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Trump Just Signed the U.S.M.C.A. Here's What's in the New NAFTA.

A trade agreement with Mexico and Canada revises Mexico's labor laws and encourages more auto production in North America.


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WASHINGTON — President Trump signed the revised North American Free Trade Agreement into law on Wednesday, fulfilling a campaign promise to rewrite "one of the worst trade deals" in history.

"Today we are finally ending the NAFTA nightmare," Mr. Trump said during a White House signing ceremony, calling the new trade deal a "colossal victory" for farmers, factory workers and other countries.

Much of the new United States-Mexico-Canada Agreement simply updates the 25-year-old North American Free Trade Agreement, with new laws on intellectual property protection, the internet, investment, state-owned enterprises and currency.

But the 2,082-page pact also includes significant changes in several key areas, including incentives to make cars in North America and open Canadian markets for American dairy farmers.

It rolls back a special system of arbitration for corporations that has drawn bipartisan condemnation, and includes additional provisions designed to help identify and prevent labor violations, particularly in Mexico. Some of those changes were inserted at the insistence of Democrats, who used their control of the House to secure long-desired policy changes.

Here are highlights from the new U.S.M.C.A.

Steering more car production to the United States

NAFTA required automakers to produce 62.5 percent of a vehicle's content in North America to qualify for zero tariffs. The new agreement raises that threshold, over time, to 75 percent. That's meant to force automakers to source fewer parts for an "Assembled in Mexico" car from Germany, Japan, South Korea or China. The pact also requires 70 percent of a vehicle's steel and aluminum to originate in North America, with steel being both melted and poured on the continent.

For the first time, the new agreement also mandates that 40 to 45 percent of the parts for any tariff-free vehicle must come from a so-called high-wage factory. Those factories must pay a minimum of $16 an hour in average salaries for production workers. That's about triple the average wage in a Mexican factory right now, and administration officials hope the provision will either force automakers to buy more supplies from Canada or the United States or cause wages in Mexico to rise.

However, critics caution that factories may be able to game the rules by including some high-paid managers in their calculations. And there are risks to the changes.

Automotive analysts have warned that the wage provision could raise costs for American car companies and car buyers, slowing the auto market and weighing on economic growth over all.

The final provision, as written, could also prove relatively ineffective at shifting production, because it is not indexed to inflation. An average wage of $16 an hour will be less constraining in 2023 dollars than it is today.

Stronger labor rules in Mexico

The U.S.M.C.A. includes expansive changes that, at least on paper, should help level the playing field among workers in the United States, Canada and Mexico.

NAFTA's original provisions on labor and environment were added as side letters after the original agreement was signed, to win the support of Democrats and ensure the deal's passage during the Clinton administration. The U.S.M.C.A. moves these chapters into the main body of the trade agreement, meaning issues like the right to organize are now subject to the pact's normal procedures for settling disputes.

The deal also expands those commitments, requiring more protections for workers, blocking imports of goods made with forced labor, and setting up mechanisms to ensure that those rules are enforced.

In response to the concerns of congressional Democrats, it sets up an independent panel that can investigate factories accused of violating labor rights and stop shipments of that factory's goods at the border. It establishes an interagency committee to monitor Mexico's labor reforms, as well as American attachés who will report to Congress on the progress.

In an annex to the agreement, Mexico also committed to enact sweeping legal changes to combat forced labor and violence against workers, and allow for independent unions and labor courts. The International Trade Commission has estimated that, if the changes are made, they will increase wages for Mexico's unionized workers and decrease their pay gap with American workers.

Less protection for drug companies

In a major concession to Democrats, the Trump administration agreed to pare back certain protections for an advanced and very expensive class of drugs called biologics. The final agreement removes a provision that had offered the drugs 10 years of protection from cheaper alternatives in both Canada and Mexico.

The agreement expands other protections for intellectual property rights, for example, extending the 50 years of protection for copyrights in NAFTA to 70 years. It also includes new criminal penalties for theft of trade secrets, including cybertheft.

In a major win for tech firms, it gives internet companies like Facebook and YouTube certain protections from lawsuits related to the user content posted on their platforms. It also sets new standards by prohibiting governments from asking tech companies to disclose their source code or put duties on electronic transmissions.

The revised trade pact will allow more goods and services to flow tariff-free across North America. Alejandro Cartagena for The New York Times

Wins for American cheese (and wine)

The agreement gives American farmers some additional access to foreign markets, particularly in Canada. It does not dismantle Canada's "supply management system," which dictates how much Canadian farmers should produce so they can be profitable. But Canada did agree to eliminate a program that helps sellers of certain milk products, at home and abroad, and open its market to American milk, cream, butter, cheese and other products. In return, the United States expanded access to its market for Canadian dairy and sugar.

It also creates a list of cheese names that Mexico and the United States agree can be marketed without restriction in their countries, and it forces grocery stores in British Columbia to stop their practice of selling British Columbia-only wines on certain shelves, and stock American wines alongside them.

The agreement on cheese between the United States and Mexico. (PDF, 3 pages, 0.01 MB)

November 30, 2018

The Honorable Ildefonso Guajardo Villarreal
Secretary of Economy
Mexico City
United Mexican States

Dear Secretary Guajardo:

In connection with the signing on this date of the Protocol Replacing the North American Free Trade Agreement with the Agreement Between the United States of America, the United Mexican States, and Canada (the "Protocol"), I have the honor to confirm the following agreement reached between the Government of the United States of America ("the United States") and the Government of the United Mexican States ("Mexico") regarding the use of certain terms for cheeses produced and marketed in the United States and Mexico:

> In recognition of their shared commitment to certainty and transparency in trade, the United States and Mexico recognize that the following terms are terms used in connection with cheeses from U.S. producers currently being marketed in Mexico. Mexico confirms that Mexican cheese producers also use these terms. Mexico confirms that market access of U.S. products in Mexico is not restricted due to the mere use of these individual terms.
>
> List of individual terms (cheeses):
>
> - Blue
> - Blue vein
> - Brie
> - Burrata
> - Camembert
> - Cheddar
> - Chevre
> - Colby
> - Cottage
> - Coulommiers
> - Cream
> - Danbo
> - Edam
> - Emmental

3 pages, 0.01 MB

Ending a special system of arbitration for companies

One of the biggest areas of contention stemmed from the mechanisms that companies and governments could turn to when they believed another party had violated NAFTA.

In a major change, the U.S.M.C.A. rolls back a special system of arbitration that allowed companies to sue governments for unfair treatment. The provision was criticized both by the Trump administration, which said it encouraged outsourcing, and by Democrats, who said it gave corporations too much power to challenge environmental and consumer regulations.

The system can no longer be used in disputes between the United States and Canada and is limited to disagreements between Mexico and the United States that involve a narrow range of industries, including petrochemicals, telecommunications, infrastructure and power generation.

Other systems for settling disputes between governments were basically maintained. The Trump administration ultimately gave up on an effort to eliminate the so-called Chapter 19 provision, which gives the three countries a neutral way to challenge one another's tariffs and other actions. The administration also gave in to Democratic demands for removal of a provision that would have allowed any country to block a case against it from moving forward, if it so wished.

But the U.S.M.C.A. retains a more controversial addition by the Trump administration — a sunset clause that requires the three countries to review, after six years, whether to remain in the agreement. If any country decides not to continue with the pact, the U.S.M.C.A. will expire 16 years later.