LEGISLATION AND DOCUMENTS TO IMPLEMENT THE UNITED STATES-MEXICO-CANADA AGREEMENT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

LEGISLATION AND SUPPORTING DOCUMENTS TO IMPLEMENT THE UNITED STATES-MEXICO-CANADA AGREEMENT, PURSUANT TO 19 U.S.C. 2112(e)(2); PUBLIC LAW 93–618, SEC. 102(e)(2); (88 STAT. 1983)

PART 1

DECEMBER 13, 2019.—Message and accompanying papers referred to the Committee on Ways and Means and ordered to be printed

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To the Congress of the United States:

I am pleased to transmit legislation and supporting documents to implement the United States-Mexico-Canada Agreement (the "Agreement"). The Agreement is an important part of my Administration's efforts to rebalance trade in North America and to modernize our trade relationship with Mexico and Canada. The Agreement will create significant new opportunities for American workers, farmers, ranchers, and businesses by opening markets in Canada and Mexico and eliminating barriers to United States goods, services, and investment.

Approving this Agreement is in our national interest. I look forward to the Congress expeditiously approving the legislation.

DONALD J. TRUMP.

THE WHITE HOUSE, *December 13, 2019.*

THE UNITED STATES – MEXICO – CANADA AGREEMENT

IMPLEMENTING LEGISLATION AND SUPPORTING DOCUMENTATION

Consistent with the provisions of section 106(a)(1)(A) through (D) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. § 4205(a)(1)(A) and (B)) ("the Act"):

- On August 31, 2018, the President notified Congress of his intention to enter into a trade agreement with Mexico and Canada. (Daily Comp. Pres. Docs., 2018 DCPD No. 00571).

- On September 5, 2018, the President published in the *Federal Register* a notice of the President's intention to enter into trade agreement with Mexico and Canada. (83 Fed. Reg. 45191 (2018)).

- On September 30, 2018, the text of the trade agreement was published in the publicly available website of the Office of the United States Trade Representative.

- On November 30, 2018, the United States Trade Representative entered into the Agreement between the United States of America, the United Mexican States, and Canada (the "Agreement") replacing the North American Free Trade Agreement.

- On January 29, 2019, the United States Trade Representative transmitted to the Congress a description of changes to existing U.S. laws required to comply with the Agreement.

- On May 30, 2019, the United States Trade Representative submitted to Congress a draft statement of administrative action proposed to implement the Agreement and a copy of the final legal text of the Agreement.

- On December 10, 2019, the United States Trade Representative, Canada's Deputy Prime Minister and Minister of Intergovernmental Affairs, and Mexico's Under Secretary for North America and Chief Trade Negotiator for North America entered into a Protocol amending the Agreement.

The following documents are submitted to the Congress under section 106 of the Act. Submitted herewith or within these documents are:

- a copy of the final legal text of the Agreement (Tab 1);

- a draft of an implementing bill described in section 103(b)(3) of the Act (Tab 2);

- a statement of administrative action proposed to implement the Agreement, which includes an explanation as to how the implementing bill and proposed administrative action will change or affect existing law and administrative practice, whether and how the

Agreement changes provisions of an agreement previously negotiated, and how the implementing bill meets the standards set forth in section 103(b)(3) of the Act (Tab 3);

- a statement setting forth the reasons of the President regarding how and to what extent the Agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of the Act (Tab 4); and

- a statement setting forth the reasons of the President regarding how the Agreement serves the interest of U.S. commerce (Tab 5).

Additionally, a summary of the Agreement (Tab 6), as required by section 162 of the Trade Act of 1974 (19 U.S.C. § 2212), and 16 side instruments related to the Agreement (Tab 7) are submitted herewith to the Congress.

Final Text

United States – Mexico – Canada Agreement

(Separately Bound)

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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

To implement the Agreement between the United States of America, the United Mexican States, and Canada attached as an Annex to the Protocol Replacing the North American Free Trade Agreement.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To implement the Agreement between the United States of America, the United Mexican States, and Canada attached as an Annex to the Protocol Replacing the North American Free Trade Agreement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "United States-Mexico-Canada Agreement Implementation Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. PURPOSE.

The purpose of this Act is to approve and implement the Agreement between the United States of America, the United Mexican States, and Canada entered into under the authority of section 103(b) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4202(b)).

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(2) HTS.—The term "HTS" means the Harmonized Tariff Schedule of the United States.

(3) IDENTICAL GOODS.—The term "identical goods" means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods.

(4) INTERNATIONAL TRADE COMMISSION.—The term "International Trade Commission" means the United States International Trade Commission.

(5) MEXICO.—The term "Mexico" means the United Mexican States.

(6) NAFTA.—The term "NAFTA" means the North American Free Trade Agreement approved by Congress under section 101(a)(1) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3311(a)(1)).

(7) PREFERENTIAL TARIFF TREATMENT.—The term "preferential tariff treatment" means the customs duty rate that is applicable to an originating good (as defined in section 202(a)) under the USMCA.

(8) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(9) USMCA.—The term "USMCA" means the Agreement between the United States of America, the United Mexican States, and Canada, which is—

(A) attached as an Annex to the Protocol Replacing the North American Free Trade Agreement with the Agreement between the United States of America, the United Mexican States, and Canada, done at Buenos Aires on November 30, 2018, as amended by the Protocol of Amendment to the Agreement Between the United States of America, the United Mexi-

can States, and Canada, done at Mexico City on December 10, 2019; and

(B) approved by Congress under section 101(a)(1).

(10) USMCA COUNTRY.—Except as otherwise provided, the term "USMCA country" means—

(A) Canada for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Canada; and

(B) Mexico for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Mexico.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE USMCA

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE USMCA.

(a) APPROVAL OF USMCA AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 106 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4205) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

(1) the Protocol Replacing the North American Free Trade Agreement with the Agreement between

the United States of America, the United Mexican States, and Canada, done at Buenos Aires on November 30, 2018, as submitted to Congress on December 13, 2019;

(2) the Agreement between the United States of America, the United Mexican States, and Canada, attached as an Annex to the Protocol, as amended by the Protocol of Amendment to the Agreement between the United States of America, the United Mexican States, and Canada, done at Mexico City on December 10, 2019, as submitted to Congress on December 13, 2019; and

(3) the statement of administrative action proposed to implement that Agreement, as submitted to Congress on December 13, 2019.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—The President is authorized to provide for the USMCA to enter into force with respect to Canada and Mexico not earlier than 30 days after the date on which the President submits to Congress the written notice required by section 106(a)(1)(G) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4205(a)(1)(G)), which shall include the date on which the USMCA will enter into force.

SEC. 102. RELATIONSHIP OF THE USMCA TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF USMCA TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the USMCA, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States, shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF USMCA TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the USMCA, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term "State law" includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF USMCA WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the USMCA or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the USMCA.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE; INITIAL REGULATIONS; TARIFF PROCLAMATION AUTHORITY.

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States Government may prescribe such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the USMCA enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the USMCA enters into force.

(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date on which the USMCA enters into force of any action proclaimed under this section.

(b) INITIAL REGULATIONS.—

(1) IN GENERAL.—Except as provided by paragraph (2) or (3), initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action approved under section 101(a)(2) to implement the USMCA shall, to the maximum extent feasible, be prescribed within 1 year after the date on which the USMCA enters into force.

(2) UNIFORM REGULATIONS.—Interim or initial regulations to implement the Uniform Regulations regarding rules of origin provided for under article 5.16 of the USMCA shall be prescribed not later than the date on which the USMCA enters into force.

(3) IMPLEMENTING ACTIONS WITH EFFECTIVE DATES AFTER ENTRY INTO FORCE.—In the case of any implementing action that takes effect on a date after the date on which the USMCA enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be prescribed within 1 year after such effective date.

(c) TARIFF MODIFICATIONS.—

(1) TARIFF MODIFICATIONS PROVIDED FOR IN THE USMCA.—The President may proclaim—

(A) such modifications or continuation of any duty,

(B) such continuation of duty-free or excise treatment, or

(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.4, 2.5, 2.7, 2.8, 2.9, 2.10, 6.2, and 6.3, the Schedule of the United States to Annex 2–B, including the appendices to that Annex, Annex 2–C, and Annex 6–A, of the USMCA.

(2) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

(A) such modifications or continuation of any duty,

(B) such modifications as the United States may agree to with a USMCA country regarding the staging of any duty treatment set forth in the Schedule of the United States to Annex 2–B of the USMCA, including the appendices to that Annex,

(C) such continuation of duty-free or excise treatment, or

(D) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to a USMCA country provided for by the USMCA.

(3) CONVERSION TO AD VALOREM RATES.—For purposes of paragraphs (1) and (2), with respect to any good for which the base rate in the Schedule of the United States to Annex 2–B of the USMCA is a specific or compound rate of duty, the President shall substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

(4) TARIFF-RATE QUOTAS.—In implementing the tariff-rate quotas set forth in the Schedule of the United States to Annex 2–B of the USMCA, the President shall take such actions as may be necessary to ensure that imports of agricultural goods do not disrupt the orderly marketing of agricultural goods in the United States.

(5) PRESIDENTIAL PROCLAMATION AUTHORITY RELATING TO RULES OF ORIGIN.—

(A) IN GENERAL.—The President may proclaim, as part of the HTS—

(i) the provisions set forth in Annex 4–B of the USMCA;

(ii) the provisions set forth in paragraph 2 of article 3.A.6 of Annex 3–A of the USMCA;

(iii) the provisions set forth in paragraph 5 of Annex 3–B of the USMCA;

(iv) the provisions set forth in paragraphs 14(b), 14(c), and 15(e) of Section B of Appendix 2 to Annex 2–B of the USMCA; and

(v) any additional subordinate category that is necessary to carry out section 202 and section 202A consistent with the USMCA.

(B) MODIFICATIONS.—

(i) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of subparagraph (A), other than the provisions of chapters 50 through 63 of the USMCA.

(ii) SPECIAL RULE FOR TEXTILES.—Notwithstanding clause (i), and subject to the consultation and layover provisions of section 104, the President may proclaim—

(I) such modifications to the provisions proclaimed under the authority of subparagraph (A) as are necessary to implement an agreement with one or more USMCA countries pursuant to article 6.4 of the USMCA; and

(II) before the end of the 1-year period beginning on the date on which the USMCA enters into force, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the USMCA.

SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, that action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(B) the International Trade Commission, which shall hold a public hearing on the proposed action before providing advice regarding the proposed action;

(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

(A) the proposed action and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met, has expired; and

(4) the President has consulted with the committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).

SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

(a) UNITED STATES SECTION OF SECRETARIAT.—

(1) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office to serve as the United States Section of the Secretariat established under article 30.6 of the USMCA.

(2) FUNCTIONS AND ADMINISTRATIVE ASSISTANCE.—The office established or designated under paragraph (1), subject to the oversight of the interagency group established under section 411(c)(2), shall—

(A) carry out its functions within the Secretariat to facilitate the operation of the USMCA, including the operation of section D of chapter 10 and chapter 31 of the USMCA; and

(B) provide administrative assistance to—

(i) panels established under chapter 31 of the USMCA, including under Annex 31–A (relating to the Facility-Specific Rapid Response Labor Mechanism);

(ii) technical advisers and experts provided for under chapter 31 of the USMCA;

(iii) binational panels and extraordinary challenge committees established under section D of chapter 10 of the USMCA; and

(iv) binational panels and extraordinary challenge committees established under NAFTA for matters covered by article 34.1 of the USMCA (relating to transition from NAFTA).

(3) TREATMENT OF OFFICE UNDER FREEDOM OF INFORMATION ACT.—The office established or designated under paragraph (1) shall not be considered an agency for purposes of section 552 of title 5, United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2020 to the Department of Commerce $2,000,000 for—

(1) the operations of the office established or designated under subsection (a)(1); and

(2) the payment of the United States share of the expenses of—

(A) panels established under chapter 31 of the USMCA, including under Annex 31–A (re-

lating to the Facility-Specific Rapid Response Labor Mechanism);

(B) binational panels and extraordinary challenge committees established under section D of chapter 10 of the USMCA; and

(C) binational panels and extraordinary challenge committees established under NAFTA for matters covered by article 34.1 of the USMCA (relating to transition from NAFTA).

(c) REIMBURSEMENT OF CERTAIN EXPENSES.—If the Canadian Section or the Mexican Section of the Secretariat provides funds to the United States Section during any fiscal year as reimbursement for expenses in connection with dispute settlement proceedings under section D of chapter 10 or chapter 31 of the USMCA, or under chapter 19 of NAFTA, the United States Section may, notwithstanding section 3302 of title 31, United States Code, retain and use such funds to carry out the functions described in subsection (a)(2).

SEC. 106. TRADE REPRESENTATIVE AUTHORITY.

If a country (other than the United States) that has signed the USMCA does not enact implementing legislation, the Trade Representative is authorized to enter into negotiations with the other country that has signed the USMCA to consider how the applicable provisions of the

USMCA can come into force with respect to the United States and that other country as promptly as possible.

SEC. 107. EFFECTIVE DATE.

(a) IN GENERAL.—Sections 1 through 3 and this title (other than section 103(c)) shall take effect on the date of the enactment of this Act.

(b) PROCLAMATION AUTHORITY.—Section 103(c) shall take effect on the date on which the USMCA enters into force.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. EXCLUSION OF ORIGINATING GOODS OF USMCA COUNTRIES FROM SPECIAL AGRICULTURE SAFEGUARD AUTHORITY.

(a) IN GENERAL.—Section 405(e) of the Uruguay Round Agreements Act (19 U.S.C. 3602(e)) is amended to read as follows:

"(e) EXCLUSION OF ORIGINATING GOODS OF USMCA COUNTRIES.—

"(1) IN GENERAL.—The President shall exempt from any duty imposed under this section any good that qualifies as an originating good under section 202 of the United States-Mexico-Canada Agreement Implementation Act of a USMCA country with respect to which preferential tariff treatment is provided under the USMCA.

"(2) DEFINITIONS.—In this subsection, the terms 'preferential tariff treatment', 'USMCA', and 'USMCA country' have the meanings given those terms in section 3 of the United States-Mexico-Canada Agreement Implementation Act.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a good entered for consumption, or withdrawn from warehouse for consumption, on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a good entered for consumption, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force—

(A) the amendment made by subsection (a) to section 405(c) of the Uruguay Round Agreements Act (19 U.S.C. 3602(c)) shall not apply with respect to the good; and

(B) section 405(c) of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

SEC. 202. RULES OF ORIGIN.

