

USTR

US-Mexico-Canada Agreement

August 12, 2020

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Background

- The NAFTA entered into force January 1, 1994.
 - Established the largest free trade area in the world at the time.
- President Trump has kept his promise to replace the NAFTA with a far better agreement.
- The United States-Mexico-Canada Agreement (USMCA) entered into force on July 1, 2020 and replaces the NAFTA.
- The core benefits of the NAFTA remain:
 - Industrial goods – no tariffs with Mexico or Canada.
 - Agricultural goods – no tariffs with Mexico, no tariffs with Canada for most agricultural products.

USMCA – Three Key Goals

Promoting Fair Trade and Expanding Market Access

Auto Rules of Origin

Review and Term Extension

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Autos Rules of Origin

Promoting fundamental changes in the North American auto industry to incentivize production in the United States and North America.

- **Updates to the rules of origin provide greater incentives to source goods and materials in the United States and North America.**
 - Elevates regional value content to 75 percent (from 62.5 percent under the NAFTA).
 - Requires at least 70 percent of a producer's steel and aluminum purchases originate in North America.
 - Eliminates loopholes that undermine these thresholds.
- **First-of-its-kind "labor content rule":**
 - Requires 40% to 45% of auto content to be made by workers who make at least \$16 an hour.
 - Ensures that United States producers and workers are able to compete on an even playing field, and incentivizes new vehicle and parts investments in the United States.
- Transform supply chains to use more United States content, especially content that is key to future automobile production and high-paying jobs.

Agriculture

Enhanced market access for U.S. ranchers and farmers; securing new market opportunities for U.S. dairy, poultry and egg producers.

- Canada's milk pricing program will be eliminated creating new export opportunities for U.S. dairy farmers.
- New market access for U.S. eggs and poultry products in Canada.
- Canada committed to non-discriminatory treatment in the grading of U.S. wheat.
- Covers all biotechnologies, including new technologies such as gene editing.
- Mexico agreed to not restrict market access in Mexico for U.S. cheeses labeled with certain names.

Setting a 21st Century standard for labor provisions in trade agreements.

- **Labor Chapter:**
 - The Labor Chapter that brings labor obligations into the core of the agreement, makes them fully enforceable, and represents the strongest provisions of any trade agreement.
 - Addresses violence against workers for exercising their labor rights.
 - Prohibits the importation of goods made by forced labor.
 - Includes an Annex on Worker Representation and Collective Bargaining in Mexico, which helped ensure critical changes to Mexican labor law to provide for the effective recognition of the right to collective bargaining.
 - In addition, the dispute settlement chapter establishes a first-of-its-kind Rapid Response Mechanism that will provide for monitoring and expedited enforcement of labor rights in Mexico at particular facilities while respecting sovereignty and due process.

Creating a firm foundation for the expansion of trade and investment in innovative digital products and services.

- **Enhancing and protecting the global digital ecosystem:**
 - Prohibits customs duties or other discriminatory measures for digital products distributed electronically.
 - Ensures that data can be transferred cross-border and minimizes limits on where data can be stored or processed.
 - Promotes collaboration on cybersecurity, drawing on industry best practices for network security.
 - Limit governments' ability to require disclosure of proprietary computer source code and algorithms.
- **Facilitates digital transactions by:**
 - Permitting the use of electronic authentication and electronic signatures, while protecting consumers' and businesses' confidential information.
 - Guaranteeing that enforceable consumer protections are applied to the digital marketplace.

Intellectual Property

Securing strong and effective protection and enforcement of IP rights critical to driving innovation and creating economic growth.

- **Mandates patent term extension for unreasonable patent office and regulatory delays.**
- **Minimum 15 year protection for industrial designs**
- **Copyright and Related Rights:**
 - Ensures appropriate safe harbors to deter online piracy
 - Requires minimum term of life of the author plus 70 years.
 - Full national treatment for copyright and related rights.
 - Strong standards against circumvention of technological protections measures (TPMs).

