

PUBLICATION

USMCA Becomes Law, Still Awaiting Ratification from Canada

Authors: Alison Ashburn Bleier, Julius Bodie

February 21, 2020

On January 29, 2020, President Trump signed into law the United States-Mexico-Canada Agreement (USMCA), which replaces the 25-year-old North American Free Trade Agreement (NAFTA). The new deal between the three countries addresses a wide range of issues, including auto content rules, labor protections, environmental standards, protection of intellectual property, access to agricultural markets, and digital trade.

Automotive regional content rules stand to be heavily impacted by the deal once implemented. An automobile must now have 75 percent of its content manufactured in the U.S., Mexico, or Canada to qualify for duty-free treatment, whereas under NAFTA only 62.5 percent was required. Additionally, at least 70 percent of a producer's steel and aluminum purchases must originate in North America for duty-free treatment, and a separate Labor Value Content provision mandates that 40 to 45 percent (depending on the type of vehicle) of production activities must be performed by workers earning at least \$16 an hour to qualify for such treatment.

In addition, new intellectual property protections in the agreement standardize and strengthen North American copyright law and related rights, provide more robust protections for trade secrets, and require more stringent protections for patents and trademarks, mostly due to the technological advancements that have been made since NAFTA was authorized 25 years ago. Notably, U.S. pharmaceutical companies were dealt a blow when a clause that would have required Mexico and Canada to guarantee ten years of exclusivity for biologic drugs was dropped from the agreement before it was signed. However, this omission will provide a boost to manufacturers and distributors of generic prescription drugs and increase competition in the pharmaceutical market.

Agricultural provisions of the USMCA stand to increase U.S. agricultural and food exports by \$2.2 billion once implemented, and U.S. farmers will have greater access to previously highly-protected markets, including Canada's dairy market. Environmental provisions, including the creation of an interagency committee to monitor commitments to environmental standards, were also key revisions to the final version of the agreement's text.

In June 2019, Mexico was the first of the three countries to ratify USMCA. At first, U.S. Democratic lawmakers resisted the deal due to what they viewed as weak labor provisions and environmental protections. House Democrats then formed a group to work with the Administration on numerous compromises to the final text. A deal was reached and on December 19, 2019, the House passed the USMCA with a vote of 385-41. The Senate later approved USMCA with a vote of 89-10 and President Trump signed the agreement into law on January 29, 2020. Canada must now ratify the deal before it becomes finalized and the country's parliament has just started the process. Canada is ultimately expected to approve the USMCA and once it does it will take 90 days for the new trade agreement to formally go into effect.