

UNITED STATES-MEXICO-CANADA AGREEMENT: USMCA

On September 29, 2018, the US, Mexico, and Canada agreed to revise NAFTA, and rebrand it as the United States-Mexico-Canada-Agreement, or USMCA. Negotiators overcame a series of sticking points that had threatened to unravel the accord which has been in contentious negotiations for over a year. Canada conceded on some of its dairy issues, while other conditions such as dispute resolution and the US threats of auto tariffs were resolved. The USTR also says there were several side agreements made with both Mexico and Canada. The release of the text by Oct. 1, allows President Trump, Prime Minister Justin Trudeau, and Mexican president Enrique Peña Nieto to sign the deal at the end of November while Nieto is still in office. President Trump will then send the agreement to the new Congress in 2019 for passage under fast track rules. If passed, the new USMCA provisions will not go into effect until 2020.

The released [text](#) includes some of the below provisions:

AUTOS

- The USMCA [includes several auto provisions including](#) new rules of origin encouraging more production of cars and trucks parts made in North America. The new rules require that by 2020, in order for cars or trucks to receive duty-free status they must have 75 percent of its components manufactured in Canada, Mexico, or the US. The current requirement is 62.5 percent.
- Thirty percent of the work on the vehicle must be done by workers earning at least \$16 per hour. This amount will move up to 40 percent for cars by 2023.
- In a side-letter, the US will allow Canada and Mexico to avoid Section 232 auto tariffs by allowing them to continue using the existing auto and parts quota when exporting them across the border, regardless if the auto tariffs go in effect in the future.
- There has yet to be any agreement on the 25 percent Section 232 steel and aluminum tariffs the US is imposing on Canada steel, but the administration says they are working on this through a “completely separate track.”

AGRICULTURE & DAIRY

- All food and agricultural products that have zero tariffs under the North American Free Trade Agreement (NAFTA) will remain at zero tariffs with some [additional new market access opportunities](#).
- While Canada is keeping most of its dairy market system in place, it has agreed to open its market more to the US by eliminating the pricing scheme for class 6 and 7 dairy products. This provision will go in effect six months after entry into force of the USMCA, allowing US dairy farmers to export more products like milk protein concentrate (MPC), skim milk powder, and infant formula to Canada.
- Canada has also committed to adopting measures designed to limit the impact of any surplus skim milk production on external markets.

- Canada will provide new tariff rate quotas for chicken, egg and egg products, turkey and broiler hatching eggs.
- The agreement addresses agricultural biotechnology to support 21st-century innovations in agriculture. Specifically, all countries have agreed to provisions to enhance information exchange and cooperation on agricultural biotechnology trade-related matters.
- The deal ends Canada's grain grading system which designated US wheat and other foreign grains as low-grade products and would not require a country of origin statement on its quality grade or inspection certificate. Canada and the United States also agreed to discuss issues related to seed regulatory systems.
- [Other product provisions](#) include Sanitary and Phytosanitary (SPS) Measures, geographical indication standards, market access for certain cheese names, and prohibiting barriers for alcohol beverages.

DISPUTE PROCESS

- Canada was able to retain Chapter 19 on trade remedy dispute settlement, allowing the dispute process to stay in place. Chapter 19 allows Canada, Mexico, and the United States to challenge one another's anti-dumping and countervailing duties in front of a panel of representatives from each country rather than challenge trade practice in court.

CURRENCY

- Chapter 33, is a [new chapter](#) and the first to be written into a trade deal. It combats unfair trade practices such as currency manipulation, state-owned enterprises, and duty evasion. The U.S. and Mexico agreed to binding currency provisions that will be subject to dispute settlement.

