

# USMCA Preview: Alternative Methods of Dispute and Temporary Relief for Vehicle and Light Truck Producers

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After more than two years of deliberation, the United States-Mexico-Canada Agreement [T-MAC in Mexico] will enter into force on July 1, 2020. The three-nation agreement includes a key element employers may want to take note of—employers and unions will be able to negotiate disputes through alternative methods of dispute resolution. Under the USMCA's predecessor agreement, the North American Free Trade Agreement, alternative dispute resolution was limited to commercial disputes.

On April 24, 2020, the Office of the United States Trade Representative [notified](#) Congress that Canada and Mexico “have taken measures necessary to comply with their commitments under” the USMCA.

Paragraph 2 of the [Protocol Replacing the North American Free Trade Agreement](#) (NAFTA) with the USMCA establishes the following:

Each Party shall notify the other Parties, in writing, once it has completed the internal procedures required for the entry into force of this Protocol. This Protocol and its Annex shall enter into force on the first day of the third month following the last notification.

In accordance with the above, the USMCA will go into effect on July 1, 2020, in the three member countries.

## Alternative Methods of Dispute Resolution

[Chapter 31](#) of the USMCA applies one of the most important changes that the USMCA makes in relation NAFTA—the possibility for parties to undertake alternative methods of dispute resolution during a labor conflict, rather than only during commercial conflicts as is the case under NAFTA. The consequences of a party failing to legitimize itself in labor matters under the guidelines of the new USMCA is that a legal person from any member state, including unions, may undertake such dispute resolution mechanisms. If the parties do not agree on a resolution, the parties could order the suspension of exports that are the matter of the controversy.

The key elements of the USMCA's alternative method of dispute resolution for labor matters include the following:

- *Labor consultations*

The USMCA includes a “Facility-Specific, Rapid Response Labor Mechanism” for consulting information on any matter arising under [USMCA Chapter 23 \(Labor\)](#). Under this measure, if the information the parties have is not adequate to resolve the matter, the parties may request: (i) advice from independent experts chosen by the parties; and/or (ii) ministerial labor consultations, which consist of the relevant ministers of the parties or the persons they designate and which would seek to resolve the dispute. This mechanism is mandatory to resort the alternative method of dispute resolution.

- *Dispute resolution procedures*

The USMCA includes dispute resolution procedures, such as good offices, conciliation and mediation. Proceedings under this method of alternative dispute resolution are confidential and without prejudice to the rights of parties in other proceedings.

- *Establishment of a panel of specialists*

The parties may establish a panel of specialists, including an independent specialist and a specialist from each of the countries involved in the controversy.

Additionally, on April 30, 2020, the Secretary of Economy [published](#) in the Official Gazette of the Federation, the procedures for submitting applications to use an “alternative transition regime” established in the Appendix to Annex 4-B of the USMCA Chapter 4, which provides additional time and a different transition period to comply with the rules of origin for passenger vehicles and light trucks that the USMCA provides to producers of passenger vehicles or light trucks from the three member countries. The additional time and transition period—which would allow these producers to comply with more flexible rules of origin for a longer period of time than if they were complying with the alternative transition regime—is intended to allow these producers to generate significant savings by being able to request preferential tariff treatment.

Finally, on May 14, 2020, the General Public Health Council published in the Official Gazette of the Federation, an agreement indicating that while the health emergency is ongoing, the construction, mining, and transportation equipment manufacturing industries will be considered to be essential activities. Also, as of May 18, 2020, these industries must establish strict protection protocols for all their workers.

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