(a) DEFINITIONS.—In this section:

(1) AQUACULTURE.—The term "aquaculture" means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants from seed stock such as eggs, fry, fingerlings, or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators.

(2) CUSTOMS VALUATION AGREEMENT.—The term "Customs Valuation Agreement" means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(8)).

(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term "fungible good" or "fungible material" means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

(4) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF ONE OR MORE USMCA COUNTRIES.—The term "good wholly ob-

tained or produced entirely in the territory of one or more USMCA countries'' means any of the following:

(A) A mineral good or other naturally occurring substance extracted or taken from the territory of one or more USMCA countries.

(B) A plant, plant good, vegetable, or fungus grown, cultivated, harvested, picked, or gathered in the territory of one or more USMCA countries.

(C) A live animal born and raised in the territory of one or more USMCA countries.

(D) A good obtained in the territory of one or more USMCA countries from a live animal.

(E) An animal obtained by hunting, trapping, fishing, gathering, or capturing in the territory of one or more USMCA countries.

(F) A good obtained in the territory of one or more USMCA countries from aquaculture.

(G) A fish, shellfish, or other marine life taken from the sea, seabed, or subsoil outside the territory of one or more USMCA countries and outside the territorial sea of any country that is not a USMCA country by—

(i) a vessel that is registered or recorded with a USMCA country and flying the flag of that country; or

(ii) a vessel that is documented under the laws of the United States.

(H) A good produced on board a factory ship from goods referred to in subparagraph (G), if such factory ship—

(i) is registered or recorded with a USMCA country and flies the flag of that country; or

(ii) is a vessel that is documented under the laws of the United States.

(I) A good, other than a good referred to in subparagraph (G), that is taken by a USMCA country, or a person of a USMCA country, from the seabed or subsoil outside the territory of a USMCA country, if that USMCA country has the right to exploit such seabed or subsoil.

(J) Waste and scrap derived from—

(i) production in the territory of one or more USMCA countries; or

(ii) used goods collected in the territory of one or more USMCA countries, if

such goods are fit only for the recovery of raw materials.

(K) A good produced in the territory of one or more USMCA countries exclusively from goods referred to in any of subparagraphs (A) through (J), or from their derivatives, at any stage of production.

(5) INDIRECT MATERIAL.—The term "indirect material" means a material used or consumed in the production, testing, or inspection of a good but not physically incorporated into the good, or a material used or consumed in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used or consumed in the maintenance of equipment or buildings;

(D) lubricants, greases, compounding materials, and other materials used or consumed in production or to operate equipment or buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other material that is not incorporated into the good, if the use of the material in the production of the good can reasonably be demonstrated to be a part of that production.

(6) INTERMEDIATE MATERIAL.—The term "intermediate material" means a material that is self-produced, used or consumed in the production of a good, and designated as an intermediate material pursuant to subsection (d)(9).

(7) MATERIAL.—The term "material" means a good that is used or consumed in the production of another good and includes a part or an ingredient.

(8) NET COST.—The term "net cost" means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost.

(9) NET COST OF A GOOD.—The term "net cost of a good" means the net cost that can be reasonably allocated to a good using one of the methods set forth in subsection (d)(7).

(10) NONALLOWABLE INTEREST COSTS.—The term "nonallowable interest costs" means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country in which the producer is located.

(11) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The term "nonoriginating good" or "nonoriginating material" means a good or material, as the case may be, that does not qualify as originating under this section.

(12) ORIGINATING GOOD; ORIGINATING MATERIAL.—The term "originating good" or "originating material" means a good or material, as the case may be, that qualifies as originating under this section.

(13) PACKAGING MATERIALS AND CONTAINERS.—The term "packaging materials and containers" means materials and containers in which a good is packaged for retail sale.

(14) PACKING MATERIALS AND CONTAINERS.—The term "packing materials and containers" means materials and containers that are used to protect a good during transportation.

(15) PRODUCER.—The term "producer" means a person who engages in the production of a good.

(16) PRODUCTION.—The term "production" means—

(A) growing, cultivating, raising, mining, harvesting, fishing, trapping, hunting, capturing, breeding, extracting, manufacturing, processing, or assembling a good; or

(B) the farming of aquatic organisms through aquaculture.

(17) REASONABLY ALLOCATE.—The term "reasonably allocate" means to apportion in a manner appropriate to the circumstances.

(18) RECOVERED MATERIAL.—The term "recovered material" means a material in the form of individual parts that are the result of—

(A) the disassembly of a used good into individual parts; and

(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

(19) REMANUFACTURED GOOD.—The term "remanufactured good" means a good classified in the HTS under any of chapters 84 through 90 or under heading 9402, other than a good classified under heading 8418, 8509, 8510, 8516, or 8703 or sub-

heading 8414.51, 8450.11, 8450.12, 8508.11, or 8517.11, that—

(A) is entirely or partially composed of recovered materials;

(B) has a life expectancy similar to, and performs in a manner that is the same as or similar to, such a good when new; and

(C) has a factory warranty similar to that applicable to such a good when new.

(20) ROYALTIES.—The term "royalties" means payments of any kind, including payments under technical assistance or similar agreements, made as consideration for the use of, or right to use, a copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, or secret formula or secret process, excluding payments under technical assistance or similar agreements that can be related to a specific service such as—

(A) personnel training, without regard to where the training is performed; or

(B) if performed in the territory of one or more USMCA countries, engineering, tooling, die-setting, software design and similar computer services, or other services.

(21) SALES PROMOTION, MARKETING, AND AFTER-SALES SERVICE COSTS.—The term "sales promotion, marketing, and after-sales service costs" means the costs related to sales promotion, marketing, and after-sales service for the following:

(A) Sales and marketing promotion, media advertising, advertising and market research, promotional and demonstration materials, exhibits, sales conferences, trade shows, conventions, banners, marketing displays, free samples, sales, marketing, and after-sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, and sales aid information), establishment and protection of logos and trademarks, sponsorships, wholesale and retail charges, and entertainment.

(B) Sales and marketing incentives, consumer, retailer, or wholesaler rebates, and merchandise incentives.

(C) Salaries and wages, sales commissions, bonuses, benefits (such as medical, insurance, and pension benefits), traveling and living expenses, and membership and professional fees

for sales promotion, marketing, and after-sales service personnel.

(D) Product liability insurance.

(E) Rent and depreciation of sales promotion, marketing, and after-sales service offices and distribution centers.

(F) Payments by the producer to other persons for warranty repairs.

(G) If the costs are identified separately for sales promotion, marketing, or after-sales service of goods on the financial statements or cost accounts of the producer, the following:

(i) Property insurance premiums, taxes, utilities, and repair and maintenance of sales promotion, marketing, and after-sales service offices and distribution centers.

(ii) Recruiting and training of sales promotion, marketing, and after-sales service personnel, and after-sales training of customers' employees.

(iii) Office supplies for sales promotion, marketing, and after-sales service of goods.

(iv) Telephone, mail, and other communications.

(22) SELF-PRODUCED MATERIAL.—The term "self-produced material" means a material that is produced by the producer of a good and used in the production of that good.

(23) SHIPPING AND PACKING COSTS.—The term "shipping and packing costs" means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding the costs of preparing and packaging the good for retail sale.

(24) TERRITORY.—The term "territory", with respect to a USMCA country, has the meaning given that term in section C of chapter 1 of the USMCA.

(25) TOTAL COST.—

(A) IN GENERAL.—The term "total cost"—

(i) means all product costs, period costs, and other costs for a good incurred in the territory of one or more USMCA countries; and

(ii) does not include—

(I) profits that are earned by the producer of the good, regardless of

whether the costs are retained by the producer or paid out to other persons as dividends; or

(II) taxes paid on those profits, including capital gains taxes.

(B) OTHER DEFINITIONS.—In this paragraph:

(i) OTHER COSTS.—The term "other costs" means all costs recorded on the books of the producer that are not product costs or period costs, such as interest.

(ii) PERIOD COSTS.—The term "period costs" means costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses.

(iii) PRODUCT COSTS.—The term "product costs" means costs that are associated with the production of a good, including the value of materials, direct labor costs, and direct overhead.

(26) TRANSACTION VALUE.—The term "transaction value" means the price—

(A) actually paid or payable for a good or material with respect to a transaction of a producer; and

(B) adjusted in accordance with the principles set forth in paragraphs 1, 3, and 4 of article 8 of the Customs Valuation Agreement.

(27) USMCA COUNTRY.—The term "USMCA country" means the United States, Canada, or Mexico for such time as the USMCA is in force with respect to Canada or Mexico, and the United States applies the USMCA to Canada or Mexico.

(28) VALUE.—The term "value" means the value of a good or material for purposes of calculating customs duties or applying this section.

(b) APPLICATION AND INTERPRETATION.—In this section:

(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a chapter, heading, or subheading, that reference shall be a reference to a chapter, heading, or subheading of the HTS.

(3) COST OR VALUE.—Any cost or value referred to in this section with respect to a good shall be recorded and maintained in accordance with the

generally accepted accounting principles applicable in the territory of the USMCA country in which the good is produced.

(c) ORIGINATING GOODS.—

(1) IN GENERAL.—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the USMCA, except as otherwise provided in this section, a good is an originating good if—

(A) the good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries;

(B) the good is produced entirely in the territory of one or more USMCA countries using nonoriginating materials, if the good satisfies all applicable requirements set forth in Annex 4–B of the USMCA; or

(C) the good is produced entirely in the territory of one or more USMCA countries, exclusively from originating materials;

(D) except for a good provided for under any of chapters 61 through 63—

(i) the good is produced entirely in the territory of one or more USMCA countries;

(ii) one or more of the nonoriginating materials provided for as parts under the HTS and used in the production of the good do not satisfy the requirements set forth in Annex 4–B of the USMCA because—

(I) both the good and its materials are classified under the same subheading or under the same heading that is not further subdivided into subheadings; or

(II) the good was imported into the territory of a USMCA country in an unassembled form or a disassembled form but was classified as an assembled good pursuant to rule 2(a) of the General Rules of Interpretation of the HTS; and

(iii) the regional value content of the good is not less than 60 percent if the transaction value method is used, or not less than 50 percent if the net cost method is used and the good satisfies all other applicable requirements of this section; or

(E) the good itself, as imported, is listed in table 2.10.1 of the USMCA and is imported into the territory of the United States from the territory of a USMCA country.

(2) REMANUFACTURED GOODS.—For purposes of determining whether a remanufactured good is an originating good, a recovered material derived in the territory of one or more USMCA countries shall be treated as originating if the recovered material is used or consumed in the production of, and incorporated into, the remanufactured good.

(d) REGIONAL VALUE CONTENT.—

(1) IN GENERAL.—Except as provided in paragraph (5), for purposes of subparagraphs (B) and (D) of subsection (c)(1), the regional value content of a good shall be calculated, at the choice of the importer, exporter, or producer of the good, on the basis of—

(A) the transaction value method described in paragraph (2); or

(B) the net cost method described in paragraph (3).

(2) TRANSACTION VALUE METHOD.—

(A) IN GENERAL.—An importer, exporter, or producer of a good may calculate the re-

gional value content of the good on the basis of the following transaction value method:

$$\text{RVC} = \frac{\text{TV} - \text{VNM}}{\text{TV}} \times 100$$

(B) DEFINITIONS.—In this paragraph:

(i) RVC.—The term "RVC" means the regional value content of the good, expressed as a percentage.

(ii) TV.—The term "TV" means the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good.

(iii) VNM.—The term "VNM" means the value of nonoriginating materials used by the producer in the production of the good.

(3) NET COST METHOD.—

(A) IN GENERAL.—An importer, exporter, or producer of a good may calculate the regional value content of the good on the basis of the following net cost method:

$$\text{RVC} = \frac{\text{NC} - \text{VNM}}{\text{NC}} \times 100$$

(B) DEFINITIONS.—In this paragraph:

(i) NC.—The term "NC" means the net cost of the good.

(ii) RVC.—The term "RVC" means the regional value content of the good, expressed as a percentage.

(iii) VNM.—The term "VNM" means the value of nonoriginating materials used by the producer in the production of the good.

(4) VALUE OF NONORIGINATING MATERIALS.—

(A) IN GENERAL.—The value of nonoriginating materials used by the producer in the production of a good shall not, for purposes of calculating the regional value content of the good under paragraph (2) or (3), include the value of nonoriginating materials used or consumed to produce originating materials that are subsequently used or consumed in the production of the good.

(B) SPECIAL RULE FOR CERTAIN COMPONENTS.—The following components of the value of nonoriginating materials used by the producer in the production of a good may be counted as originating content for purposes of determining whether the good meets the regional value content requirement set forth in Annex 4–B of the USMCA:

(i) The value of processing the nonoriginating materials undertaken in the territory of one or more USMCA countries.

(ii) The value of any originating materials used or consumed in the production of the nonoriginating materials undertaken in the territory of one or more USMCA countries.

(5) NET COST METHOD REQUIRED IN CERTAIN CASES.—An importer, exporter, or producer of a good shall calculate the regional value content of the good solely on the basis of the net cost method described in paragraph (3) if the rule for the good set forth in Annex 4–B of the USMCA includes a regional value content requirement not based on the transaction value method described in paragraph (2).

(6) NET COST METHOD ALLOWED FOR ADJUSTMENTS.—

(A) IN GENERAL.—If an importer, exporter, or producer of a good calculates the regional value content of the good on the basis of the transaction value method described in paragraph (2) and a USMCA country subsequently notifies the importer, exporter, or producer,

during the course of a verification conducted in accordance with chapter 5 or 6 of the USMCA, that the transaction value of the good or the value of any material used in the production of the good must be adjusted or is unacceptable under article 1 of the Customs Valuation Agreement, the importer, exporter, or producer may calculate the regional value content of the good on the basis of the net cost method.

(B) REVIEW OF ADJUSTMENT.—Nothing in subparagraph (A) shall be construed to prevent any review or appeal available in accordance with article 5.15 of the USMCA with respect to an adjustment to or a rejection of—

(i) the transaction value of a good; or

(ii) the value of any material used in the production of a good.

