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U.S.-Mexico-Canada (USMCA) Trade Agreement

Overview

Congress, in both legislative and oversight capacities, may continue to be active in numerous trade policy issues related to the United States-Mexico-Canada Agreement (USMCA), which entered into force on July 1, 2020. USMCA replaced the 1994 North American Free Trade Agreement (NAFTA). Congress approved implementing legislation for USMCA in December 2019 (P.L. 116-113). A key issue for Congress is a July 2026 formal review of USMCA by the parties to determine whether to extend the pact.

After the initial USMCA negotiations concluded in 2018, and before the agreement was in force, some Members of Congress expressed concern over certain key provisions and negotiated with the U.S. Trade Representative (USTR) to amend the agreement. In 2019, the United States, Canada, and Mexico agreed to a protocol of amendment to the original USMCA text. The revisions modified provisions on dispute settlement, labor, environment, intellectual property rights (IPR) protection, and motor vehicle rules of origin.

Joint Review

USMCA contains a provision providing for a joint review process through which all three parties confirm to continue the agreement, the first time such a provision has been included in a U.S. trade agreement. The first joint review is scheduled for July 1, 2026. If the three countries do not agree to extend USMCA in the 2026 review, the agreement will terminate in 2036. If any party does not agree to extend USMCA, the parties will conduct annual joint reviews until all parties agree to extend the agreement for another 16-year period (after which the parties will return to a six-year joint review cycle) or USMCA terminates.

P.L. 116-113 requires USTR to report to the appropriate congressional committees before each joint review on its assessment of the operation of USMCA, the U.S. position on extending USMCA, and recommendations for actions to be proposed at the joint review, among other requirements. P.L. 116-113 also requires USTR to consult with stakeholders by soliciting public comments and holding a public hearing.

The joint review process, intended to ensure continued relevance and functionality of the agreement, may result in revised text for some provisions (e.g., to improve the functionality of rules of origin or cover issues that emerged in recent years, such as artificial intelligence).

Select Key Provisions

USMCA, composed of 34 chapters and 12 side letters, retains most of NAFTA's chapters, making notable changes to market access provisions for autos and dairy, rules on

investment, government procurement, and IPR, and provisions regarding labor and the environment. The agreement also includes new provisions on topics such as digital trade and the joint review process.

USMCA Key Dates

- November 30, 2018: USMCA signed by the United States, Canada, and Mexico.
- December 19, 2019 and January 7, 2020: Implementing legislation approved by the House of Representatives (H.R. 5430; 385-41 vote) and by the Senate (S. 3052; 89-10 vote).
- January 29, 2020: USMCA signed into law (P.L. 116-113).
- July 1, 2020: USMCA entered into force.
- Early October 2025: *Federal Register* notice date for public comment and public hearing date on whether the United States should extend the pact.
- Early January 2026: USTR report to Congress due on issues the United States wants to address in the Joint Review.
- July 1, 2026: Joint Review of USMCA to begin.

Select Market Access Provisions

Motor Vehicles. NAFTA phased out tariffs on motor vehicle trade among the three countries, subject to specific rules of origin (ROO) requirements (see **Table 1**). USMCA tightened these rules by including the following.

- New motor vehicle ROO, including product-specific rules and requiring 75% North American content.
- Wage requirement that 40%-45% of auto content be made by workers earning at least \$16 an hour.
- Streamlining of ROO certification enforcement.
- Requirement that 70% of a vehicle's steel and aluminum must originate in North America; and for steel to be melted and poured in North America.

Dairy. Compared to NAFTA, USMCA increased U.S. access to Canada's dairy market, but it does not dismantle Canada's dairy import restrictions under its supply management system. U.S. products that received expanded access to Canada include milk, cheese, cream, skim milk powder, condensed milk, yogurt, and several other dairy categories. In return, the United States expanded import quota levels for Canadian dairy and sugar products.

Dispute Settlement

USMCA maintains the NAFTA state-to-state mechanism for most disputes arising under the agreement and retains the binational dispute settlement mechanism to review trade remedy disputes. New provisions prevent panel blocking by ensuring the formation of a dispute settlement panel. On investor-state dispute settlement (ISDS), which is a form of binding arbitration that allows private investors to pursue

claims against sovereign nations, provisions were eliminated for Canada. For Mexico, ISDS remains in place for government contracts in the oil, natural gas, power generation, infrastructure, and telecommunications sectors, and in other sectors if national remedies are exhausted first.

