

Sept. 4, 2018

## Trump Notifies Congress of Intent to Sign New NAFTA

On Aug. 31, President Donald Trump notified Congress of his intent to sign an updated NAFTA agreement, following an Aug. 27 announcement that the United States and Mexico had reached a bilateral agreement. In the notice, Trump said he planned to sign an updated trade agreement with Mexico, and added that Canada may also sign the agreement “if it is willing” to negotiate with the U.S.

In the meantime, U.S. business and industry groups have made clear they prefer a tripartite deal. In a statement following the U.S.-Mexico deal announcement, the National Association of Manufacturers emphasized that Canada must be a part of the renegotiated NAFTA: “our manufacturing workers depend on a strong deal that keeps us all growing and prospering for generations to come.”

Another business group — the Business Roundtable — encouraged “all three governments to continue constructive negotiations,” in a statement in support of a trilateral NAFTA.

### Select details of new NAFTA agreement released by USTR in fact sheets

USTR has yet to release text of the updated agreement, but has released three fact sheets with details on specific chapters and provisions in the renegotiated NAFTA: “Rebalancing NAFTA to Support Manufacturing,” “Modernizing NAFTA to be a 21st Century Trade Agreement” and “Strengthening NAFTA for Agriculture.” Several industry groups have responded to the provisions described.

Provisions	Details of the agreement	Industry reactions
<div>Sunset</div> <div></div>	The new agreement would <b>expire in 16 years</b> , but member countries would be able to <b>review the agreement every six years</b> , and <b>renew it for another 16 years</b> .	The <b>Business Roundtable</b> raised concern in a statement on the U.S. Mexico deal that the sunset provision could signal “not an improvement, but rather a step backward.”
<div>Intellectual property</div> <div></div>	The agreement’s updated IP chapter will require “at least” <b>10 years of data protection for biologic drugs</b> . The agreement includes a list of enforcement provisions to <b>prevent counterfeiting and piracy</b> and would expand enforcement mechanisms for protecting <b>trade secrets, copyrights, trademarks and other IP</b> .	The <b>Association for Accessible Medicines</b> , a U.S. trade organization representing generic and biosimilar drug manufacturers, along with its Canadian and Mexican counterparts, say the biologic provisions will “harm patients who seek more affordable medicines” as well as their industry.
<div>Digital trade</div> <div></div>	A new digital trade chapter includes <b>banning customs duties on digital products</b> , allows for cross-border data transfer, limits data localization requirements and provides for other privacy protections, and other measures.	The <b>Internet Association</b> , a lobbying group representing companies including Google, Facebook and Amazon, said the industry is “optimistic” about the agreement, which “recognize[s] the internet as an important U.S. export that contributes to a significant trade surplus.” It added it looked forward to Canada “rejoining” negotiations.
<div>De minimis provisions</div> <div></div>	The agreement would increase the <b>threshold for de minimis provisions to \$100</b> . Shipments between the U.S. and Mexico under the threshold would face “minimal formal entry procedures” and would not be subject to customs duties or taxes.	A study published by the <b>Peterson Institute for International Economics</b> found a higher de minimis threshold could “boost U.S. exports of low-valued goods and improve consumer choice in Canada and Mexico.”
<div>Financial svcs.</div> <div></div>	The financial services chapter includes provisions to ensure U.S. financial institutions receive most-favored nation treatment and “the same treatment as local suppliers.” The chapter also would <b>prohibit local data storage requirements in certain circumstances</b> .	The <b>United States Council for International Business</b> said it was “troubled by indications that certain investor protections have been removed or reserved only for specific sectors.”
<div>Labor</div> <div></div>	The labor chapter would include <b>specific commitments to protect workers’ collective bargaining rights</b> , and would require the U.S. and Mexico to <b>maintain labor rights recognized by the International Labor Organization</b> .	In a joint statement, representatives from the <b>AFL-CIO, USW, UAW, Communications Workers of America</b> and the <b>International Association of Machinists and Aerospace Workers</b> said, “Any new deal must raise wages, ensure workers’ rights and freedoms, reduce outsourcing and put the interests of working families first in all three countries.”
<div>Environment</div> <div></div>	The environmant chapter would include <b>measures to enforce anti-trafficking efforts</b> , and to “address pressing environmental issues” including air quality and marine pollution.	In a statement, <b>Sierra Club</b> Executive Director Michael Brune criticized the U.S.-Mexico deal and said if the deal proceeded “as is, it will exacerbate” environmental harm wrought by NAFTA.
<div>Rules of origin and procedures</div> <div></div>	The agreement updates several auto manufacturing measures. Cars would need to have <b>75 percent regional value content</b> from Mexico and the U.S. to be duty-free, and <b>40 to 45 percent of auto content must be added by workers earning at least \$16 per hour</b> . The chapter also includes updated enforcement provisions.	The <b>Motor &amp; Equipment Manufacturers Association</b> said it was “disappointed and concerned” that the U.S., Canada and Mexico have not been able to reach an agreement.  The <b>Alliance of Automobile Manufacturers</b> , which represents auto manufacturers including Toyota, BMW, Ford, Fiat-Chrysler and GM, said it was “pleased” by the U.S.-Mexico agreement, including the rules of origin consensus, but said it was important to “re-engage” Canada in talks.

Other provisions			
<div>Goods market access</div> <div>The market access chapter includes updated and new provisions related to trade in manufactured goods, import and export licensing and non-tariff barriers to trade.</div>	<div>New annexes</div> <div>USTR announced there are several new annexes for manufacturing products in the updated agreement, including annexes for pharmaceuticals, medical devices, cosmetic products, chemical substances, and information and communication technology.</div>	<div>Textiles</div> <div>Updated textile provisions include a new chapter to encourage increased U.S. and Mexican textile and apparel production, with regional production requirements.</div>	<div>Agricultural measures</div> <div>A fact sheet on agricultural provisions states the agreement <b>preserves zero tariffs on agricultural goods</b>, and includes measures to increase regulatory transparency and cooperation, updated sanitary and phytosanitary measures, protections for proprietary food formulas and specific measures for cheese and alcohol products.</div>

Sources: USTR, Bloomberg, U.S. Chamber of Commerce, National Association of Manufacturers, Business Roundtable, Business Roundtable of Canada, the Association for Accessible Medicines, the Internet Association, Peterson Institute for International Economics, United States Council for International Business, National Association of Manufacturers, UAW, the Sierra Club, the Motor & Equipment Manufacturers Association, the Alliance of Automobile Manufacturers

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