(7) CALCULATING NET COST.—The producer of a good may, consistent with regulations implementing this section, calculate the net cost of the good under paragraph (3) by—

(A) calculating the total cost incurred with respect to all goods produced by that producer, subtracting any sales promotion, marketing, and after-sales services costs, royalties, shipping

and packing costs, and nonallowable interest costs that are included in the total cost of those goods, and then reasonably allocating the resulting net cost of those goods to the good;

(B) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the good, and subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs, that are included in the portion of the total cost allocated to the good; or

(C) reasonably allocating each cost that is part of the total cost incurred with respect to the good so that the aggregate of those costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs.

(8) VALUE OF MATERIALS USED IN PRODUCTION.—For purposes of calculating the regional value content of a good under this subsection, applying the de minimis rules under subsection (f), and calculating the value of nonoriginating components

in a set under subsection (m), the value of a material used in the production of a good is—

(A) in the case of a material that is imported by the producer of the good, the transaction value of the material at the time of importation, including the costs incurred in the international shipment of the material;

(B) in the case of a material acquired in the territory in which the good is produced—

(i) the price paid or payable by the producer in the USMCA country where the producer is located;

(ii) the value as determined under subparagraph (A), as set forth in regulations prescribed by the Secretary of the Treasury providing for the application of transaction value in the absence of an importation by the producer; or

(iii) the earliest ascertainable price paid or payable in the territory of the country; or

(C) in the case of a self-produced material, the sum of—

(i) all expenses incurred in the production of the material, including general expenses; and

(ii) an amount for profit equivalent to the profit added in the normal course of trade or equal to the profit that is usually reflected in the sale of goods of the same class or kind as the material.

(9) INTERMEDIATE MATERIALS.—

(A) IN GENERAL.—Any self-produced material that is used in the production of a good may be designated by the producer of the good as an intermediate material for purposes of calculating the regional value content of the good under paragraph (2) or (3).

(B) MATERIALS USED IN PRODUCTION OF INTERMEDIATE MATERIALS.—If a self-produced material is designated as an intermediate material under subparagraph (A) for purposes of calculating a regional value content requirement, no other self-produced material subject to a regional value content requirement used or consumed in the production of that intermediate material may be designated by the producer as an intermediate material.

(10) FURTHER ADJUSTMENTS TO VALUE OF MATERIALS.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (8), may be deducted from the value of the nonoriginating material:

(A) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer.

(B) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or more USMCA countries, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(C) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(e) ACCUMULATION.—

(1) PRODUCERS.—A good that is produced in the territory of one or more USMCA countries, by one or more producers, is an originating good if the good satisfies the requirements of subsection (c) and all other applicable requirements of this section.

(2) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF A USMCA COUNTRY.—Originating materials from the territory of one or more USMCA countries that are used in the production of a good in the territory of another USMCA country shall be considered to originate in the territory of such other USMCA country.

(3) PRODUCTION UNDERTAKEN ON NONORIGINATING MATERIALS USED IN THE PRODUCTION OF GOODS.—In determining whether a good is an originating good under this section, production undertaken on nonoriginating material in the territory of one or more USMCA countries by one or more producers shall contribute to the originating status of the good, regardless of whether that production is sufficient to confer originating status to the nonoriginating material.

(f) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), a good that does not undergo a change in tariff classification or satisfy a regional value content requirement set forth in Annex 4–B of the USMCA is an originating good if—

(A) the value of all nonoriginating materials that are used in the production of the good, and do not undergo the applicable change in tariff classification set forth in Annex 4–B of the USMCA—

(i) does not exceed 10 percent of the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good; or

(ii) does not exceed 10 percent of the total cost of the good;

(B) the good meets all other applicable requirements of this section; and

(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value content requirement for the good.

(2) EXCEPTIONS FOR DAIRY AND OTHER PRODUCTS.—Paragraph (1) does not apply to the following:

(A) A nonoriginating material of headings 0401 through 0406, or a nonoriginating dairy preparation containing over 10 percent by dry weight of milk solids of subheading 1901.90 or

2106.90, used or consumed in the production of a good of headings 0401 through 0406.

(B) A nonoriginating material of headings 0401 through 0406, or nonoriginating dairy preparation containing over 10 percent by dry weight of milk solids of subheading 1901.90 or 2106.90, used or consumed in the production of any of the following goods:

(i) Infant preparations containing over 10 percent by dry weight of milk solids, of subheading 1901.10.

(ii) Mixes and doughs containing over 25 percent by dry weight of butterfat, not put up for retail sale, of subheading 1901.20.

(iii) A dairy preparation containing over 10 percent by dry weight of milk solids, of subheading 1901.90 or 2106.90.

(iv) A good of heading 2105.

(v) Beverages containing milk of subheading 2202.90.

(vi) Animal feeds containing over 10 percent by dry weight of milk solids of subheading 2309.90.

(C) A nonoriginating material of heading 0805, or any of subheadings 2009.11 through 2009.39, used or consumed in the production of a good of subheadings 2009.11 through 2009.39, or a fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, of subheading 2106.90 or 2202.90.

(D) A nonoriginating material of chapter 9 used or consumed in the production of instant coffee, not flavored, of subheading 2101.11.

(E) A nonoriginating material of chapter 15 used or consumed in the production of a good of heading 1507, 1508, 1512, 1514, or 1515.

(F) A nonoriginating material of heading 1701 used or consumed in the production of a good of any of headings 1701 through 1703.

(G) A nonoriginating material of chapter 17 or heading 1805 used in the production of a good of subheading 1806.10.

(H) Nonoriginating peaches, pears, or apricots of chapter 8 or 20, used in the production of a good of heading 2008.

(I) A nonoriginating single juice ingredient of heading 2009 used or consumed in the production of a good of—

(i) subheading 2009.90, or tariff item 2106.90.54 (concentrated mixtures of fruit or vegetable juice, fortified with minerals or vitamins); or

(ii) tariff item 2202.99.37 (mixtures of fruit or vegetable juices, fortified with minerals or vitamins).

(J) A nonoriginating material of any of headings 2203 through 2208 used or consumed in the production of a good provided for under heading 2207 or 2208.

(3) GOODS PROVIDED FOR UNDER CHAPTERS 1 THROUGH 27.—Paragraph (1) does not apply to a nonoriginating material used or consumed in the production of a good provided for in chapters 1 through 27 unless the nonoriginating material is provided for in a different subheading than the subheading of the good for which origin is being determined.

(4) TEXTILE OR APPAREL GOODS.—

(A) GOODS CLASSIFIED UNDER CHAPTERS 50 THROUGH 60.—Except as provided in sub-

paragraph (C), a textile or apparel good provided for in any of chapters 50 through 60 or heading 9619 that is not an originating good because certain nonoriginating materials used in the production of the good do not undergo an applicable change in tariff classification set forth in Annex 4–B of the USMCA, shall be considered to be an originating good if the total weight of all such materials, including elastomeric yarns, is not more than 10 percent of the total weight of the good and the good meets all other applicable requirements of this section.

(B) GOODS CLASSIFIED UNDER CHAPTERS 61 THROUGH 63.—Except as provided in subparagraph (C), a textile or apparel good provided for in chapter 61, 62, or 63 that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set forth in Annex 4–B of the USMCA shall be considered to be an originating good if the total weight of all such fibers or yarns in the component, including elastomeric yarns, is not more than 10 per-

cent of the total weight of the component and the good meets all other applicable requirements of this section.

(C) GOODS CONTAINING NONORIGINATING ELASTOMERIC YARNS.—

(i) GOODS CLASSIFIED UNDER CHAPTERS 50 THROUGH 60 OR HEADING 9619 .—A textile or apparel good described in subparagraph (A) containing nonoriginating elastomeric yarns shall be considered to be an originating good only if the nonoriginating elastomeric yarns contained in the good do not exceed 7 percent of the total weight of the good.

(ii) GOODS CLASSIFIED UNDER CHAPTERS 61 THROUGH 63.—A textile or apparel good described in subparagraph (B) containing nonoriginating elastomeric yarns shall be considered to be an originating good only if the nonoriginating elastomeric yarns contained in the component of the good that determines the tariff classification of the good do not exceed 7 percent of the total weight of the good.

(g) FUNGIBLE GOODS AND MATERIALS.—

(1) FUNGIBLE MATERIALS USED IN PRODUCTION.—Subject to paragraph (3), if originating and nonoriginating fungible materials are used or consumed in the production of a good, the determination of whether the materials are originating may be made on the basis of any of the inventory management methods set forth in regulations implementing this section.

(2) FUNGIBLE GOODS COMMINGLED AND EXPORTED.—Subject to paragraph (3), if originating and nonoriginating fungible goods are commingled and exported in the same form, the determination of whether the goods are originating may be made on the basis of any of the inventory management methods set forth in regulations implementing this section.

(3) USE OF INVENTORY MANAGEMENT METHOD.—A person that selects an inventory management method for purposes of paragraph (1) or (2) shall use that inventory management method throughout the fiscal year of the person.

(h) ACCESSORIES, SPARE PARTS, TOOLS, AND INSTRUCTIONAL OR OTHER INFORMATION MATERIALS.—

(1) IN GENERAL.—Subject to paragraph (2), accessories, spare parts, tools, or instructional or

other information materials delivered with a good shall—

(A) be treated as originating if the good is an originating good;

(B) be disregarded in determining whether a good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries or satisfies a process or change in tariff classification set forth in Annex 4–B of the USMCA; and

(C) be taken into account as originating or nonoriginating materials, as the case may be, in calculating any applicable regional value content of the good set forth in Annex 4–B of the USMCA.

(2) CONDITIONS.—Paragraph (1) shall apply only if—

(A) the accessories, spare parts, tools, or instructional or other information materials are classified with and delivered with, but not invoiced separately from, the good; and

(B) the types, quantities, and value of the accessories, spare parts, tools, or instructional or other information materials are customary for the good.

(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all of the nonoriginating materials used in the production of the good undergo the applicable process or change in tariff classification requirement set forth in Annex 4–B of the USMCA, or whether the good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries. If the good is subject to a regional value content requirement set forth in that Annex, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value content of the good.

(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced.

(l) TRANSIT AND TRANSSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (c) shall not be considered

to be an originating good if, subsequent to that production, the good—

(1) undergoes further production or any other operation outside the territory of a USMCA country, other than—

(A) unloading, reloading, separation from a bulk shipment, storing, labeling, or marking, as required by a USMCA country; or

(B) any other operation necessary to preserve the good in good condition or to transport the good to the territory of the importing USMCA country; or

(2) does not remain under the control of customs authorities in a country other than a USMCA country.

(m) GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—

(1) GOODS OTHER THAN TEXTILE OR APPAREL GOODS.—Notwithstanding the rules set forth in Annex 4–B of the USMCA, goods classifiable as goods put up in sets for retail sale as provided for in rule 3 of the General Rule of Interpretation of the HTS shall not be considered to be originating goods unless—

(A) each of the goods in the set is an originating good; or

(B) the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set.

(2) TEXTILE OR APPAREL GOODS.—Notwithstanding the rules set forth in Annex 4–B of the USMCA, goods classifiable as goods put up in sets for retail sale as provided for in rule 3 of the General Rule of Interpretation of the HTS shall not be considered to be originating goods unless—

(A) each of the goods in the set is an originating good; or

(B) the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set.

(n) NONQUALIFYING OPERATIONS.—A good shall not be considered to be an originating good merely by reason of—

(1) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

(2) any production or pricing practice with respect to which it may be demonstrated, by a prepon-

derance of the evidence, that the object of the practice was to circumvent this section.

(o) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a good entered for consumption, or withdrawn from warehouse for consumption, on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—Section 202 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332), as in effect on the day before the date on which the USMCA enters into force, shall continue to apply on and after that date with respect to a good entered for consumption, or withdrawn from warehouse for consumption, before that date.

SEC. 202A. SPECIAL RULES FOR AUTOMOTIVE GOODS.

(a) DEFINITIONS.—In this section:

(1) ALTERNATIVE STAGING REGIME.—The term "alternative staging regime" means the application, pursuant to subsection (d), of the requirements of article 8 of the automotive appendix to the production of covered vehicles to allow producers of such vehicles to bring such production into compliance

with the requirements of articles 2 through 7 of that appendix.

(2) ALTERNATIVE STAGING REGIME PERIOD.—The term "alternative staging regime period" means the period during which the alternative staging regime is in effect.

(3) AUTOMOTIVE APPENDIX.—The term "automotive appendix" means the Appendix to Annex 4–B of the USMCA (relating to the product-specific rules of origin for automotive goods).

(4) AUTOMOTIVE GOOD.—The term "automotive good" means—

(A) a covered vehicle; or

(B) a part, component, or material listed in table A.1, A.2, B, C, D, or E of the automotive appendix.

(5) AUTOMOTIVE RULES OF ORIGIN.—The term "automotive rules of origin" means the rules of origin for automotive goods set forth in the automotive appendix.

(6) COMMISSIONER.—The term "Commissioner" means the Commissioner of U.S. Customs and Border Protection.

(7) COVERED VEHICLE.—The term "covered vehicle" means a passenger vehicle, light truck, or heavy truck.

(8) INTERAGENCY COMMITTEE.—The term "interagency committee" means the interagency committee established under subsection (b)(1).

(9) PASSENGER VEHICLE; LIGHT TRUCK; HEAVY TRUCK.—The terms "passenger vehicle", "light truck", and "heavy truck" have the meanings given those terms in article 1 of the automotive appendix.

(10) USMCA COUNTRY .—The term "USMCA country" means the United States, Canada, or Mexico for such time as the USMCA is in force with respect to Canada or Mexico, and the United States applies the USMCA to Canada or Mexico.

(b) ESTABLISHMENT OF INTERAGENCY COMMITTEE.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the President shall establish an interagency committee—

(A) to provide advice, as appropriate, on the implementation, enforcement, and modification of provisions of the USMCA that relate to

automotive goods, including the alternative staging regime; and

(B) to review the operation of the USMCA with respect to trade in automotive goods, including—

(i) the economic effects of the automotive rules of origin on the United States economy, workers, and consumers; and

(ii) the impact of new technology on such rules of origin.

(2) MEMBERS.—The members of the interagency committee shall be the following:

(A) The Trade Representative.

(B) The Secretary of Commerce.

(C) The Commissioner.

(D) The Secretary of Labor.

(E) The Chair of the International Trade Commission.

(F) Any other members determined to be necessary by the Trade Representative.

(3) CHAIR.—The chair of the interagency committee shall be the Trade Representative.

(4) USE OF INFORMATION.—

(A) INFORMATION SHARING.—Notwithstanding any other provision of law, the mem-

bers of the interagency committee may exchange information for purposes of carrying out this section.