Intellectual Property Rights

USMCA retains NAFTA's core protections for copyrights, patents, exclusivity periods for test data, trade secrets, trademarks, and geographical indications, as well as specific enforcement requirements. The revised USMCA removes provisions on biologic regulatory exclusivity, among other changes. Key USMCA provisions include

- copyright term extended to 70 years;
- criminal and civil penalties for trade secret theft, including by state-owned enterprises, and cyber-theft;
- prohibitions on circumvention of technological protection measures; and
- copyright safe-harbor for internet service providers.

Energy

USMCA removed NAFTA's energy chapter, while adding new provisions recognizing Mexico's constitution under which the Mexican government has complete and direct ownership of hydrocarbons. U.S. investors in the energy sector, however, appear to remain protected by similar provisions as those in NAFTA. In 2022, the United States and Canada launched USMCA disputes against Mexico and are in state-to-state consultations over policies by Mexico's president to undo some of the 2013 market-opening energy reforms.

Labor and Environment

USMCA expanded the labor and environment provisions in NAFTA. Parties must

- Adopt, maintain, enforce, and not derogate from statutes and regulations that relate to the International Labor Organization Declaration on Principles/Rights at Work.
- Adopt, maintain, enforce, and not derogate from environmental laws, including seven multilateral environment agreements.

Regarding complaints over alleged violations of such provisions, new provisions shift the burden of proof to the responding party so that a complaint is presumed to affect trade and investment unless otherwise demonstrated. USMCA also includes a new "rapid response" enforcement mechanism for worker rights complaints at covered facilities, enhanced provisions on anti-worker violence, and a ban on imports made by forced labor. U.S. officials have pursued several rapid response labor complaints to protect worker rights at certain facilities in Mexico.

Government Procurement

NAFTA set standards for government purchases of goods and services and opportunities for firms of each party to bid on certain contracts for specified government agencies above a set monetary threshold on a reciprocal basis. USMCA provisions continue NAFTA provisions, but only for U.S.-Mexico procurement; they do not apply to U.S.-Canada procurement. Canada is now only covered by the

more comprehensive World Trade Organization (WTO) Government Procurement Agreement (GPA).

E-Commerce, Data Flows, and Data Localization

NAFTA, negotiated before the wide adoption of the internet, did not include provisions on digital trade or e-commerce. USMCA includes provisions on digital trade that were incorporated in FTAs after NAFTA, such as prohibiting customs duties on electronically transmitted products and protecting cross-border data flows. The USMCA digital trade chapter also includes more advanced provisions that prohibit data localization policies and limit source code disclosure requirements.

Table 1. Select USMCA Changes to NAFTA

Sector	USMCA	NAFTA
Autos	75% ROO; 70% steel and aluminum requirement; steel must be melted and poured in region; wage requirement.	62.5% ROO; no wage requirement; no steel and aluminum requirement.
IPR Protection	Biologics: No commitments for regulatory exclusivity in amended text. Copyright: 70 years.	Biologics: No commitments. Copyright: 50 years.
Government Procurement	U.S.-MEX only; U.S.-CAN to use WTO GPA.	Trilateral commitments.
Digital Trade	Protection of cross-border data flows and source code; restricts data localization.	No commitments.
Investor-State Dispute Settlement	Applicable only to certain U.S.-MEX disputes.	Trilateral commitments.

Source: CRS from USMCA Agreement.

Issues for Congress

Issues facing Congress, as part of its continued oversight of USMCA and U.S. trade relations with two of its most important trading partners, include

- Preparing for the 2026 USMCA joint review, including assessing potential changes to the agreement.
- Monitoring proposed tariffs and the extent to which they may pose legal challenges under USMCA, which is based on duty-free trade, and affect regional supply chains, which are dependent on cross-border trade.
- Oversight of issues such as implementation of ROO; concerns of PRC firms evading tariffs by manufacturing in North America; and USMCA disputes on energy, labor, biotechnology, and digital services taxes.

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