

The Canada-United States-Mexico Agreement

This agreement is scheduled to enter into force on **July 1, 2020**, replacing the North American Free Trade Agreement (NAFTA).

Background

The United States-Mexico-Canada Agreement (USMCA) in the U.S., officially known as the Canada-United States-Mexico Agreement (CUSMA) in Canada, and called Tratado entre México, Estados Unidos y Canadá (T-MEC) in Mexico will replace the North American Free Trade Agreement (NAFTA) and creates a modernized free-trade system between the three parties that addresses recent and emerging critical trade issues, such as the harmonization of regulatory systems, e-commerce and the protection of intellectual property.

In addition, the USMCA changes some of the rules and processes governing how certain goods are traded within North America and the mechanisms available for how trade disputes are resolved.

There are important changes in the rules of origin of specific sectors:

- Automobiles
- Information technologies and communications
- Pharmaceuticals
- Healthcare products
- Cosmetic products
- Chemicals

The agreement was officially signed by all three parties on November 30, 2018 on the margins of the G20 Leaders' Summit in Buenos Aires.

Upon entry into force of the Agreement, with the exception of a few agricultural goods, all qualifying imports into Canada from a USMCA country will be customs duty-free.

Next Steps

Mexico was the first country to ratify the USMCA on June 19, 2019, followed by the United States on January 29, 2020, then Canada on March 13, 2020.

Prior to USMCA coming into force, all three countries must put in place the various mechanisms necessary to meet the new deal's requirements. There is no set timeline for preparation period and it could take place over several months. Each country will notify the other when it has completed its preparations.

Canada was the first to notify the U.S. and Mexico, on April 2, 2020, that it has completed internal procedures required for the agreement to take effect.

Mexico sent its notification on April 3, 2020, that it finished its internal regulations ratification process and was ready to implement the agreement.

The agreement will take effect on the first day of the third month after the final country provides written notification to the other parties that all processes required by its domestic laws have been completed. On April 24, 2020, the Trump administration notified Congress on that the U.S.-Mexico-Canada Agreement will take effect on July 1, 2020.

The last phase will be for the parties to develop uniform regulations, which are aimed at implementing the new, complex automotive rules of origin (ROO). The uniform regulations are mandatory to govern the rules of origin interpretation and application.

Key Changes

Following are some of the key differences between NAFTA and the USMCA:

Certification of Origin

- Under the USMCA, importers will no longer be required to complete a formal certification document.
- Certification of origin can be achieved using informal documentation, such as commercial invoices and can be completed by importer, exporter or producer.
- Previous NAFTA certificates and certification documentation under USMCA must be kept for a minimum of five years.

De Minimis

- The USMCA changed the threshold within which low-value goods could enter each country duty free.
- The de minimis thresholds under USMCA are:
 - Canada – \$150 CAD for customs and \$40 CAD for taxes
 - Mexico – \$117 USD for customs and \$50 USD for taxes
 - United States – \$800 USD

Dispute Resolution

- NAFTA Chapter 20, country-to-country dispute resolution mechanism maintained
- NAFTA Chapter 19, anti-dumping/countervailing duty dispute-resolution mechanism maintained
- NAFTA Chapter 11, investor-state dispute resolution mechanism (ISDS) eliminated between Canada and the United States, but maintained between the U.S. and Mexico.

Automotive Rules of Origin and Regional Value Content

- Total North American content of a vehicle must equal 75% (up from 62.5%).
- 70% of all steel, aluminum, and glass used in the production of the automobile must originate in North America. In the Protocol of Amendment, the definition of steel was modified to note that it must be “melted and poured” in North America in order to qualify for duty exemption. The new definition will take effect seven years after the USCMA’s implementation. The definition of aluminum remains the same as under NAFTA but will be revisited 10 years after the USMCA’s implementation.
- Part content will be divided up into core, principal, and complementary parts with content requirements of 75%, 65%, and 60% respectively.
- 40% of an automobile and 45% of a light truck must be produced using an average labor wage of \$16/hour.
- Quotas totalling 2.6 million Canadian and Mexican vehicles (well above the current 1.8 million) were established the USMCA
- Quotas of \$32.4 billion in Canadian auto parts imports and \$108 billion in Mexican auto parts imports were established in the USMCA

Dairy Market Access

- Restrictions on the import of U.S. ultra-filtered milk into Canada have been removed
- U.S. producers will have access to an additional 3.6% of Canada’s dairy market
- Canada’s dairy supply management system, which places limits on foreign imports is maintained

Intellectual Property

- Patent changes on biologics in the original agreement were to be set at 10 year for all countries. However, the Protocol of Amendments removed this provision, leaving the patent period the same as it was under NAFTA – five years in Mexico, 12 years in U.S. and eight years in Canada.
- The term of copyright was extended from 50 years after an author's death to 70 years.

Sunset Clause

- The terms of USMCA will remain in effect for a period of 16 years, at which time the parties can choose to revisit and/or renegotiate those terms, or withdraw from the agreement altogether.
- However, after six years, the term of USMCA's sunset (16 years) can be revisited and potentially extended if the parties feel doing so would be beneficial.

Section 232 Tariffs

- The United States maintains the right to impose tariffs under Section 232 of the Trade Expansion Act of 1962, which authorizes the president to impose tariffs on the grounds of national security.
- Such tariffs were imposed on Canada and Mexico, as well as a number of other countries in the summer of 2018. Canada and Mexico imposed countermeasures on U.S. consumer goods, but the parties resolved the dispute in the Spring of 2019.
- A side letter was signed as part of the USMCA to provide Canada and Mexico with a consultation period of 60 days before Section 232 tariffs could be applied on Canadian or Mexican goods.