(B) CONFIDENTIALITY OF INFORMATION.—The interagency committee and any Federal agency represented on the interagency committee may not disclose to the public any confidential documents or information received in the course of carrying out this section, except information aggregated to preserve confidentiality and used in the reports described in subsection (g).

(c) CERTIFICATION REQUIREMENTS.—

(1) CERTIFICATION RELATING TO LABOR VALUE CONTENT REQUIREMENTS.—

(A) IN GENERAL.—A covered vehicle shall be eligible for preferential tariff treatment only if the producer of the covered vehicle—

(i) provides a certification to the Commissioner that the production of covered vehicles by the producer meets the labor value content requirements, including the high-wage material and manufacturing expenditures, high-wage technology expenditures, and high-wage assembly expendi-

tures, as set forth in article 7 of the automotive appendix or, if the producer is subject to the alternative staging regime, articles 7 and 8 of that appendix, and includes the calculations of the producer related to the labor value content requirements; and

(ii) has information on record to support those calculations.

(B) IMPLEMENTATION.—For purposes of meeting the requirements under subparagraph (A)—

(i) the Secretary of Labor, in consultation with the Commissioner, shall ensure that the certification of a producer under subparagraph (A)(i) does not contain omissions or errors before the certification is considered properly filed; and

(ii) a calculation described in subparagraph (A)(i) based on a producer's preceding fiscal or calendar year is valid for the producer's subsequent fiscal or calendar year, as the case may be, as set forth in articles 7 and 8 of the automotive appendix.

(C) REGULATIONS REQUIRED.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall prescribe regulations to carry out this paragraph, including regulations setting forth the procedures and requirements for a producer of covered vehicles to establish that the producer meets the labor value content requirements for preferential tariff treatment.

(2) CERTIFICATION RELATING TO STEEL AND ALUMINUM PURCHASE REQUIREMENTS.—

(A) IN GENERAL.—A covered vehicle shall be eligible for preferential tariff treatment only if the producer of the covered vehicle—

(i) provides a certification to the Commissioner that the production of covered vehicles by the producer meets the steel and aluminum purchase requirements set forth in article 6 of the automotive appendix or, if the producer is subject to the alternative staging regime, articles 6 and 8 of that appendix; and

(ii) has information on record to support the calculations relied on for the certification.

(B) IMPLEMENTATION.—For purposes of meeting the requirements under subparagraph (A)—

(i) the Commissioner shall ensure that the certification of a producer under subparagraph (A)(i) does not contain omissions or errors before the certification is considered properly filed; and

(ii) a calculation described in subparagraph (A)(ii) based on a producer's preceding fiscal or calendar year is valid for the producer's subsequent fiscal or calendar year, as the case may be, as set forth in articles 6 and 8 of the automotive appendix.

(C) REGULATIONS REQUIRED.—The Secretary of the Treasury shall prescribe regulations to carry out this paragraph, including regulations setting forth the procedures and requirements for a producer of covered vehicles to establish that the producer meets the steel and aluminum purchase requirements for preferential tariff treatment.

(d) ALTERNATIVE STAGING REGIME.—

(1) PUBLICATION OF REQUIREMENTS.—Not later than 90 days after the date of the enactment of this Act, the Trade Representative, in consultation with the interagency committee, shall publish in the Federal Register requirements, procedures, and guidance required to implement the alternative staging regime, including with respect to the following:

(A) The procedures, calculation methodology, timeframe, specific regional value content thresholds, and other minimum requirements, consistent with article 8 of the automotive appendix, with which a producer of covered vehicles subject to the alternative staging regime is required to comply during the alternative staging regime period for such vehicles to be eligible for preferential tariff treatment pursuant to the alternative staging regime.

(B) The date by which requests for the alternative staging regime are required to be submitted.

(C) The information a producer of passenger vehicles or light trucks is required to provide, in the producer's request to use the alternative staging regime, to demonstrate the actions that the producer will take to be prepared

to meet all the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired, including the following:

(i) A statement identifying which of the requirements set forth in articles 2 through 7 of the automotive appendix that the producer expects it will be unable to meet upon entry into force of the USMCA based on current business plans.

(ii) A statement indicating whether the passenger vehicles or light trucks for which the producer seeks to use the alternative staging regime account for 10 percent or less, or more than 10 percent, of the total production of passenger vehicles or light trucks, as the case may be, in USMCA countries by the producer during the 12-month period preceding the date on which the USMCA enters into force, or the average of such production during the 36-month period preceding that date, whichever is greater.

(iii) In the case of a producer that seeks to use the alternative staging regime

for more than 10 percent of the producer's total production of passenger vehicles or light trucks, as the case may be, in USMCA countries—

(I) a detailed and credible plan describing with specificity the actions the producer intends to take to bring production of the passenger vehicles or light trucks, as the case may be, into compliance with the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period expires; and

(II) a statement indicating the time period for which the producer is requesting to use the alternative staging regime, if that time period is greater than 5 years after the USMCA enters into force.

(D) The procedures for accepting and reviewing requests for the alternative staging regime, including that the Trade Representative will—

(i) notify a producer of any deficiencies in the request of the producer that would result in a denial of the request not later than 30 days after the request is submitted; and

(ii) provide producers the opportunity to submit supplemental information.

(E) The criteria the Trade Representative, in consultation with the interagency committee, will consider when determining whether to approve a request for the alternative staging regime. Such criteria shall only include elements necessary for the producer to demonstrate the producer's ability to meet the requirements specified in subparagraphs (A) and (B). The criteria shall also describe the information to meet those requirements in sufficient detail to allow the producer to identify the information necessary to complete a request for the alternative staging regime.

(F) The opportunity for a producer described in subparagraph (C)(iii) to modify the producer's request for the alternative staging regime.

(2) REVIEW OF REQUESTS FOR ALTERNATIVE STAGING REGIME.—

(A) IN GENERAL.—In reviewing the request of a producer of passenger vehicles or light trucks for the alternative staging regime, the Trade Representative, in consultation with the interagency committee, shall determine—

(i) whether the request covers 10 percent or less, or more than 10 percent, of the production of passenger vehicles or light trucks in USMCA countries by the producer; and

(ii) whether the producer has identified with specificity which of the requirements set forth in articles 2 through 7 of the automotive appendix the producer is unable to meet based on current business plans.

(B) APPROVAL OF ALTERNATIVE STAGING REGIME FOR PASSENGER VEHICLE OR LIGHT TRUCK PRODUCTION NOT EXCEEDING 10 PERCENT OF NORTH AMERICAN PRODUCTION.—The Trade Representative shall authorize the use of the alternative staging regime if the Trade Rep-

resentative, in consultation with the interagency committee, determines that—

(i) the request for the alternative staging regime covers passenger vehicles or light trucks that do not exceed 10 percent of the production of passenger vehicles or lights trucks, as the case may be, in USMCA countries by the producer; and

(ii) the producer has identified with specificity which of the requirements set forth in articles 2 through 7 of the automotive appendix the producer is unable to meet based on current business plans.

(C) APPROVAL OF ALTERNATIVE STAGING REGIME FOR PASSENGER VEHICLE OR LIGHT TRUCK PRODUCTION EXCEEDING 10 PERCENT OF NORTH AMERICAN PRODUCTION.—The Trade Representative shall authorize the use of the alternative staging regime if the Trade Representative, in consultation with the interagency committee, determines that—

(i) the request for the alternative staging regime covers more than 10 percent of the production of passenger vehi-

cles or lights trucks, as the case may be, in USMCA countries by the producer;

(ii) the producer has identified with specificity which of the requirements set forth in articles 2 through 7 of the automotive appendix the producer is unable to meet based on current business plans; and

(iii) the detailed and credible plan of the producer submitted under paragraph (1)(C)(iii) is based on substantial evidence and reasonably calculated to bring the production of the passenger vehicles or light trucks, as the case may be, into compliance with the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired.

(3) PROCEDURES RELATED TO REVIEWING AND APPROVING REQUESTS.—

(A) DEADLINE FOR REVIEW.—Not later than 120 days after receiving a request of a producer for the alternative staging regime, the Trade Representative, in consultation with the interagency committee, shall—

(i) review the request;

(ii) make a determination with respect to whether to authorize the use of the alternative staging regime; and

(iii) provide to each producer a response in writing stating whether the producer may use the alternative staging regime.

(B) ESTABLISHMENT OF A PUBLIC LIST.—The Trade Representative shall maintain, and update as necessary, a public list of the producers of covered vehicles that have been authorized to use the alternative staging regime.

(C) REPORTING.—Before a determination is made with respect to whether to authorize the use of the alternative staging regime, the Trade Representative shall provide to the appropriate congressional committees a summary of requests for the alternative staging regime.

(4) ALTERNATIVE STAGING REGIME REVIEW AND MODIFICATION.—

(A) MATERIAL CHANGES TO CIRCUMSTANCES.—

(i) NOTIFICATION.—If the request of a producer to use the alternative staging regime for more than 10 percent of the

total production of passenger vehicles or light trucks, as the case may be, in USMCA countries by the producer has been granted, the producer shall notify the Trade Representative and the interagency committee of any material changes to the information contained in the request, including any supplemental information relating to that request, and of any material changes to circumstances, that will affect the producer's ability to meet any of the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired.

(ii) REQUESTS FOR MODIFICATION OF PLANS.—

(I) IN GENERAL.—A producer that submits a notification under clause (i) with respect to a change described in that clause may submit to the Trade Representative and the interagency committee a request for modification of its plan.

(II) DETERMINATION REGARDING MODIFICATION.—Not later than 90 days after receiving a request submitted under subclause (I), the Trade Representative, in consultation with the interagency committee, shall—

(aa) review the request;

(bb) make a determination with respect to whether the modified plan is based on substantial evidence and reasonably calculated to ensure that the producer will still be able to meet the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired;

(cc) if the Trade Representative makes an affirmative determination under item (bb), approve the modified plan; and

(dd) notify the producer in writing of the determination.

(iii) INABILITY TO MEET REQUIREMENTS.—If the Trade Representative, in consultation with the interagency committee, determines that the information provided by a producer under clause (i) demonstrates that the producer will no longer be able to meet the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired, the Trade Representative shall notify the producer in writing, and no claim for preferential tariff treatment may be made, on or after the date of the determination, with respect to a covered vehicle of the producer pursuant to the alternative staging regime.

(5) FAILURE TO MEET REQUIREMENTS FOR ALTERNATIVE STAGING REGIME.—

(A) IN GENERAL.—If, at any time, the Trade Representative, in consultation with the interagency committee, makes a determination described in subparagraph (B) with respect to a producer of covered vehicles subject to the alternative staging regime—

(i) any claim for preferential tariff treatment under the alternative staging regime for any covered vehicle of that producer shall be considered invalid; and

(ii) notwithstanding the finality of a liquidation of an entry, the importer of any covered vehicle of that producer shall be liable for the duties, taxes, and fees that would have been applicable to that vehicle if preferential tariff treatment pursuant to the alternative staging regime had not applied when the vehicle was entered for consumption, or withdrawn from warehouse for consumption, plus interest assessed on or after the date of entry and before the date of the determination.

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination that a producer of covered vehicles subject to the alternative staging regime—

(i) has failed to take the steps set forth in the producer's request for the alternative staging regime and, as a result of that failure, the producer will no longer be able to meet the requirements set forth in

articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired;

(ii) has provided false or misleading information in the producer's request; or

(iii) in the case of a producer authorized to use the alternative staging regime for more than 10 percent of the total production of passenger vehicles or light trucks in USMCA countries by the producer, has failed to notify the Trade Representative under paragraph (4)(A) of material changes to circumstances that will prevent the producer from meeting any of the requirements set forth in articles 2 through 7 of the automotive appendix after the alternative staging regime period has expired.

(e) VERIFICATION OF LABOR VALUE CONTENT REQUIREMENTS.—

(1) IN GENERAL.—As part of a verification conducted under section 207, the Secretary of the Treasury, in conjunction with the Secretary of Labor, may conduct a verification of whether a covered vehicle complies with the labor value content re-

quirements set forth in article 7 of the automotive appendix or, if the producer is subject to the alternative staging regime under subsection (d), articles 7 and 8 of that appendix.

(2) ROLE OF SECRETARY OF LABOR.—In cooperation with the Secretary of the Treasury, the Secretary of Labor shall participate in any verification conducted under paragraph (1) by verifying whether the production of covered vehicles by a producer meets the high-wage components of the labor value content requirements, including the wage component of the high-wage material and manufacturing expenditures, the high-wage technology expenditures, and the high-wage assembly expenditures, within the meaning given those terms in article 7 of that appendix.

(3) ROLE OF SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall participate in any verification conducted under paragraph (1) by verifying—

(A) the components of the labor value content requirements not covered by paragraph (2), including the annual purchase value and cost components of the high-wage material and manufacturing expenditures, within the mean-

ing given those terms in article 7 of that appendix; and

(B) whether the producer has met the labor value content requirements.

(4) ACTIONS BY SECRETARY OF LABOR.—

(A) IN GENERAL.—In participating in a verification conducted under paragraph (1), the Secretary of Labor shall assist the Secretary of the Treasury to do the following:

(i) Examine, or cause to be examined, upon reasonable notice, any record (including any statement, declaration, document, or electronically generated or machine readable data) described in the notice with reasonable specificity.

(ii) Request information from any officer, employee, or agent of a producer of automotive goods, as necessary, that may be relevant with respect to whether the production of covered vehicles meets the high-wage components of the labor value content requirements set forth in article 7 of the automotive appendix or, if the producer is subject to the alternative staging

regime under subsection (d), articles 7 and 8 of that appendix.

(B) NATURE OF INFORMATION REQUESTED.—Records and information that may be examined or requested under subparagraph (A) may relate to wages, hours, job responsibilities, and other information in any plant or facility relied on by a producer of covered vehicles to demonstrate that the production of such vehicles by the producer meets the labor value content requirements set forth in article 7 of the automotive appendix or, if the producer is subject to the alternative staging regime under subsection (d), articles 7 and 8 of that appendix .

(5) WHISTLEBLOWER PROTECTIONS .—

(A) UNLAWFUL ACTS.—It is unlawful to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against any person for—

(i) disclosing information to a Federal agency or to any person relating to a verification under this subsection; or

(ii) cooperating or seeking to cooperate in a verification under this subsection.

(B) ENFORCEMENT.—The Secretary of the Treasury and the Secretary of Labor are authorized to take such actions under existing law, including imposing appropriate penalties and seeking appropriate injunctive relief, as may be necessary to ensure compliance with this subsection and as provided for in existing regulations.

