

# USMCA Trade Agreement

The United States, Mexico, and Canada have reached an agreement to modernize the 24-year-old NAFTA into a 21st century, high-standard agreement. The new United States-Mexico-Canada Agreement (USMCA) will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America.

## ***INTELLECTUAL PROPERTY***

The United States, Mexico, and Canada have reached an agreement on a modernized, high-standard Intellectual Property (IP) chapter that provides strong and effective protection and enforcement of IP rights critical to driving innovation, creating economic growth, and supporting American jobs.

### **Key Highlights: Protections for United States Innovators and Creators**

The new IP Chapter will:

- Include 10 years of data protection for biologic drugs and a robust scope of products eligible for protection.
- Require full national treatment for copyright and related rights so United States creators are not deprived of the same protections that domestic creators receive in a foreign market.
- Continue to provide strong patent protection for innovators by enshrining patentability standards and patent office best practices to ensure that United States innovators, including small- and medium-sized businesses, are able to protect their inventions with patents.
- Include strong protection for pharmaceutical and agricultural innovators.
- Require a minimum copyright term of life of the author plus 70 years, and for those works with a copyright term that is not based on the life of a person, a minimum of 75 years after first authorized publication.
- Require strong standards against the circumvention of technological protection measures that often protect works such as digital music, movies, and books.
- Establish appropriate copyright safe harbors to provide protection for IP and predictability for legitimate enterprises that do not directly benefit from the infringement, consistent with United States law.
- Provide important procedural safeguards for recognition of new geographical indications (GIs), including strong standards for protection against issuances of GIs that would prevent United States producers from using common names, as well as establish a mechanism for consultation between the Parties on future GIs pursuant to international agreements.
- Enhance provisions for protecting trademarks, including well-known marks, to help companies that have invested effort and resources into establishing goodwill for their brands.

### **Key Achievement: Most Comprehensive Enforcement Provisions of Any Trade Agreement**

For the first time, a trade agreement will require all of the following:

- *Ex officio* authority for law enforcement officials to stop suspected counterfeit or pirated goods at every phase of entering, exiting, and transiting through the territory of any Party.
- Express recognition that IP enforcement procedures must be available for the digital environment for trademark and copyright or related rights infringement.
- Meaningful criminal procedures and penalties for unauthorized camcording of movies, which is a significant source of pirated movies online.
- Civil and criminal penalties for satellite and cable signal theft.
- Broad protection against trade secret theft, including against state-owned enterprises.

### **Key Achievement: Strongest Standards of Protection for Trade Secrets of Any Prior FTA**

In particular, the Chapter has the most robust protection for trade secrets of any prior United States trade agreement. It includes all of the following protections against misappropriation of trade secrets, including by state-owned enterprises: civil procedures and remedies, criminal procedures and penalties, prohibitions against impeding licensing of trade secrets, judicial procedures to prevent disclosure of trade secrets during the litigation process, and penalties for government officials for the unauthorized disclosure of trade secrets.

### ***DIGITAL TRADE***

The new Digital Trade chapter contains the strongest disciplines on digital trade of any international agreement, providing a firm foundation for the expansion of trade and investment in the innovative products and services where the United States has a competitive advantage.

### **Key Highlights of the Digital Trade Chapter**

The new Digital Trade chapter will:

- Prohibit customs duties and other discriminatory measures from being applied to digital products distributed electronically (e-books, videos, music, software, games, etc.).
- Ensure that data can be transferred cross-border, and that limits on where data can be stored and processed are minimized, thereby enhancing and protecting the global digital ecosystem.
- Ensure that suppliers are not restricted in their use of electronic authentication or electronic signatures, thereby facilitating digital transactions.
- Guarantee that enforceable consumer protections, including for privacy and unsolicited communications, apply to the digital marketplace.
- Limit governments' ability to require disclosure of proprietary computer source code and algorithms, to better protect the competitiveness of digital suppliers.
- Promote collaboration in tackling cybersecurity challenges while seeking to promote industry best practices to keep networks and services secure.
- Promote open access to government-generated public data, to enhance innovative use in commercial applications and services.
- Limit the civil liability of Internet platforms for third-party content that such platforms host or process, outside of the realm of intellectual property enforcement, thereby enhancing the economic viability of these engines of growth that depend on user interaction and user content.

## **DE MINIMIS**

### **Key Achievement: Increased *De Minimis* Shipment Value Level**

To facilitate greater cross-border trade, the United States has reached an agreement with Mexico and Canada to raise their *de minimis* shipment value levels. Canada will raise its *de minimis* level for the first time in decades, from C\$20 to C\$40 for taxes. Canada will also provide for duty free shipments up to C\$150. Mexico will continue to provide USD \$50 tax free *de minimis* and also provide duty free shipments up to the equivalent level of USD \$117. Shipment values up to these levels would enter with minimal formal entry procedures, making it easier for more businesses, especially small- and medium-sized ones, to be a part of cross-border trade. Canada will also allow a period of 90 days after entry for the importer to make payment of taxes.

