

## United States-Mexico-Canada Agreement (“USMCA”) To Go Into Force

The long negotiated United States-Mexico-Canada Agreement (“USMCA”), which was signed in November of 2018 and approved by both houses of Congress in subsequent months, will go into effect July 1, 2020.<sup>1</sup>

This new Agreement is meant to replace the North American Free Trade Agreement (“NAFTA”) that President Donald Trump has wanted to end for several years. NAFTA came into effect in 1994. Since its inception, trade increased more than 125% and foreign direct investment also increased by \$200 billion.<sup>2</sup> However, the trade agreement has remained controversial among business leaders, labor rights advocates, and politicians.<sup>3</sup> The Trump administration began negotiations with Canada and Mexico on USMCA in August of 2017. This new Agreement was passed as a bipartisan bill, meaning both Democrats and Republicans hammered out changes that both parties were ultimately able to accept, despite deeply held disagreements and opposing viewpoints on a range of issues.

The USMCA includes a majority of the same elements that NAFTA contained, but with some key changes. Some of the biggest changes pertain to: the rules of origin, labor and environmental protections, digital trade, and intellectual property rights.<sup>4</sup>

Rule of Origin changes include both substantive and procedural changes. Substantively, USMCA incentivizes manufacturers with lower tariffs when they use a prescribed amount of North American parts or materials in production of goods. For example, in order for automakers to receive the most favorable tariff treatment, the new agreement requires that 70 percent of auto content such as steel be sourced from North America, an increase from the current percentage of 62.5 (changes will be phased in over 3 years). Procedurally, the USMCA changes the need for a certificate of origin form and instead requires a minimum set of data elements regarding the product to be submitted either on an invoice or other form or submitted electronically.<sup>5</sup>

Labor protections added to the USMCA include the enforcement of the core labor standards as adopted by the International Labor Organization. It further prohibits any type of forced labor, including violence against workers and child workers. By 2023, USMCA also will require a certain average pay for workers. In the automobile industry, for example, the workers must be paid \$16 an hour on average.<sup>6</sup> These implementations will not take full effect on July 1, 2020, but there will be a gradual transition regarding minimum pay. The USMCA also included a whole new section regarding environmental protections. This includes acts that protect coastal and marine environments as well as air quality. The

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<sup>1</sup> Inu Manak, *The New NAFTA and the End of U.S. Leadership in Trade*, Cato Institute (May 29, 2020), <https://www.cato.org/publications/commentary/new-nafta-end-us-leadership-trade>

<sup>2</sup> Daniel Ikenson, *USMCA: A Marginal NAFTA Upgrade at a High Cost*, Cato Institute (April, 10, 2019), <https://www.cato.org/publications/commentary/usmca-marginal-nafta-upgrade-high-cost>

<sup>3</sup> *What are the differences between NAFTA and the USMCA?*, Public Broadcasting Service, (Jan. 16, 2020 at 6:45pm), <https://www.pbs.org/newshour/show/what-are-the-differences-between-nafta-and-the-usmca>

<sup>4</sup> Bob Bryan and Joseph Zeballos-Roig, *Trump's new major trade deal looks a lot like NAFTA. Here are key differences between them*, Business Insider, (Dec. 10, 2019, 3:43pm), <https://markets.businessinsider.com/news/stocks/us-canada-mexico-trade-deal-usmca-nafta-details-dairy-auto-dispute-resolution-2018-10-1027579947>

<sup>5</sup> *USMCA – Day One*, International Trade Administration, <https://www.trade.gov/usmca-dayone-0>

<sup>6</sup> *What are the differences between NAFTA and the USMCA?*, Public Broadcasting Service, (Jan. 16, 2020 at 6:45pm), <https://www.pbs.org/newshour/show/what-are-the-differences-between-nafta-and-the-usmca>

Agreement will also prohibit the use of harmful or illegal taking of the environment, such as illegal fishing or illegal cutting of timber.

Digital trade and intellectual property rights are entirely new provisions added to the USMCA. These changes address the current needs of the 21<sup>st</sup> century that could not have been foreseen when NAFTA was first signed. More detailed information on these changes can be found on the US Trade Representative's fact sheet.<sup>7</sup>

Further, US Customs and Border Protection is offering support calls via Webex to support the transition into the USMCA.<sup>8</sup> These calls will also help explain the interim implementation instructions which have been issued to properly transition into the new trade agreement.

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<sup>7</sup> *United States-Mexico-Canada Agreement Fact Sheet*, United States Trade Representative <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/fact-sheets>

<sup>8</sup> [https://content.govdelivery.com/bulletins/gd/USDHSCBP-2901903?wgt\\_ref=USDHSCBP\\_WIDGET\\_2](https://content.govdelivery.com/bulletins/gd/USDHSCBP-2901903?wgt_ref=USDHSCBP_WIDGET_2)