(6) PROTESTS OF DECISIONS OF U.S. CUSTOMS AND BORDER PROTECTION.—

(A) IN GENERAL.—If a protest under section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) of a decision of U.S. Customs and Border Protection with respect to the eligibility for preferential tariff treatment of a covered vehicle relates to the analysis of the Department of Labor relating to the high-wage components of the labor value content requirements described in paragraph (1), the Secretary of Labor shall—

(i) conduct an administrative review of the portion of the decision relating to such requirements; and

(ii) provide the results of that review to the Commissioner.

(B) NO ACCELERATED DISPOSITION.—An importer may not request the accelerated disposition under section 515(b) of the Tariff Act of 1930 (19 U.S.C. 1515(b)) of a protest against a decision of the Commissioner described in subparagraph (A).

(f) ADMINISTRATION BY DEPARTMENT OF LABOR.—The Secretary of Labor is authorized to establish or designate an office within the Department of Labor to carry out the provisions of this section for which the Department is responsible.

(g) REVIEW AND REPORTS.—

(1) PERIODIC REVIEW ON AUTOMOTIVE RULES OF ORIGIN.—

(A) IN GENERAL.—The Trade Representative, in consultation with the interagency committee, shall conduct a biennial review of the operation of the USMCA with respect to trade in automotive goods, including—

(i) to the extent practicable, a summary of actions taken by producers to demonstrate compliance with the automotive rules of origin, use of the alternative staging regime, enforcement of such

rules of origin, and other relevant matters; and

(ii) whether the automotive rules of origin are effective and relevant in light of new technology and changes in the content, production processes, and character of automotive goods.

(B) REPORT.—

(i) IN GENERAL.—The Trade Representative shall submit to the appropriate congressional committees a report on each review conducted under subparagraph (A).

(ii) INITIAL REPORT.—The first report required under clause (i) shall be submitted not later than 2 years after the date on which the USMCA enters into force.

(iii) TERMINATION OF REPORTING REQUIREMENT.—The requirement to submit reports under clause (i) shall terminate on the date that is 10 years after the date on which the USMCA enters into force.

(2) REPORT BY INTERNATIONAL TRADE COMMISSION.—Not later than one year after the submission of the first report required by paragraph

(1)(B), and every 2 years thereafter until the date that is 12 years after the date on which the USMCA enters into force, the International Trade Commission shall submit to the appropriate congressional committees and the President a report on—

(A) the economic impact of the automotive rules of origin on—

(i) the gross domestic product of the United States;

(ii) exports from and imports into the United States;

(iii) aggregate employment and employment opportunities in the United States;

(iv) production, investment, use of productive facilities, and profit levels in the automotive industries and other pertinent industries in the United States affected by the automotive rules of origin;

(v) wages and employment of workers in the automotive sector in the United States; and

(vi) the interests of consumers in the United States;

(B) the operation of the automotive rules of origin and their effects on the competitiveness of the United States with respect to production and trade in automotive goods, taking into account developments in technology, production processes, or other related matters;

(C) whether the automotive rules of origin are relevant in light of technological changes in the United States; and

(D) such other matters as the International Trade Commission considers relevant to the economic impact of the automotive rules of origin, including prices, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production in the United States.

(3) REPORT BY COMPTROLLER GENERAL.—Not later than 4 years after the date on which the USMCA enters into force, the Comptroller General of the United States shall submit to the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives and the Committee on Appropriations and the Committee on Finance of the Senate a report assessing the effectiveness of United States Government interagency

coordination on implementation, enforcement, and verification of the automotive rules of origin and the customs procedures of the USMCA with respect to automotive goods.

(4) PUBLIC PARTICIPATION.—Before submitting a report under paragraph (1)(B) or (2), the agency responsible for the report shall—

(A) solicit information relating to matters that will be addressed in the report from producers of automotive goods, labor organizations, and other interested parties;

(B) provide for an opportunity for the submission of comments, orally or in writing, from members of the public relating to such matters; and

(C) after submitting the report, post a version of the report appropriate for public viewing on a publicly available internet website for the agency.

(h) EFFECTIVE DATE.—This section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or

after the date on which the USMCA enters into force.

SEC. 203. MERCHANDISE PROCESSING FEE.

(a) IN GENERAL.—Section 13031(b)(10) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(10)) is amended by striking subparagraph (B) and inserting the following:

"(B) No fee may be charged under paragraph (9) or (10) of subsection (a) with respect to goods that qualify as originating goods under section 202 of the United States-Mexico-Canada Agreement Implementation Act or qualify for duty-free treatment under Annex 6–A of the USMCA (as defined in section 3 of that Act). Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a good entered or released on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a good entered or released before the date on which the USMCA enters into force—

(A) the amendments made by subsection (a) to section 13031(b)(10)(B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(10)(B)) shall not apply with respect to the good; and

(B) section 13031(b)(10)(B) of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

(3) ENTERED OR RELEASED DEFINED.—In this subsection, the term "entered or released" has the meaning given that term in section 13031(b)(8)(E) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(E)).

SEC. 204. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

(a) DISCLOSURE OF INCORRECT INFORMATION.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (e), by striking paragraph (5) and inserting the following:

"(5) PRIOR DISCLOSURE REGARDING CLAIMS UNDER THE USMCA.—An importer shall not be subject to penalties under subsection (a) for making an incorrect claim that a good qualifies as an originating good under section 202 of the United States-Mexico-Canada Agreement Implementation Act if the importer, in accordance with regulations prescribed by the Secretary of the Treasury, promptly makes a corrected declaration and pays any duties owing with respect to that good."; and

(2) by striking subsection (f) and inserting the following:

"(f) FALSE CERTIFICATIONS OF ORIGIN UNDER THE USMCA.—

"(1) IN GENERAL.—Subject to paragraph (2), it is unlawful for any person to certify falsely, by fraud, gross negligence, or negligence, in a USMCA certification of origin (as such term is defined in section 508 of this Act) that a good exported from the United States qualifies as an originating good under the rules of origin provided for in section 202 of the United States-Mexico-Canada Agreement Implementation Act. The procedures and penalties of this section that apply to a violation of subsection (a) also apply to a violation of this subsection.

"(2) PROMPT AND VOLUNTARY DISCLOSURE OF INCORRECT INFORMATION.—No penalty shall be imposed under this subsection if, promptly after an exporter or producer that issued a USMCA certification of origin has reason to believe that such certification contains or is based on incorrect information, the exporter or producer voluntarily provides written notice of such incorrect information to every person to whom the certification was issued.

"(3) EXCEPTION.—A person shall not be considered to have violated paragraph (1) if—

"(A) the information was correct at the time it was provided in a USMCA certification of origin but was later rendered incorrect due to a change in circumstances; and

"(B) the person promptly and voluntarily provides written notice of the change in circumstances to all persons to whom the person provided the certification.".

(b) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended—

(1) in subsection (b), by striking "and article 1904" and all that follows through "Free-Trade Agreement";

(2) in subsection (c)—

(A) in paragraph (1), in the matter following subparagraph (D), by striking "section 202 of the North American Free Trade Agreement Implementation Act" and inserting "section 202 of the United States-Mexico-Canada Agreement Implementation Act"; and

(B) in paragraph (2)(E)—

(i) by striking "section 202 of the North American Free Trade Agreement Implementation Act" and inserting "section 202 of the United States-Mexico-Canada Agreement Implementation Act"; and

(ii) by striking "NAFTA Certificate of Origin" and inserting "USMCA certification of origin (as such term is defined in section 508 of this Act)";

(3) in subsection (e), by striking "section 202 of the North American Free Trade Agreement Implementation Act" and inserting "section 202 of the United States-Mexico-Canada Agreement Implementation Act"; and

(4) by striking subsection (f) and inserting the following:

"(f) DENIAL OF PREFERENTIAL TARIFF TREATMENT UNDER THE USMCA.—If U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement of the Department of Homeland Security finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin provided for in section 202 of the United States-Mexico-Canada Agreement Implementation Act, U.S. Customs and Border Protection, in accordance with regulations prescribed by the Secretary of the Treasury, may suspend preferential tariff treatment under the USMCA (as defined in section 3 of that Act) to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until U.S. Customs and Border Protection determines that representations of that person are in conformity with such section 202.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a good entered, or exported from the United States, as the case may be, on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a good entered, or exported from the United States, as the case may be, before the date on which the USMCA enters into force—

(A) the amendments made by subsection (a) to section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) and the amendments made by subsection (b) to section 514 of such Act (19 U.S.C. 1514) shall not apply with respect to the good; and

(B) sections 592 and 514 of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

(3) ENTERED DEFINED.—In this subsection, the term "entered" includes a withdrawal from warehouse for consumption.

SEC. 205. RELIQUIDATION OF ENTRIES.

(a) IN GENERAL.—Section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "section 202 of the North American Free Trade Agreement Implementation Act,";

(B) by striking ", or section 203" and inserting ", section 203"; and

(C) by striking "for which" and inserting ", or section 202 of the United States-Mexico-Canada Agreement Implementation Act (except with respect to any merchandise processing fees), for which"; and

(2) by striking paragraph (2) and inserting the following:

"(2) copies of all applicable certificates or certifications of origin; and".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a good entered for consumption, or withdrawn from warehouse for consumption, on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a good entered for consumption, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force—

(A) the amendments made by subsection (a) to section 520(d) of the Tariff Act of 1930

(19 U.S.C. 1520(d)) shall not apply with respect to the good; and

(B) section 520(d) of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

SEC. 206. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) EXPORTS AND IMPORTS RELATING TO USMCA COUNTRIES.—

"(1) DEFINITIONS.—In this subsection:

"(A) USMCA; USMCA COUNTRY.—The terms 'USMCA' and 'USMCA country' have the meanings given those terms in section 3 of the United States-Mexico-Canada Agreement Implementation Act.

"(B) USMCA CERTIFICATION OF ORIGIN.—The term 'USMCA certification of origin' means the certification established under article 5.2.1 of the USMCA that a good qualifies as an originating good under the USMCA.

"(2) EXPORTS TO USMCA COUNTRIES.—Any person who completes a USMCA certification of origin or provides a written representation for a good exported from the United States to a USMCA country shall make, keep, and, pursuant to rules and regulations prescribed by the Secretary of the Treasury, render for examination and inspection, all records and supporting documents related to the origin of the good (including the certification or copies thereof), including records related to—

"(A) the purchase, cost, value, and shipping of, and payment for, the good;

"(B) the purchase, cost, value, and shipping of, and payment for, all materials, including indirect materials, used in the production of the good; and

"(C) the production of the good in the form in which it was exported or the production of the material in the form in which it was sold.

"(3) EXPORTS UNDER THE CANADIAN AGREEMENT.—Any person who exports, or who knowingly causes to be exported, any merchandise to Canada during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada

shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to the exportations.

"(4) IMPORTS INTO THE UNITED STATES.—

"(A) IN GENERAL.—Any importer who claims preferential tariff treatment under the USMCA for a good imported into the United States from a USMCA country shall make, keep, and, pursuant to rules and regulations prescribed by the Secretary of the Treasury of the Secretary of Labor, render for examination and inspection—

"(i) records and supporting documentation related to the importation;

"(ii) all records and supporting documents related to the origin of the good (including the certification or copies thereof), if the importer completed the certification; and

"(iii) records and supporting documents necessary to demonstrate that the good did not, while in transit to the United States, undergo further production or any other operation other than unloading, re-

loading, or any other operation necessary to preserve the good in good condition or to transport the good to the United States.

"(B) VEHICLE PRODUCER.—Any vehicle producer whose good is the subject of a claim for preferential tariff treatment under the USMCA shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury and Secretary of Labor, render for examination and inspection records and supporting documents related to the labor value content and steel and aluminum purchasing requirements for the qualification of its vehicles for preferential treatment.

"(5) RETENTION PERIOD.—

"(A) EXPORTS TO USMCA COUNTRIES.—A person covered by paragraph (2) who completes a USMCA certification of origin or provides a written representation for a good exported from the United States to a USMCA country shall keep the records required by such paragraph relating to that certification of origin for a period of at least 5 years after the date on which the certification is completed.

"(B) EXPORTS UNDER CANADIAN AGREEMENT.—The records required by paragraph (3) shall be kept for such periods of time as the Secretary shall prescribe, except that—

"(i) no period of time for the retention of the records may exceed 5 years from the date of entry, filing of a reconciliation, or exportation, as appropriate; and

"(ii) records for any drawback claim shall be kept until the 3rd anniversary of the date of liquidation of the claim.

"(C) IMPORTS INTO THE UNITED STATES.—

"(i) IN GENERAL.—An importer covered by paragraph (4)(A) shall keep the records and supporting documents required by such paragraph for a period of at least 5 years after the date of importation of the good.

"(ii) VEHICLE PRODUCER.—A vehicle producer covered by paragraph (4)(B) shall keep the records and supporting documents required by paragraph (4)(B) for a period of at least 5 years after the date of filing the certifications required under

paragraphs (1) and (2) of section 202A(c) of the United States-Mexico-Canada Agreement Implementation Act.";

(2) by striking subsection (c); and

(3) in the paragraph heading for subsection (c)(1), by striking "NAFTA" and inserting "USMCA".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date on which the USMCA enters into force.

(2) APPLICABILITY.—

(A) EXPORTS.—Paragraphs (2) and (5)(A) of section 508(b) of the Tariff Act of 1930, as amended by subsection (a), shall apply with respect to a good exported from the United States on or after the date on which the USMCA enters into force.

(B) IMPORTS.—Paragraphs (4) and (5)(C) of section 508(b) of the Tariff Act of 1930, as amended by subsection (a), shall apply with respect to a good that is entered for consumption, or withdrawn from warehouse for consumption, on or after the date on which the USMCA enters into force.

(3) TRANSITION FROM NAFTA TREATMENT.—

(A) EXPORTS.—In the case of a good exported from the United States before the date on which the USMCA enters into force—

(i) the amendments made by subsection (a) to paragraphs (2) and (5)(A) of section 508(b) of the Tariff Act of 1930 (19 U.S.C. 1508) shall not apply with respect to the good; and

(ii) section 508 of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

(B) IMPORTS.—In the case of a good that is entered for consumption, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force, the amendments made by subsection (a) to paragraphs (4) and (5)(C) of section 508(b) of the Tariff Act of 1930 (19 U.S.C. 1508) shall not apply with respect to the good.