Increasing the *de minimis* level with key trading partners like Mexico and Canada is a significant outcome for United States small- and medium-sized enterprises (SMEs). These SMEs often lack resources to pay customs duties and taxes, and bear the increased compliance costs that low, trade-restrictive *de minimis* levels place on lower-value shipments, which SMEs often have due to their smaller trade volumes.

New traders, just entering Mexico's and Canada's markets, will also benefit from lower costs to reach consumers. United States express delivery carriers, who carry many low-value shipments for these traders, also stand to benefit through lower costs and improved efficiency.

## **FINANCIAL SERVICES**

U.S. financial services firms provide services critical to every sector of the economy, including small- and medium-sized businesses. The United States exported about \$115 billion in financial services in 2016, generating around a \$41 billion surplus in trade in financial services.

The updated Financial Services chapter includes commitments to liberalize financial services markets and facilitate a level playing field for U.S. financial institutions, investors and investments in financial institutions, and cross-border trade in financial services. The chapter also preserves the discretion of financial regulators to ensure financial stability.

### **Key Achievement: Core Obligations to Prevent Discrimination Against U.S. Financial Services Suppliers**

The chapter includes core obligations, such as:

- National treatment, to ensure that U.S. financial service suppliers receive the same treatment as local suppliers.
- Most-favored-nation treatment, to ensure that U.S. financial service suppliers receive the same treatment as those from other countries.
- Market access, which prohibits imposition of certain quantitative and numerical restrictions that would limit the business of U.S. financial services suppliers.

### **Key Achievement: First Provision Against Local Data Storage Requirements**

For the first time in any U.S. trade agreement, this deal includes a prohibition on local data storage requirements in circumstances where a financial regulator has the access to data that it needs to fulfill its regulatory and supervisory mandate.

### **Key Highlights Supporting Financial Services**

The new Financial Services chapter will include:

- Updated provisions to allow for the cross-border transfer of data and an updated market access obligation.
- The most robust transparency obligations of any U.S. trade agreement, to ensure good regulatory practices in government licensing and other market access authorizations.
- A separate annex on commitments relating to cross-border trade, including application of the national treatment and market access obligation to an expanded list of cross-border services, such as portfolio management, investment advice, and electronic payment services.
- Specific procedures related to investor-State dispute settlement claims with Mexico, including provisions regarding expertise of arbitrators and a special procedural mechanism to facilitate the application of the prudential exception and other exceptions.

### ***CURRENCY***

#### **Key Achievements: High-Standard Policy and Transparency Commitments, with Robust Accountability Mechanisms**

The renegotiated agreement includes a chapter on Macroeconomic Policies and Exchange Rate Matters, with new policy and transparency commitments on currency issues. The chapter will address unfair currency practices by requiring high-standard commitments to refrain from competitive devaluations and targeting exchange rates, while significantly increasing transparency and providing mechanisms for accountability. This approach is unprecedented in the context of a trade agreement, and will help reinforce macroeconomic and exchange rate stability.

### ***LABOR***

One of President Trump's principal objectives in the renegotiation is to ensure the agreement benefits American workers. The United States, Mexico, and Canada have agreed to a 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.

#### **Key Achievement: Worker Representation in Collective Bargaining**

The Labor 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.

#### **Key Achievement: Labor Rights Recognized by the International Labor Organization**

The Labor chapter requires the Parties to adopt and maintain in law and practice labor rights as recognized by the International Labor Organization, to effectively enforce their labor laws, and not to waive or derogate from their labor laws.

Additionally, 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.

#### **Key Achievement: New Labor Value Content Rule**

To support North American jobs, the deal contains new trade rules of origin to drive higher wages by requiring that 40-45 percent of auto content be made by workers earning at least USD \$16 per hour.

### ***ENVIRONMENT***

The United States, Mexico, and Canada have agreed to the most advanced, most comprehensive, highest-standard chapter on the Environment of any trade agreement. Like the Labor chapter, the Environment chapter brings all environmental provisions into the core of the agreement and makes them enforceable.

#### **Key Achievement: Most Comprehensive Set of Enforceable Environmental Obligations**

The Environment chapter includes the most comprehensive set of enforceable environmental obligations of any previous United States agreement, including 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.

Environment obligations include:

- Prohibitions on some of the most harmful fisheries subsidies, such as those that benefit vessels or operators involved in illegal, unreported, and unregulated (IUU) fishing.
- 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.
- Obligations to enhance the effectiveness of customs inspections of shipments containing wild fauna and flora at ports of entry, and ensure strong enforcement to combat IUU fishing.
- First-ever articles to improve air quality, prevent and reduce marine litter, support sustainable forest management, and ensure appropriate procedures for environmental impact assessments.
- Robust and modernized mechanisms for public participation and environmental cooperation.