforcement Mechanism



# V. Remediation Measures



## VI. When will a Company be aware of an RRM?

Per USMCA implemenation act, USA established an internal review process of complaints:

30\* days

- ❑ U.S.A: recieves a complaint submitted by a person.
- ❑ Internal Investigation is carried out.
  - ❑ Notification to GoM.
- ❑ Determination of labor violations or not.
- ❑ Consultations and Mexico has the opportunity to investigate.

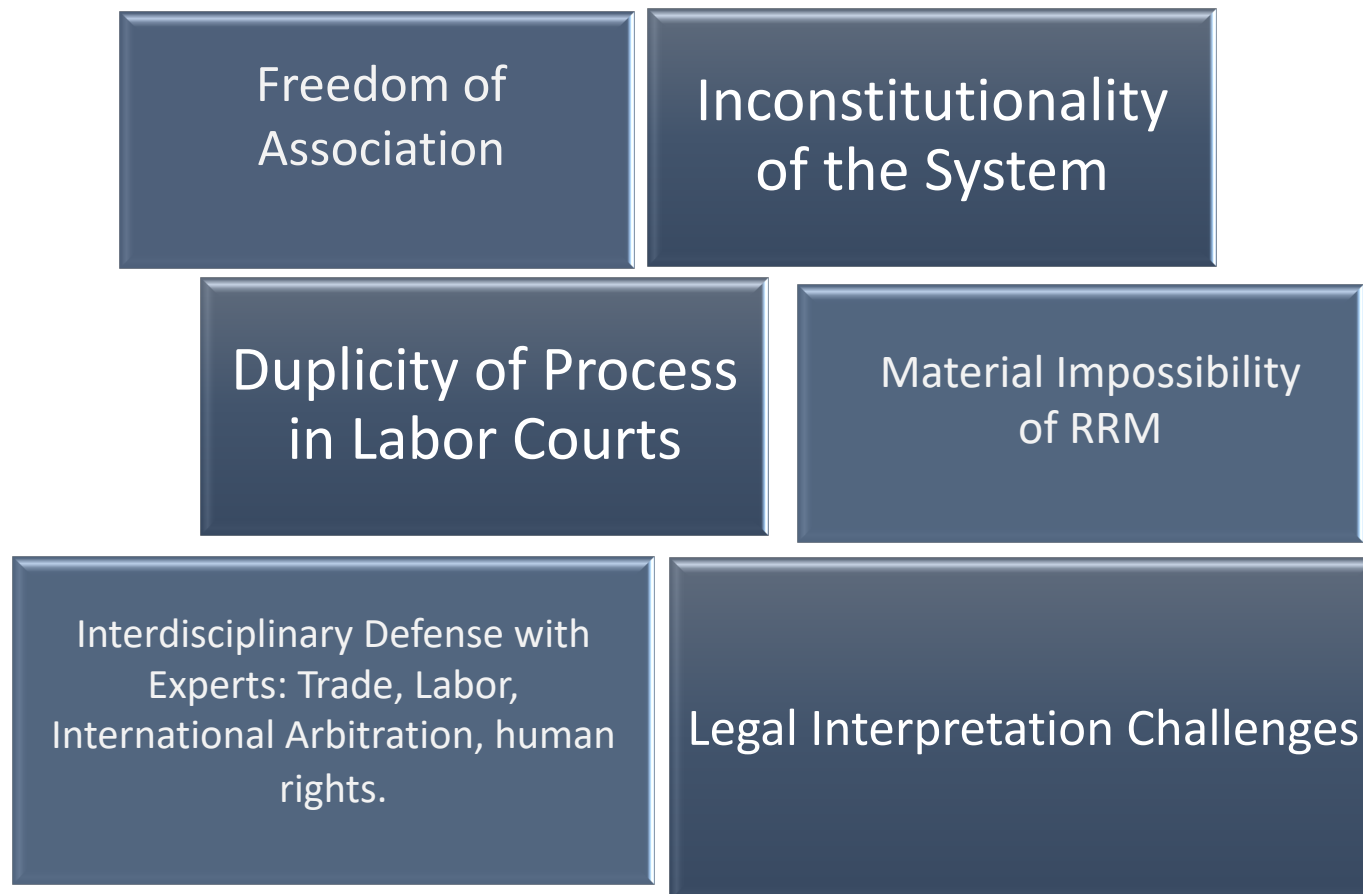
## VI. Should Mexican Companies take actions?

Yes:

- Parties may not stop or halt investigations like in NAALC.
- Strong union interest that may pressure USA and/or Canada.
- Main interested parties: 1,021 minority unions in Mexico

## VII. Legal Issues

Our team – labor, trade and international law experts – has identified possible serious issues with USMCA's provisions:



## VII. Final Remarks

- USMCA's brings new *labor-related trade risks* to companies.
- New labor & trade legal services?
  - Preventive Services
  - “Defense” services
- A new relationship between trade and labor lawyers in Mexico and the US?
  - **Asset:** Expertise in international trade arbitration.



**EXPERT GUIDES**

# Thank you For your Attention!

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