SEC. 207. ACTIONS REGARDING VERIFICATION OF CLAIMS UNDER THE USMCA.

(a) VERIFICATION.—

(1) ORIGIN VERIFICATION.—

(A) IN GENERAL.—The Secretary of the Treasury may, pursuant to article 5.9 of the USMCA, conduct a verification of whether a good is an originating good under section 202 or 202A.

(B) ADDITIONAL REQUIREMENTS.—If the Secretary conducts a verification under subparagraph (A), the President may direct the Secretary—

(i) during the verification process, to release the good only upon payment of duties or provision of security; and

(ii) if the Secretary makes a negative determination under subsection (b), to take action under subsection (c).

(2) TEXTILE AND APPAREL GOODS.—

(A) IN GENERAL.—The Secretary of the Treasury may, pursuant to article 6.6 of the USMCA, conduct a verification described in subparagraph (C) with respect to a textile or apparel good.

(B) ADDITIONAL REQUIREMENTS.—If the Secretary conducts a verification under subparagraph (A) with respect to a textile or ap-

parel good, the President may direct the Secretary—

(i) during the verification process, to take appropriate action described in subparagraph (D); and

(ii) if the Secretary makes a negative determination described in subsection (b), to take action under subsection (c).

(C) VERIFICATION DESCRIBED.—A verification described in this subparagraph with respect to a textile or apparel good is—

(i) a verification of whether the good qualifies for preferential tariff treatment under the USMCA; or

(ii) a verification of whether customs offenses are occurring or have occurred with respect to the good.

(D) ACTION DURING VERIFICATION.—Appropriate action described in this subparagraph may consist of—

(i) release of the textile or apparel good that is the subject of a verification described in subparagraph (C) upon payment of duties or provision of security;

(ii) suspension of preferential tariff treatment under the USMCA with respect to—

(I) the textile or apparel good that is the subject of a verification described in subparagraph (C)(i), if the Secretary determines that there is insufficient information to support the claim for preferential tariff treatment; or

(II) any textile or apparel good exported or produced by a person that is the subject of a verification described in subparagraph (C)(ii) if the Secretary of the Treasury determines that there is insufficient information to support the claim for preferential tariff treatment made with respect to that good;

(iii) denial of preferential tariff treatment under the USMCA with respect to—

(I) the textile or apparel good that is the subject of a verification described in subparagraph (C)(i) if the Secretary determines that incorrect

information has been provided to support the claim for preferential tariff treatment; or

(II) any textile or apparel good exported or produced by a person that is the subject of a verification described in subparagraph (C)(ii) if the Secretary determines that the person has provided incorrect information to support the claim for preferential tariff treatment that has been made with respect to that good;

(iv) detention of any textile or apparel good exported or produced by a person that is the subject of a verification described in subparagraph (C) if the Secretary determines that there is insufficient information to determine the country of origin of that good; and

(v) denial of entry into the United States of any textile or apparel good exported or produced by a person that is the subject of a verification described in subparagraph (C) if the Secretary determines that the person has provided incorrect in-

formation regarding the country of origin of that good.

(b) NEGATIVE DETERMINATION.—

(1) IN GENERAL.—A negative determination described in this subsection with respect to a good imported, exported, or produced by an importer, exporter, or producer is a determination by the Secretary, based on a verification conducted under subsection (a), that—

(A) a claim by the importer, exporter, or producer that the good qualifies as an originating good under section 202 is inaccurate; or

(B) the good does not qualify for preferential tariff treatment under the USMCA because—

(i) the importer, exporter, or producer failed to respond to a written request for information or failed to provide sufficient information to determine that the good qualifies as an originating good;

(ii) after receipt of a written notification for a visit to conduct verification under subsection (a), the exporter or producer did not provide written consent for that visit;

(iii) the importer, exporter, or producer does not maintain, or denies access to, records or documentation required under section 508(l) of the Tariff Act of 1930 (19 U.S.C. 1508(l));

(iv) in the case of verification conducted under subsection (a)(2)—

(I) access or permission for a site visit is denied;

(II) officials of the United States are prevented from completing a site visit on the proposed date and the exporter or producer does not provide an acceptable alternative date for the site visit; or

(III) the exporter or producer does not provide access to relevant documents or facilities during a site visit; or

(v) the importer, exporter, or producer—

(I) otherwise fails to comply with the requirements of this section; or

(II) based on the preponderance of the evidence, circumvents the requirements of this section.

(2) REQUESTS FOR INFORMATION.—The Secretary shall not make a negative determination described in paragraph (1)(B) unless—

(A) in a case in which the Secretary conducts a verification with respect to a good by written request or questionnaire submitted to the importer under article 5.9.1(a) of the USMCA and the claim for preferential tariff treatment under the USMCA is based on a certification of origin completed by the exporter or producer of the good, the Secretary requests information from the exporter or producer that completed the certification; or

(B) in a case in which the Secretary conducts a verification with respect to a textile or apparel good by requesting a site visit under article 6.6.2 of the USMCA, the Secretary requests information from the importer and from any exporter or producer that provided information to the Secretary to support the claim for preferential tariff treatment.

(c) ACTION BASED ON DETERMINATION.—

(1) DENIAL OF PREFERENTIAL TARIFF TREATMENT.—Upon making a negative determination described in subsection (b)(1) with respect to a good, the Secretary may deny preferential tariff treatment under the USMCA with respect to the good.

(2) WITHHOLDING OF PREFERENTIAL TARIFF TREATMENT BASED ON PATTERN OF CONDUCT.—If verifications of origin relating to identical goods indicate a pattern of conduct by an importer, exporter, or producer of false or unsupported representations relevant to a claim that a good imported into the United States qualifies for preferential tariff treatment under the USMCA, U.S. Customs and Border Protection, in accordance with regulations prescribed by the Secretary, may withhold preferential tariff treatment under the USMCA for entries of those goods imported, exported, or produced by that person until U.S. Customs and Border Protection determines that person has established compliance with requirements for claims for preferential tariff treatment under the USMCA.

(d) PREVENTION OF CIRCUMVENTION.—In making a determination under this section, including whether to accept or reject a claim for preferential tariff treatment under the USMCA, the Secretary shall interpret the re-

quirements of this section in a manner to avoid and prevent circumvention of those requirements.

SEC. 208. DRAWBACK [RESERVED].

SEC. 209. OTHER AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) COUNTRY OF ORIGIN MARKING.—Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended by striking subsection (k) and inserting the following:

"(k) TREATMENT OF GOODS OF A USMCA COUNTRY.—In applying this section to an article that qualifies as a good of a USMCA country (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)—

"(1) the exemption under subsection (a)(3)(H) shall be applied by substituting 'reasonably know' for 'necessarily know';

"(2) the Secretary shall exempt the good from the requirements for marking under subsection (a) if the good—

"(A) is an original work of art, or

"(B) is provided for under subheading 6904.10, heading 8541, or heading 8542 of the Harmonized Tariff Schedule of the United States; and

"(3) subsection (b) does not apply to the usual container of any good described in subsection (a)(3)(E) or (I) or paragraph (2)(A) or (B) of this subsection.".

(b) EXAMINATION OF BOOKS AND WITNESSES.—Section 509(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1509(a)(2)(A)) is amended—

(1) in clause (i), by inserting at the end "or a vehicle producer whose good is subject to a claim of preferential tariff treatment under the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act),"; and

(2) in clause (ii), by striking "a NAFTA country" and all that follows through "Implementation Act)" and inserting "a USMCA country (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)".

(c) EXCHANGE OF INFORMATION.—Section 628 of the Tariff Act of 1930 (19 U.S.C. 1628) is amended by striking subsection (c) and inserting the following:

"(c) GOVERNMENT AGENCY OF USMCA COUNTRY.—

"(1) IN GENERAL.—The Secretary may authorize U.S. Customs and Border Protection to exchange

information with any government agency of a USMCA country, if the Secretary—

"(A) reasonably believes the exchange of information is necessary to implement chapter 2, 4, 5, 6, or 7 of the USMCA; and

"(B) obtains assurances from such agency that the information will be held in confidence and used only for governmental purposes.

"(2) DEFINITIONS.—In this subsection, the terms 'USMCA' and 'USMCA country' have the meanings given those terms in section 3 of the United States-Mexico-Canada Agreement Implementation Act.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a good entered for consumption, or withdrawn from warehouse for consumption, on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a good entered for consumption, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force—

(A) the amendments made by this section shall not apply with respect to the good; and

(B) the provisions of law amended by this section, as such provisions were in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

(e) EFFECTIVE DATE RELATING TO EXCHANGE OF INFORMATION.—Notwithstanding the amendment made by subsection (c), the Secretary of the Treasury shall retain the authority provided in section 628(c) of the Tariff Act of 1930 (as in effect on the day before the date on which the USMCA enters into force) to exchange information with any government agency of a NAFTA country (as defined in section 2 of the North American Free Trade Agreement Implementation Act (as in effect on the day before the date on which the USMCA enters into force)).

SEC. 210. REGULATIONS.

(a) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this title and the amendments made by this title (except as provided by subsection (b)).

(b) SECRETARY OF LABOR.—The Secretary of Labor shall prescribe such regulations as may be necessary to carry out the labor value content determination under section 202A.

TITLE III—APPLICATION OF USMCA TO SECTORS AND SERVICES

Subtitle A—Relief From Injury Caused by Import Competition [reserved]

Subtitle B—Temporary Entry of Business Persons [reserved]

Subtitle C—United States-Mexico Cross-border Long-haul Trucking Services

SEC. 321. DEFINITIONS.

In this subtitle:

(1) BORDER COMMERCIAL ZONE.—The term "border commercial zone" means—

(A) the area of United States territory of the municipalities along the United States-Mexico international border and the commercial zones of such municipalities as described in subpart B of part 372 of title 49, Code of Federal Regulations; and

(B) any additional border crossing and associated commercial zones listed in the Federal Motor Carrier Safety Administration OP–2 application instructions or successor documents.

(2) CARGO ORIGINATING IN MEXICO.—The term "cargo originating in Mexico" means any cargo that enters the United States by commercial motor vehicle from Mexico, including cargo that may have originated in a country other than Mexico.

(3) CHANGE IN CIRCUMSTANCES.—The term "change in circumstance" may include a substantial increase in services supplied by the grantee of a grant of authority.

(4) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" means a commercial motor vehicle, as such term is defined in paragraph (1) of section 31132 of title 49, United States Code, that meets the requirements of subparagraph (A) of such paragraph.

(5) CROSS-BORDER LONG-HAUL TRUCKING SERVICES.—The term "cross-border long-haul trucking services" means—

(A) the transportation by commercial motor vehicle of cargo originating in Mexico to a point in the United States outside of a border commercial zone; or

(B) the transportation by commercial motor vehicle of cargo originating in the United States from a point in the United States out-

side of a border commercial zone to a point in a border commercial zone or a point in Mexico.

(6) DRIVER.—The term "driver" means a person that drives a commercial motor vehicle in cross-border long-haul trucking services.

(7) GRANT OF AUTHORITY.—The term "grant of authority" means registration granted pursuant to section 13902 of title 49, United States Code, or a successor provision, to persons of Mexico to conduct cross-border long-haul trucking services in the United States.

(8) INTERESTED PARTY.—The term "interested party" means—

(A) persons of the United States engaged in the provision of cross-border long-haul trucking services;

(B) a trade or business association, a majority of whose members are part of the relevant United States long-haul trucking services industry;

(C) a certified or recognized union, or representative group of suppliers, operators, or drivers who are part of the United States long-haul trucking services industry;

(D) the Government of Mexico; or

(E) persons of Mexico.

(9) MATERIAL HARM.—The term "material harm" means a significant loss in the share of the United States market or relevant sub-market for cross-border long-haul trucking services held by persons of the United States.

(10) OPERATOR OR SUPPLIER.—The term "operator" or "supplier" means an entity that has been granted registration under section 13902 of title 49, United States Code, to provide cross-border long-haul trucking services.

(11) PERSONS OF MEXICO.—The term "persons of Mexico" includes—

(A) entities domiciled in Mexico organized, or otherwise constituted under Mexican law, including subsidiaries of United States companies domiciled in Mexico, or entities owned or controlled by a Mexican national, which conduct cross-border long-haul trucking services, or employ drivers who are non-United States nationals; and

(B) drivers who are Mexican nationals.

(12) PERSONS OF THE UNITED STATES.—The term "persons of the United States" includes entities domiciled in the United States, organized or

otherwise constituted under United States law, and not owned or controlled by persons of Mexico, which provide cross-border long-haul trucking services and long-haul commercial motor vehicle drivers who are United States nationals.

(13) THREAT OF MATERIAL HARM.—The term "threat of material harm" means material harm that is likely to occur.

(14) UNITED STATES LONG-HAUL TRUCKING SERVICES INDUSTRY.—The term "United States long-haul trucking services industry" means—

(A) United States suppliers, operators, or drivers as a whole providing cross-border long-haul trucking services; or

(B) United States suppliers, operators, or drivers providing cross-border long-haul trucking services in a specific sub-market of the whole United States market.

SEC. 322. INVESTIGATIONS AND DETERMINATIONS BY COMMISSION.

(a) INVESTIGATION.—Upon the filing of a petition by an interested party described in subparagraph (A), (B), or (C) of section 321(8) which is representative of a United States long-haul trucking services industry, or at the request of the President or the Trade Representative,

or upon the resolution of the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, the International Trade Commission (in this subtitle referred to as the "Commission") shall promptly initiate an investigation to determine—

(1) whether a request by a person of Mexico to receive a grant of authority that is pending as of the date of the filing of the petition threatens to cause material harm to a United States long-haul trucking services industry;

(2) whether a person of Mexico who has received a grant of authority on or after the date of entry into force of the USMCA and retains such grant of authority is causing or threatens to cause material harm to a United States long-haul trucking services industry; or

(3) whether, with respect to a person of Mexico who has received a grant of authority before the date of entry into force of the USMCA and retains such grant of authority, there has been a change in circumstances such that such person of Mexico is causing or threatens to cause material harm to a United States long-haul trucking services industry.

(b) TRANSMISSION OF PETITION, REQUEST, OR RESOLUTION.—The Commission shall transmit a copy of any

petition, request, or resolution filed under subsection (a) to the Trade Representative and the Secretary of Transportation.

