Insight

What's In The New USMCA?

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Executive Summary

- White House and congressional negotiators reached a deal on the new United States-Mexico- Canada Agreement (USMCA); representatives from all three nations re-signed the updated trade agreement in Mexico City.
- The key negotiated changes to USMCA are on enforcement, prescription drugs, labor, the environment, and steel and aluminum.
- The newly negotiated USMCA is widely expected to pass the vote in the House of Representatives next week; the Senate is unlikely to vote on the measure until next year.

Overview

The White House, congressional Democrats and Republicans, and Canada and Mexico have reached a deal on the United States-Mexico-Canada Agreement (USMCA)—the renegotiated North American Free Trade Agreement (NAFTA)—after six months of negotiations. The deal paves the way for a vote in the House of Representatives next week. While USMCA was originally signed over a year ago, representatives from all three nations re-signed the updated agreement in Mexico City.

Congressional Democrats were able to negotiate several changes to USMCA on enforcement, prescription drugs, labor, the environment, and steel and aluminum. For instance, the updated agreement disallows countries from blocking the formation of dispute settlement panels—a provision that will benefit North American importers and exporters by improving their ability to resolve trade disputes.

Another important change involves a type of medication called biologics. Currently, the United States grants drug manufacturers 12 years of data exclusivity before allowing competitors to enter the market with their own generic versions, called biosimilars. Canada and Mexico grant their drug makers 8 and 5 years of similar protections, respectively. The original USMCA would have changed data-exclusivity periods in each nation to 10 years – reducing exclusivity in the United States and raising it in Canada and Mexico. This provision was removed, leaving each nation's data exclusivity laws unchanged.

Proponents of reducing the U.S. data exclusivity period argue it would lower drug prices by allowing generics to come to market more quickly. Opponents claim that, by reducing potential revenue for drug manufacturers, weaker data exclusivity protections lower drug makers' incentives to invest in the creation of new and innovative medicines. Congressional Democrats pushed against the 10-year data exclusivity period in USMCA because, although already a reduction for the United States, they claimed it would prevent their potential efforts to legislate an even greater reduction in the future.

The updated language also enhances the enforcement and monitoring of each country's adherence to USCMA's labor and environmental provisions – a change that compelled AFL-CIO to announce support for its first trade deal in history. These provisions especially impact Mexico, which agreed to significant labor reforms enshrining worker rights such as collective bargaining. First, the new USMCA imposes the presumption that labor violations negatively impact trade and investment, requiring the violating government to prove otherwise. If a violation is suspected, for instance in Mexico, other countries (in this case the United States or Canada) may call for the creation of a panel to investigate. Punitive actions such as tariffs may be imposed on countries that do not rectify labor violations.

Finally, the new USMCA strengthens rules of origins for autos even further. The original USMCA established that 75 percent of a vehicle must be made in North America in order to qualify for reduced tariffs, an increase from the 62.5 percent requirement in NAFTA. It also required at least 70 percent of an automaker's steel and aluminum to be purchased in North America. The new USMCA expands that requirement for steel, mandating that 70 percent must be "melted and poured" in North America – a stricter standard. This new language was requested by the Trump Administration and will go into effect after 7 years. After 10 years, the three countries may consider implementing similar requirements for aluminum.

Stricter rules of origin in USMCA are intended to benefit U.S. automakers but would have mixed impacts on consumers and the auto industry. The International Trade Commission estimates that these rules would increase vehicle prices and decrease vehicle consumption in the United States, harming consumers. Higher prices would in turn reduce vehicle production in North America while increasing auto imports from the rest of the world. At the same time, the stricter rules of origin would increase employment in auto-parts manufacturing but decrease employment in vehicle production. The even stricter "melted and poured" requirements in the revised USMCA would likely exacerbate these effects.

Even with these new changes to the deal, USMCA would not drastically impact North American trade. NAFTA had already eliminated virtually all tariffs between the United States, Canada, and Mexico; USMCA does not change that. The changes it does make to NAFTA, however, are a mixed bag.

For instance, USMCA contains provisions establishing rules for digital trade and expanding market access in Canada for U.S. dairy products, a welcome development for U.S. agriculture. It also strengthens intellectual property laws for protections like patents, copyrights, and trademarks. At the same time, it significantly weakens Investor State Dispute Settlement (ISDS), a mechanism enabling U.S. exporters to challenge discriminatory treatment by foreign governments. Under USMCA, the United States would no longer be able utilize ISDS with respect to Canada and would face new restrictions using ISDS with respect to Mexico.

Another provision would require that 40 to 45 percent of auto content traded between the three nations be made by workers earning at least $16 per hour. This rule is intended to shift auto manufacturing away from Mexico, where the average hourly wage for manufacturing workers is $2.60. Its more likely result, however, would be either to dramatically increase prices for U.S. consumers or simply cause more cars to be traded outside of the trade agreement, i.e. without tariff benefits.

The newly negotiated USMCA is widely expected to pass the House of Representatives next week. The Senate, however, is unlikely to vote on the measure until next year.