



Biden forges ahead to protect workers in Mexico despite claims he's breaking the law

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The White House is escalating a labor dispute at a major mine in central Mexico, an action backed by powerful labor unions, but it could have a devastating effect on workers and the economy.

The United States Trade Representative (USTR), which is housed in the White House, is pursuing the case by leveraging a little-used tool in the 2020 United States-Mexico-Canada Agreement (USMCA).

The Rapid Response Labor Mechanism (RRM), is a provision that allows the government to take enforcement action against factories if they fail to comply with domestic freedom of association and collective bargaining laws. As part of its effort, the USTR successfully convened the first-ever RRM tribunal to review concerns brought by labor officials in the U.S. and Mexico.

"This announcement upholds the Biden-Harris administration's commitment to creating a more level playing field for workers to feel empowered and using every enforcement tool at our disposal to safeguard workers' rights," U.S. Trade Representative Katherine Tai said after her office filed its initial motion to convene the RRM tribunal.

However, the process has faced considerable pushback from the Mexican government, the U.S. Chamber of Commerce and the owner of the mine, Grupo Mexico, which has argued the U.S. government doesn't have jurisdiction in the dispute. Critics have also warned the process, which is expected to conclude with a ruling as early as Friday, has lacked transparency.

The case dates back more than a decade and a half when, in 2007, the powerful Mexican miners' union

Los Mineros went on strike at Grupo Mexico's San Martin mine in Sombrerete, Zacatecas, which produces a high quantity of Mexico's lead, zinc and copper supplies. The strike was related, in part, to safety conditions at the site.

According to legal filings reviewed by Fox News Digital, the San Martin mine reopened 11 years later, in 2018, when the mine's operator struck a deal with Los Trabajadores Coaligados, a coalition of workers that voted to return to work and end the strike. In June 2023, the Mexican Conciliation and Arbitration Board, a government panel, confirmed in a ruling that the strike was over and San Martin could operate as normal.

Still, that same month, USTR invoked the USMCA's RRM and requested the Mexican government review whether workers at the mine were being denied their rights to freedom of association and collective bargaining. The request was in response to a petition filed by Los Mineros alongside the AFL-CIO and the United Steel Workers (USW).

On Aug. 22, 2023, despite Mexico's assertion that the case was outside the scope of the USMCA, USTR formally requested the first-ever RRM tribunal.

"USTR should have never brought this RRLM case because it is jurisdictionally defective, and there has been no denial of rights at the mine," said Jonathan Stoel, a partner at the law firm Hogan Lovells, which represents the San Martin mine. "The RRLM process since the June 2023 petition has been conducted unfairly by the U.S. government and has been rife with procedural violations.

"The U.S. government's own documents that were made public as a result of our FOIA request revealed

that USTR rejected a similar petition containing the same facts in 2020 and confirmed that this petition is more about politics than alleged labor violations."

Those documents, reviewed by Fox News Digital, show USTR officials in the Trump administration expressed skepticism about invoking the RRM in the case. The revelation came in an October 2020 memo sent to then-U.S. Trade Representative Robert Lighthizer.

In filings submitted to the RRM tribunal convened by the U.S. last year, the San Martin mine has echoed some of those same concerns, arguing its facility falls outside the USMCA's jurisdiction since its products are not exported to the U.S. and that the labor dispute predates the signing of the trade agreement.

Rep. Carol Miller, R-W. Va., a member of the House Ways and Means Subcommittee on Trade, penned a letter to Tai in late January, saying the RRM process has a limited scope and warning against abusing the provision.

"Once again, Joe Biden is failing to promote fair trade or prioritize U.S. trade interests," Miller told Fox News Digital in a written statement. "The Biden administration's choice to use RRM to reopen already settled labor disputes that have no impact on American industry demonstrates a lack of seriousness in their trade agenda."

And the U.S. Chamber of Commerce, the world's largest business federation, filed a brief in the case, saying it was concerned about the broader implications of a North American nation invoking the RRM in the future.

"The U.S. government's pursuit of this case violates a central principle upon which the U.S. legal system was built. The principle is that laws do not have retroactive effect unless the lawmakers expressly specify otherwise," the chamber's November brief stated.

"The facts upon which the U.S. government relies to support its case involving the San Martín mine occurred before the USMCA was negotiated, prior to the USMCA's passage by the U.S. Congress, and prior to its entry into force."

Overall, the case, which may ultimately lead to the forcible closure of the San Martin mine, could have a major impact on the local economy in Sombrerete and Mexico's economy at large. The mine employs about 1,000 workers and, last year, the mine produced more than 1.4 million tons of lead, zinc, copper and silver, key minerals for a wide variety of technologies and products, according to financial filings.

And it could further benefit Los Mineros General-Secretary Napoleon Gomez Urrutia, who is facing criminal charges and was ordered by a Mexican court to pay \$54 million in an alleged embezzlement scheme, Mexico Business News previously reported. One of Los Mineros' demands to end the San Martin strike was for the Mexican federal government to drop its charges against Urrutia.

The USTR, AFL-CIO, USW and Los Mineros didn't respond to requests for comment for this story.