(c) PUBLICATION AND HEARINGS.—The Commission shall—

(1) promptly publish notice of the commencement of any investigation under subsection (a) in the Federal Register; and

(2) within a reasonable time period thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to presentations of other parties, and otherwise to be heard.

(d) FACTORS APPLIED IN MAKING DETERMINATIONS.—In making a determination under subsection (a) of whether a request by a person of Mexico to receive a grant of authority, or a person of Mexico who has received a grant of authority and retains such grant of authority, as the case may be, threatens to cause material harm to a United States long-haul trucking services industry, the Commission shall—

(1) consider, among other things, and as relevant—

(A) the volume and tonnage of merchandise transported; and

(B) the employment, wages, hours of service, and working conditions; and

(2) with respect to a change in circumstances described in subsection (a)(3), take into account those operations by persons of Mexico under grants of authority in effect as of the date of entry into force of the USMCA are not causing material harm.

(e) ASSISTANCE TO COMMISSION.—

(1) IN GENERAL.—At the request of the Commission, the Secretary of Homeland Security shall consult with the Commission and shall collect and maintain such additional data and other information on commercial motor vehicles entering or exiting the United States at a port of entry or exit at the United States border with Mexico as the Commission may request for the purpose of conducting investigations under subsection (a) and shall make such information available to the Commission in a timely manner.

(2) REQUESTS FOR INFORMATION.—

(A) IN GENERAL.—At the request of the Commission, the Secretary of Homeland Security, the Secretary of Transportation, the Secretary of Commerce, the Secretary of Labor, and the head of any other Federal agency shall

make available to the Commission any information in their possession, including proprietary information, as the Commission may require in order to assist the Commission in making determinations under subsection (a).

(B) CONFIDENTIAL BUSINESS INFORMATION.—The Commission shall treat any proprietary information obtained under subparagraph (A) as confidential business information in accordance with regulations adopted by the Commission to carry out this subtitle.

(f) LIMITED DISCLOSURE OF CONFIDENTIAL BUSINESS INFORMATION UNDER PROTECTIVE ORDER.—The Commission shall promulgate regulations to provide access to confidential business information under protective order to authorized representatives of interested parties who are parties to an investigation under subsection (a).

(g) DEADLINE FOR DETERMINATION.—

(1) IN GENERAL.—Not later than 120 days after the date on which an investigation is initiated under subsection (a) with respect to a petition, request, or resolution, the Commission shall make a determination with respect to the petition, request, or resolution.

(2) EXCEPTION.—If, before the 100th day after an investigation is initiated under subsection (a), the Commission determines that the investigation is extraordinarily complicated, the Commission shall make its determination with respect to the investigation not later than 150 days after the date referred to in paragraph (1).

(h) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

SEC. 323. COMMISSION RECOMMENDATIONS AND REPORT.

(a) IN GENERAL.—If the Commission makes an affirmative determination under section 322, the Commission shall recommend the action that is necessary to address the material harm or threat of material harm found.

(b) LIMITATION.—Only those members of the Commission who agreed to the affirmative determination under section 322 are eligible to vote on the recommendation required to be made under subsection (a).

(c) REPORT.—Not later than the date that is 60 days after the date on which the determination is made under

section 322, the Commission shall submit to the President a report that includes—

(1) the determination and an explanation of the basis for the determination;

(2) if the determination is affirmative, recommendations for action and an explanation of the basis for the recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination.

(d) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (c), the Commission shall—

(1) promptly make public the report (with the exception of information which the Commission determines to be confidential business information); and

(2) publish a summary of the report in the Federal Register.

SEC. 324. ACTION BY PRESIDENT WITH RESPECT TO AFFIRMATIVE DETERMINATION.

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives a report of the Commission in which the Commission's determination under section 322 is affirmative or which contains a determination that the President may treat as af-

firmative in accordance with section 330(d)(1) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1))—

(1) the President shall, subject to subsection (b), issue an order to the Secretary of Transportation specifying the relief to be provided, consistent with subsection (c), and directing the relief to be carried out; and

(2) the Secretary of Transportation shall carry out such relief.

(b) EXCEPTION.—The President is not required to provide relief under this section if the President determines that provision of such relief—

(1) is not in the national economic interest of the United States; or

(2) would cause serious harm to the national security of the United States.

(c) NATURE OF RELIEF.—

(1) IN GENERAL.—The relief the President is authorized to provide under this subsection is as follows:

(A)(i) With respect to a determination relating to an investigation under section 322(a)(1), the denial or imposition of limitations on a request for a new grant of authority

by the persons of Mexico that are the subject of the investigation.

(ii) With respect to a determination relating to an investigation under section 322(a)(1), the revocation of, or restrictions on, grants of authority issued to the persons of Mexico that are the subject of the investigation since the date of the petition, request, or resolution.

(B) With respect to a determination relating to an investigation under section 322(a)(2) or (3), the revocation or imposition of limitations on an existing grant of authority by the persons of Mexico that are the subject of the investigation.

(C) With respect to a determination relating to an investigation under section 322(a)(1), (2), or (3), a cap on the number of grants of authority issued to persons of Mexico annually.

(2) DEADLINE FOR RELIEF.—Not later than 15 days after the date on which the President determines the relief to be provided under this subsection, the President shall direct the Secretary of Transportation to carry out the relief.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any relief that the President provides under this section may not be in effect for more than 2 years.

(2) EXTENSION.—

(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which contains a determination that the President may treat as affirmative in accordance with section 330(d)(1) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)(1)), may extend the effective period of relief provided under this section by up to an additional 4 years, if the President determines that the provision of the relief continues to be necessary to remedy or prevent material harm.

(B) ACTION BY COMMISSION.—

(i) INVESTIGATION.—Upon request of the President, or upon the filing by an interested party described in subparagraph (A), (B), or (C) of section 321(8) which is representative of a United States long-haul trucking services industry that is filed with the Commission not earlier than the date that is 270 days, and not later than the

date that is 240 days, before the date on which any action taken under this section is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent material harm.

(ii) NOTICE AND HEARING.—The Commission shall—

(I) publish notice of the commencement of an investigation under clause (i) in the Federal Register; and

(II) within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise be heard.

(iii) REPORT.—Not later than the date that is 60 days before relief provided under subsection (a) is to terminate, or such other date as determined by the President, the Commission shall submit to

the President a report on its investigation and determination under this subparagraph.

(C) PERIOD OF RELIEF.—Any relief provided under this section, including any extension thereof, may not, in the aggregate, be in effect for more than 6 years.

(D) LIMITATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Commission may not conduct an investigation under subparagraph (B)(i) if—

(I) the subject matter of the investigation is the same as the subject matter of a previous investigation conducted under subparagraph (B)(i); and

(II) less than 1 year has elapsed since the Commission made its report to the President of the results of such previous investigation.

(ii) EXCEPTION.—Clause (i) shall not apply with respect to an investigation if the Commission determines good cause exists to conduct the investigation.

(e) REGULATIONS.—The Commission and the Secretary of Transportation are authorized to promulgate such rules and regulations as may be necessary to carry out this subtitle.

SEC. 325. CONFIDENTIAL BUSINESS INFORMATION.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence by striking "and title III of the United States-Panama Trade Promotion Agreement Implementation Act" and inserting ", title III of the United States-Panama Trade Promotion Agreement Implementation Act, and subtitle C of title III of the United States-Mexico-Canada Agreement Implementation Act".

SEC. 326. CONFORMING AMENDMENTS.

(a) REGISTRATION OF MOTOR CARRIERS.—Section 13902 of title 49, United States Code, is amended by inserting at the end the following:

"(j) MEXICO-DOMICILED MOTOR CARRIERS.—Notwithstanding any other provision of this section, upon an order in accordance with section 324(a) of the United States-Mexico-Canada Agreement Implementation Act, the Secretary shall carry out the relief specified by denying or imposing limitations on a request for registration or capping the number of requests for registration by Mexico-domiciled motor carriers of cargo to operate beyond the

municipalities along the United States-Mexico international border and the commercial zones of those municipalities as directed.".

(b) EFFECTIVE PERIODS OF REGISTRATION.—Section 13905 of title 49, United States Code, is amended by inserting at the end the following:

"(g) MEXICO-DOMICILED MOTOR CARRIERS.—Notwithstanding any other provision of this section, upon an order in accordance with section 324(a) of the United States-Mexico-Canada Agreement Implementation Act, the Secretary shall carry out the relief specified by revoking or imposing limitations on existing registrations of Mexico-domiciled motor carriers of cargo to operate beyond the municipalities along the United States-Mexico international border and the commercial zones of those municipalities as directed.".

SEC. 327. SURVEY OF OPERATING AUTHORITIES.

The Department of Transportation shall undertake a survey of all existing grants of operating authority to, and pending applications for operating authority from, all Mexico-domiciled motor property carriers for operating beyond the Border Commercial Zones, including OP–1 (MX) operating authority (Mexico-domiciled Carriers for Motor Carrier Authority to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border) and

OP–1 operating authority (United States-based Enterprise Carrier of International Cargo Application for Motor Property Carrier and Broker Authority). The Department of Transportation shall prepare a report summarizing the results of such survey not less than 180 days after the date on which the USMCA enters into force, which it shall deliver to the Office of the United States Trade Representative, the Commission, and the Chairs and Ranking Members of the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

TITLE IV—ANTIDUMPING AND COUNTERVAILING DUTIES

Subtitle A—Preventing Duty Evasion

SEC. 401. COOPERATION ON DUTY EVASION.

Section 414(b) of the Enforce and Protect Act of 2015 (19 U.S.C. 4374(b)) is amended—

(1) by inserting "or a party to the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)" after "subsection (a)"; and

(2) by inserting "or the USMCA, as the case may be," after "the bilateral agreement".

Subtitle B—Dispute Settlement [reserved]

Subtitle C—Conforming Amendments

SEC. 421. JUDICIAL REVIEW IN ANTIDUMPING DUTY AND COUNTERVAILING DUTY CASES.

Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B)(vii), by striking "the Tariff Act of 1930" and inserting "this Act"; and

(B) in paragraph (5)(D)(i), by striking "article 1904 of the NAFTA" and inserting "article 10.12 of the USMCA";

(2) in subsection (b)(3)—

(A) in the paragraph heading, by striking "NAFTA OR UNITED STATES-CANADA" and inserting "UNITED STATES-CANADA OR USMCA"; and

(B) in the text, by striking "of the NAFTA or of the Agreement" and inserting "of

the Agreement or article 10.12 of the USMCA";

(3) in subsection (f)—

(A) in paragraph (6)(A), by striking "article 1908 of the NAFTA" and inserting "article 10.16 of the USMCA";

(B) in paragraph (7)(A), by striking "article 1908 of the NAFTA" and inserting "article 10.16 of the USMCA";

(C) by striking paragraph (8);

(D) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively;

(E) in paragraph (9), as redesignated by subparagraph (D), by striking subparagraphs (A) and (B) and inserting the following:

"(A) Canada for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Canada.

"(B) Mexico for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Mexico."; and

(F) by adding at the end the following:

"(10) USMCA.—The term 'USMCA' has the meaning given that term in section 3 of the United

States-Mexico-Canada Agreement Implementation Act.";

(4) in subsection (g)—

(A) in paragraph (2), in the matter preceding subparagraph (A), by striking "of the NAFTA or of the Agreement" and inserting "of the Agreement or article 10.12 of the USMCA";

(B) in paragraph (3)(A)—

(i) in clause (i), by striking "of the NAFTA or of the Agreement." and inserting "of the Agreement or article 10.12 of the USMCA;";

(ii) in clause (iii), by striking "the NAFTA or of the Agreement" and inserting "the Agreement or the USMCA";

(iii) in clause (v), by striking "paragraph 12 of article 1905 of the NAFTA" and inserting "article 10.13 of the USMCA"; and

(iv) in clause (vi), by striking "paragraph 12 of article 1905 of the NAFTA" and inserting "article 10.13 of the USMCA";

(C) in paragraph (4)(A), by striking "the North American Free Trade Agreement" and all that follows through "chapter 19 of the Agreement" and inserting "the United States-Canada Free-Trade Agreement Implementation Act of 1988 implementing the binational panel dispute settlement system under chapter 19 of the Agreement, or the United States-Mexico-Canada Agreement Implementation Act implementing the binational panel dispute settlement system under chapter 10 of the USMCA";

(D) in paragraph (5)—

(i) in subparagraph (A), by striking "of the NAFTA or of the Agreement" and inserting "of the Agreement or article 10.12 of the USMCA";

(ii) in subparagraph (B), by striking "of the NAFTA or of the Agreement" and inserting "of the Agreement or article 10.12 of the USMCA"; and

(iii) in subparagraph (C)—

(I) in clause (i), by striking "of the NAFTA or of the Agreement" and inserting "of the Agreement or article 10.12 of the USMCA"; and

(II) in clause (iii), by striking "of the NAFTA or of the Agreement" and inserting "of the Agreement or chapter 10 of the USMCA";

(E) in paragraph (6), by striking "of the NAFTA or of the Agreement" and inserting "of the Agreement or article 10.12 of the USMCA";

(F) in paragraph (7)—

(i) in the paragraph heading, by striking "OF THE NAFTA OR THE AGREEMENT" and inserting "OF THE AGREEMENT OR ARTICLE 10.12 OF THE USMCA"; and

(ii) in subparagraph (A), by striking "the NAFTA or the Agreement" and inserting "article 1904 of the Agreement or article 10.12 of the USMCA";

(G) in paragraph (8)—

(i) in subparagraph (A)—

(I) in clause (i), by striking "of the NAFTA or of the Agreement" and inserting "of the Agreement or article 10.12 of the USMCA"; and

(II) in clause (ii)—

(aa) in the clause heading, by striking "NAFTA" and inserting "USMCA"; and

(bb) in the text, by striking "paragraph 11(a) of article 1905 of the NAFTA" and inserting "article 10.13 of the USMCA"; and

(ii) in subparagraph (C), by striking "of the NAFTA or the Agreement" and inserting "of the Agreement or article 10.12 of the USMCA";

(H) in paragraph (9), by striking "of the NAFTA or of the Agreement" and inserting "of the Agreement or chapter 10 of the USMCA";

(I) in paragraph (10), by striking "the NAFTA or the Agreement" and inserting "the Agreement or under article 10.12 of the USMCA";

(J) by striking paragraph (11) and inserting the following:

"(11) SUSPENSION AND TERMINATION OF SUSPENSION OF ARTICLE 10.12 OF THE USMCA.—

"(A) SUSPENSION.—If a special committee established under article 10.13 of the USMCA

issues an affirmative finding, the Trade Representative may, in accordance with article 10.13 of the USMCA, suspend the operation of article 10.12 of the USMCA.