LABOR

- The [USMCA stipulates](#) that Mexican workers must have more ability to organize and form unions. Provisions also include wage hikes for auto workers.
- The labor chapter requires the parties to adopt and maintain in law and practice, labor rights as recognized by the International Labor Organization and to effectively enforce their labor laws
- The chapter includes new provisions to take measures to prohibit the importation of goods produced by forced labor, to address violence against workers exercising their labor rights, and to ensure that migrant workers are protected under labor laws.
- The chapter includes an Annex on Worker Representation in Collective Bargaining in Mexico, under which Mexico commits to specific legislative actions to provide for the effective recognition of the right to collective bargaining.
- The new deal allows each country to sanction the others for labor violations that impact trade.

INTELLECTUAL PROPERTY & DIGITAL TRADE PROVISIONS

- The USMCA's [new IP chapter](#) contains more-stringent protections and much-needed updates due to NAFTA being negotiated over 25 years ago. The IP chapter includes protections for patents and trademarks, pharma, biotech, financial services, and domain names.
- The new agreement extends the terms of copyright to 70 years beyond the life of the author.
- Increased market protection for biologics and some drugs from 8 to 10 years before facing generic competition.

- New provisions regarding e-commerce and data, including no duties on products purchased electronically, such as music or e-books, and protections for internet companies, so they're not liable for content their users produce.

ENVIRONMENT

- The Environment chapter includes environmental obligations to combat trafficking in wildlife, timber, and fish; to strengthen law enforcement networks to stem such trafficking; and to address pressing environmental issues such as air quality and marine litter.

CHAPTER 11

- Chapter 11 of NAFTA, the ability for investors to sue governments over changes to policies that they claim would harm future profits, is eliminated for Canada and mostly for Mexico. There are exceptions for some key industries such as energy and telecommunications.

SUNSET CLAUSE & REVIEW

- The agreement has a 16-year sunset clause and must be reviewed after six years. The USMCA stipulates that the three nations will review the agreement after six years. If after the review all parties agree it's still good, then the deal will continue for the full 16 year period (with the ability to renew after that for another 16 years).

PROCEDURAL STEPS TO PASSAGE

There are many procedural hurdles before the deal can be sent for a formal vote to the new Congress in 2019:

- The administration will have up to 60 days after the agreement is signed to submit a list of changes to US law that will be needed for the deal to take effect.
- The US International Trade Commission is required to complete a report assessing the agreement's potential economic impact 105 days after the agreement is signed.
- The administration must submit to Congress the final text of the implementing legislation and a draft Statement of Administrative Action 30 days before the bill is formally introduced.
- While optional, the Senate Finance Committee and House Ways and Means Committee may provide advice to the administration on the contents of the implementing bill by holding hearings and a mock conference on the draft version.
- Ways and Means and Senate Finance may take up to 45 days in session to consider and report the bill back to the floor. If they do not report the bill after 45 session days, it will be automatically discharged to the floor.
- The House moves first where any member of the House may call the bill up for consideration, with debate limited to 20 hours. The bill needs support from a majority of members voting to pass in a straight up-and-down vote, at which point it will be reported to the Senate.
- The Senate Finance Committee will have up to 15 session days to consider the House bill before it is discharged.
- Any senator may then call up the bill for consideration without waiting for action from the majority leader. Debate is again limited to 20 hours, and the bill can pass with support from a majority of members voting.
- Bill signed into public law and implements the agreement by proclamation

POLITICAL OUTLOOK

Republicans Members of Congress appear supportive, but most have reserved comment for later after they have had time to review the agreement. Congressional passage of free trade agreements is historically contentious, but if Democrats are successful in November in taking the majority in the House of Representatives or both chambers, the USMCA could face an uphill battle to becoming law. Democrats are concerned with labor, wages, farmers, and worker conditions. One point of contention that will be closely scrutinized is whether the labor provisions in the agreement are swift and enforceable. Some Democrats have complained since talks began last August there has been a lack of information from the Administration, although fast track rules requires the Administration to keep lawmakers informed of their progress throughout the negotiations. There are many free-trade Democrats that will be cooperative and help usher the agreement through. These same Democrats might use their vote as leverage to have the White House make certain changes.



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