Intellectual Property (cont.)

- **Trade Secrets:**
 - The most robust protection for trade secrets of any prior United States trade agreement. Comprehensive protections against misappropriation of trade secrets, including by SOEs.
- **Enforcement:**
 - Requires criminal penalties for camcording of movies.
 - *Ex officio* authority for law enforcement officials to stop suspected counterfeit goods at every phase of transit through the territory of any Party.
 - Explicit recognition that enforcement procedures must be available in the digital environment.
- **Geographic Indications (GIs):**
 - Strong standards for protection against issuances of GIs that would prevent United States producers from using common names.

Small and Medium-Sized Enterprises

Recognizing the role of small and medium-sized enterprises (SMEs) as engines of economic growth and enhancing SME participation in North American Trade.

- **New Chapter on SMEs:**
 - Establishes information-sharing tools to help SMEs better understand the benefits of the agreement.
 - Launches an SME Dialogue.
- **Customs and Trade Facilitation:**
 - Creates a monetary *de minimis* level for each country for express shipments.
 - Canada will raise its *de minimis* level for the first time in decades.
 - Shipment values of certain levels would enter with minimal formal entry procedures, making it easier for more businesses, especially SME's, to be a part of cross-border trade.

Environment

The highest-standard and most comprehensive set of enforceable obligations on the environment of any trade agreement.

- **Environment Chapter:**

- Provisions are in the core of the agreement and subject to the same dispute settlement mechanisms and potential trade sanctions as the rest of the agreement.
- Strengthens law enforcement networks to stem and to address pressing environmental issues such as air quality and marine litter.
- Enhanced provisions to combat trafficking in wildlife, timber, and fish.
- Enhanced prohibitions on fisheries subsidies.
- New protections for marine species like whales and sea turtles, including a prohibition on shark-finning and commitment to work together to protect marine habitat.

Addressing Unfair Trading Practices

Updating U.S. trade policy to better address the challenge of unfair trading practices by non-market economies.

- **Currency Manipulation:**
 - Address unfair currency practices by requiring high-standard commitments to refrain from competitive devaluations and targeting exchange rates.
 - Significantly increases transparency and provides mechanisms for accountability
- **State-owned Enterprises (SOEs):**
 - Strong rules on subsidies provided to SOEs, including a prohibition of the most egregious forms of subsidies.

Non-Tariff Barriers and Regulations

Preserving the right to regulate, while minimizing the impact of regulations on trade in goods and services.

- **New chapter on good regulatory practices:**
 - Promotes centralized coordination within governments in the development of regulations and compatible regulatory approaches between the Parties.
 - Strong transparency rules and a focus on evidence-based decision making for new regulations.
- **Sanitary and Phytosanitary (SPS) Measures:**
 - Strengthen disciplines for science-based SPS measures, while ensuring Parties maintain their sovereign right to protect human, animal, and plant life or health.
 - Provisions include increasing transparency on the development and implementation of SPS measures, and advancing science-based decision making.
 - Establishes a new mechanism for technical consultations to resolve issues.



Non-Tariff Barriers and Regulations (cont.)

- **Technical Barriers to Trade:**
 - Enhanced disciplines on transparency, standards, and conformity assessment procedures.
 - Requires non-discriminatory treatment of conformity assessment bodies and seeks to ensure that conformity assessment procedures do not unduly burden trade.
- **Sectoral Annexes:**
 - Each annex includes provisions that exceed NAFTA and TPP while promoting enhanced regulatory compatibility, best regulatory practices, and increased trade among the countries.
 - Annexes for manufacturing sectors such as pharmaceuticals and medical devices, chemical substances, as well as, information and communication technology equipment.

U.S. Government Resources

- USTR:
 - <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>
- CBP's USMCA Center:
 - <https://www.cbp.gov/trade/priority-issues/trade-agreements/free-trade-agreements/USMCA>
- USITC/HTSUS:
 - <https://hts.usitc.gov/current>