

UNITED STATES–MEXICO TRADE FACT SHEET: Modernizing NAFTA to be a 21st Century Trade Agreement

The United States and Mexico have reached a preliminary agreement in principle, subject to finalization and implementation, to update the 24-year-old NAFTA with modern provisions representing a 21st century, high-standard agreement. The updated agreement will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America.

INTELLECTUAL PROPERTY

The United States and Mexico 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 Achievement: Most Comprehensive Enforcement Provisions of Any Trade Agreement

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

- Enforcement authorities must be able to stop goods that are suspected of being pirated or counterfeited at all areas of entry and exit.
- Enforcement against counterfeits and piracy occurring on a commercial scale.
- Meaningful criminal procedures and penalties for camcording of movies.
- 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 for Trade Secrets of Any United States FTA

This deal, if finalized, will be the first FTA to require all of the following to protect United States rightsholders from theft of trade secrets, including by state-owned enterprises: civil remedies, criminal remedies, prohibition on impeding licensing of trade secrets, protections for trade secrets during the litigation process, and penalties for government officials who wrongfully disclose trade secrets.

Key Highlights: Protections for Innovators

The new IP Chapter will:

- Require full national treatment for copyright and related rights so United States creators are not deprived of rights in foreign markets that domestic creators receive.
- 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.
- Extend the minimum copyright term to 75 years for works like song performances and ensure that works such as digital music, movies, and books can be protected through current technologies such as technological protection measures and rights management information.
- Establish a notice-and-takedown system for copyright safe harbors for Internet service providers (ISPs) that provides protection for IP and predictability for legitimate technology enterprises who 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 and comprehensive standards for protection against issuances of GIs that would prevent United States producers from using common names.
- Enhance provisions for protecting trademarks, including well-known marks, to help companies that have invested effort and resources into establishing goodwill for their brands.
- Includes 10 years of data protection for biologic drugs and expanded scope of products eligible for protection.

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 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.

DE MINIMIS

Key Achievement: Increased *De Minimis* Shipment Value Level

To facilitate greater cross-border trade, the United States has reached an agreement for Mexico to raise its *de minimis* shipment value level to \$100 USD, up from \$50 USD. Shipment values up to this level would enter Mexico without customs duties or taxes, and 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.

Increasing the *de minimis* level with a key trading partner like Mexico is a critical 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 market, 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

United States 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 United States financial institutions, investors and investments in financial institutions, and cross-border trade in financial services.

Key Achievement: Core Obligations to Prevent Discrimination Against Financial Services Suppliers

The chapter includes core obligations, such as:

- National treatment, to ensure that a Party does not discriminate against United States financial service suppliers.
- Market access, which prohibits a Party from imposing certain quantitative and numerical restrictions that would limit the business of United States financial services suppliers.
- Most-favored nation treatment, to ensure that a Party does not discriminate in favor of another Party or non-Party.

Key Achievement: First Provision Against Unnecessary Local Data Storage Requirements

For the first time in any United States 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 updated market access obligation.
- The most robust transparency obligations of any United States 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.

LABOR

One of President Trump's principal objectives in the renegotiation is to ensure the agreement benefits American workers. The United States and Mexico 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 requires 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 \$16 USD per hour.

ENVIRONMENT

The United States and Mexico 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 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.