"(B) TERMINATION OF SUSPENSION.—If a special committee is reconvened and makes an affirmative determination described in article 10.13 of the USMCA, any suspension of the operation of article 10.12 of the USMCA shall terminate."; and

(K) in paragraph (12)—

(i) in the paragraph heading, by striking "NAFTA" and inserting "USMCA";

(ii) by striking subparagraph (A) and inserting the following:

"(A) NOTICE OF SUSPENSION OR TERMINATION OF SUSPENSION OF ARTICLE 10.12 OF THE USMCA.—

"(i) NOTICE OF SUSPENSION.—Upon notification by the Trade Representative or the government of a country described in subparagraph (A) or (B) of subsection (f)(9) that the operation of article 10.12 of the USMCA has been suspended in accordance with article 10.13 of the USMCA, the

United States Secretary shall publish in the Federal Register a notice of suspension of article 10.12 of the USMCA.

"(ii) NOTICE OF TERMINATION OF SUSPENSION.—Upon notification by the Trade Representative or the government of a country described in subparagraph (A) or (B) of subsection (f)(9) that the suspension of the operation of article 10.12 of the USMCA is terminated in accordance with article 10.13 of the USMCA, the United States Secretary shall publish in the Federal Register a notice of termination of suspension of article 10.12 of the USMCA.";

(iii) in subparagraph (B)—

(I) in the subparagraph heading, by striking "ARTICLE 1904" and inserting "ARTICLE 10.12 OF THE USMCA"; and

(II) in the matter preceding clause (i), by striking "If" and all that follows through "NAFTA—" and inserting the following: "If the operation of article 10.12 of the USMCA

is suspended in accordance with article 10.13 of the USMCA—";

(iv) in subparagraph (C)—

(I) in clause (i)—

(aa) in the matter preceding subclause (I), by striking "if the United States" and all that follows through "NAFTA—" and inserting the following: "if the United States made an allegation under article 10.13 of the USMCA and the operation of article 10.12 of the USMCA was suspended pursuant to article 10.13 of the USMCA—"; and

(bb) in subclause (I), by striking "subsection (f)(10)(A) or (B)" and inserting "subparagraph (A) or (B) of subsection (f)(9)"; and

(II) in clause (ii), in the matter preceding subclause (I), by striking "if a country" and all that follows through "NAFTA—" and inserting the following: "if a country described

in subparagraph (A) or (B) of subsection (f)(9) made an allegation under article 10.13 of the USMCA and the operation of article 10.12 of the USMCA was suspended pursuant to article 10.13 of the USMCA—"; and

(v) in subparagraph (D)(i), by striking "a country described" and all that follows through "NAFTA" and inserting "a country described in subparagraph (A) or (B) of subsection (f)(9) pursuant to article 10.13 of the USMCA".

SEC. 422. CONFORMING AMENDMENTS TO OTHER PROVISIONS OF THE TARIFF ACT OF 1930.

(a) DISCLOSURE OF PROPRIETARY INFORMATION UNDER PROTECTIVE ORDERS.—Section 777(f) of the Tariff Act of 1930 (19 U.S.C. 1677f(f)) is amended—

(1) in the subsection heading, by striking "NORTH AMERICAN FREE TRADE AGREEMENT OR THE UNITED STATES-CANADA AGREEMENT" and inserting "THE UNITED STATES-CANADA AGREEMENT OR THE USMCA";

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "article 1904 of the NAFTA" and all that follows through ", the administering authority" and inserting "article 1904 of the United States-Canada Agreement or article 10.12 of the USMCA, or an extraordinary challenge committee is convened under Annex 1904.13 of the United States-Canada Agreement or chapter 10 of the USMCA, the administering authority"; and

(B) in subparagraph (B), by striking "chapter 19 of the NAFTA or the Agreement" each place it appears and inserting "chapter 19 of the Agreement or chapter 10 of the USMCA";

(3) in paragraph (3), by striking "the NAFTA or the United States-Canada Agreement" and inserting "article 1904 of the United States-Canada Agreement or article 10.12 of the USMCA";

(4) in paragraph (4), by striking "section 402(b) of the North American Free Trade Agreement Implementation Act" and inserting "section 412(b) of the United States-Mexico-Canada Agreement Implementation Act"; and

(5) by striking "section 516A(f)(10)" each place it appears and inserting "section 516A(f)(9)".

(b) DEFINITION.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by striking paragraph (22) and inserting the following:

"(22) USMCA.—The term 'USMCA' has the meaning given that term in section 3 of the United States-Mexico-Canada Agreement Implementation Act.".

SEC. 423. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) COURT OF INTERNATIONAL TRADE.—Chapter 95 of title 28, United States Code, is amended—

(1) in section 1581(i)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(B) by inserting "(1)" after "(i)";

(C) in subparagraph (D), as redesignated by subparagraph (A), by striking "paragraphs (1)–(3) of this subsection" and inserting "subparagraphs (A) through (C) of this paragraph"; and

(D) by striking the flush text and inserting the following:

"(2) This subsection shall not confer jurisdiction over an antidumping or countervailing duty determination which is reviewable by—

"(A) the Court of International Trade under section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)); or

"(B) a binational panel under section 516A(g) of the Tariff Act of 1930 (19 U.S.C. 1516a(g)).";

(2) in section 1584, by striking the section heading and inserting the following:

"§ 1584. Civil actions under the United States-Canada Free-Trade Agreement or the USMCA";

and

(3) in the table of sections at the beginning of the chapter, by striking the item relating to section 1584 and inserting the following:

"1584. Civil actions under the United States-Canada Free-Trade Agreement or the USMCA.".

(b) PARTICULAR PROCEEDINGS.—Sections 2201(a) and 2643(c)(5) of title 28, United States Code, are each amended by striking "section 516A(f)(10)" and inserting "section 516A(f)(9)".

Subtitle D—General Provisions

SEC. 431. EFFECT OF TERMINATION OF USMCA COUNTRY STATUS.

(a) IN GENERAL.—Except as provided in subsection (b), on the date on which a country ceases to be a USMCA country, the provisions of this title (other than this section) and the amendments made by this title shall cease to have effect with respect to that country.

(b) TRANSITION PROVISIONS.—

(1) PROCEEDINGS REGARDING PROTECTIVE ORDERS AND UNDERTAKINGS.—If on the date on which a country ceases to be a USMCA country an investigation or enforcement proceeding concerning the violation of a protective order issued under section 777(f) of the Tariff Act of 1930 (as amended by this title) or an undertaking of the government of that country is pending, the investigation or proceeding shall continue, and sanctions may continue to be imposed, in accordance with the provisions of such section 777(f) (as so amended).

(2) BINATIONAL PANEL AND EXTRAORDINARY CHALLENGE COMMITTEE REVIEWS.—If on the date on which a country ceases to be a USMCA country—

(A) a binational panel review under article 10.12 of the USMCA is pending, or has been requested, or

(B) an extraordinary challenge committee review under that article is pending, or has been requested,

with respect to a determination which involves a class or kind of merchandise and to which subsection (g)(2) of section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) applies, such determination shall be reviewable under subsection (a) of that section. In the case of a determination to which the provisions of this paragraph apply, the time limits for commencing an action under 516A(a) of the Tariff Act of 1930 shall not begin to run until the date on which the USMCA ceases to be in force with respect to that country.

SEC. 432. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect on the date on which the USMCA enters into force, but shall not apply—

(1) to any final determination described in paragraph (1)(B) or clause (i), (ii), or (iii) of paragraph (2)(B) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)) notice of which is pub-

lished in the Federal Register before such date, or to a determination described in paragraph (2)(B)(vi) of that section notice of which is received by the Government of Canada or Mexico before such date; or

(2) to any binational panel review under NAFTA, or any extraordinary challenge arising out of any such review, that was commenced before such date.

TITLE V—TRANSFER PROVISIONS AND OTHER AMENDMENTS

SEC. 501. DRAWBACK.

(a) CLERICAL AMENDMENT.—Section 208 of this Act is amended in the section heading by striking "**[RESERVED]**".

(b) USMCA DRAWBACK.—Subsection (a) of section 203 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3333) is—

(1) transferred to section 208 of this Act;

(2) inserted after the section heading for that section (as amended by subsection (a)); and

(3) amended—

(A) by striking "NAFTA country" each place it appears and inserting "USMCA country";

(B) in the subsection heading, by striking "NAFTA" and inserting "USMCA";

(C) in the matter preceding paragraph (1)—

(i) by striking "and the amendments made by subsection (b)"; and

(ii) by striking "NAFTA drawback" and inserting "USMCA drawback";

(D) in paragraph (2)—

(i) in subparagraph (A), by inserting "sorting, marking," after "repacking,"; and

(ii) in subparagraph (B), by striking "paragraph 12 of section A of Annex 703.2 of the Agreement" and inserting "paragraph 11 of Annex 3–B of the USMCA"; and

(E) by amending paragraph (6) to read as follows:

"(6) A good provided for in subheading 1701.13.20 or 1701.14.20 of the HTS that is im-

ported under any re-export program or any like program and that is—

"(A) used as a material, or

"(B) substituted for by a good of the same kind and quality that is used as a material,

in the production of a good provided for in existing Canadian tariff item 1701.99.00 or existing Mexican tariff item 1701.99.01, 1701.99.02, or 1701.99.99 (relating to refined sugar).".

(c) SAME KIND AND QUALITY.—Section 208 of this Act, as amended by subsection (b), is further amended by adding at the end the following:

"(b) SAME KIND AND QUALITY.—For purposes of paragraphs (3)(A)(iii), (5)(C), (6)(B), and (8) of subsection (a), and for purposes of obtaining refunds, waivers, or reductions of customs duties with respect to a good subject to USMCA drawback under section 313(n)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(n)(2)), a good is a good of the same kind and quality as another good—

"(1) for a good described in such paragraph (6)(B), if the good would have been considered of the same kind and quality as the other good on the day before the date on which the USMCA enters into force; or

"(2) for other goods if—

"(A) the good is classified under the same 8-digit HTS subheading number as the other good; or

"(B) drawback would be allowed with respect to the goods under subsection (b)(4), (j)(1), or (p) of section 313 of the Tariff Act of 1930 (19 U.S.C. 1313).".

(d) CERTAIN FEES; INAPPLICABILITY TO COUNTERVAILING AND ANTIDUMPING DUTIES.—Subsections (d) and (e) of section 203 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3333) are—

(1) transferred to section 208 of this Act;

(2) inserted after subsection (b) of section 208 (as added by subsection (c));

(3) redesignated as subsections (c) and (d), respectively; and

(4) amended, in subsection (c) (as redesignated by paragraph (3)), by striking "exported to" and all that follows through the period at the end and inserting "exported to a USMCA country.".

(e) CONFORMING AMENDMENTS.—

(1) BONDED MANUFACTURING WAREHOUSES.—Section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) is amended, in the eleventh paragraph—

(A) by striking "NAFTA" each place it appears;

(B) by striking "section 203(a) of the North American Free Trade Agreement Implementation Act" and inserting "section 208(a) of the United States-Mexico-Canada Agreement Implementation Act"; and

(C) by striking "section 2(4) of that Act" and inserting "section 3 of that Act".

(2) BONDED SMELTING AND REFINING WAREHOUSES.—Section 312 of the Tariff Act of 1930 (19 U.S.C. 1312) is amended, in subsections (b) and (d)—

(A) by striking "NAFTA" each place it appears and inserting "USMCA";

(B) by striking "section 2(4) of the North American Free Trade Agreement Implementation Act" each place it appears and inserting "section 3 of the United States-Mexico-Canada Agreement Implementation Act"; and

(C) by striking "section 203(a) of that Act" each place it appears and inserting "section 208(a) of that Act".

(3) DRAWBACK AND REFUNDS.—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(A) in subsection (j)(4), by striking subparagraph (A) and inserting the following:

"(A)(i) Effective upon the entry into force of the USMCA, the exportation to a USMCA country of merchandise that is fungible with and substituted for imported merchandise, other than merchandise described in paragraphs (1) through (8) of section 208(a) of the United States-Mexico-Canada Agreement Implementation Act, shall not constitute an exportation for purposes of paragraph (2).

"(ii) In this subparagraph, the terms 'USMCA' and 'USMCA country' have the meanings given those terms in section 3 of the United States-Mexico-Canada Agreement Implementation Act.";

(B) in subsection (n)—

(i) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

"(A) the term 'USMCA country' has the meaning given that term in section 3 of the United States-Mexico-Canada Agreement Implementation Act;

"(B) the term 'good subject to USMCA drawback' has the meaning given that term in section 208(a) of the United States-Mexico-Canada Agreement Implementation Act;"; and

(ii) in paragraphs (2) and (3), by striking "NAFTA" each place it appears and inserting "USMCA"; and

(C) in subsection (o), by striking "NAFTA" each place it appears and inserting "USMCA".

(4) MANIPULATION IN WAREHOUSE.—Section 562 of the Tariff Act of 1930 (19 U.S.C. 1562) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) without payment of duties for exportation to a USMCA country, as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act, if the merchandise is of a kind described in any of paragraphs (1) through (8) of section 208(a) of that Act;";

(B) in paragraph (2)—

(i) by striking "section 203(a) of that Act" and inserting "section 208(a) of that Act"; and

(ii) by striking "NAFTA" each place it appears and inserting "USMCA"; and

(C) in paragraphs (3) and (4), by striking "NAFTA" each place it appears and inserting "USMCA".

(5) FOREIGN TRADE ZONES.—Section 3(a)(2) of the Act of June 18, 1934 (commonly known as the "Foreign Trade Zones Act") (19 U.S.C. 81c(a)(2)) is amended, in the flush text—

(A) by striking "goods subject to NAFTA drawback, as defined in section 203(a) of the North American Free Trade Agreement Implementation Act" and inserting "goods subject to USMCA drawback, as defined in section 208(a) of the United States-Mexico-Canada Agreement Implementation Act";

(B) by striking "a NAFTA country, as defined in section 2(4) of that Act" and inserting "a USMCA country, as defined in section 3 of that Act"; and

(C) by striking "NAFTA" each place it appears and inserting "USMCA".

(f) ADDITIONAL CLERICAL AMENDMENT.—The table of contents for this Act is amended by striking the item relating to section 208 and inserting the following:

"Sec. 208. Drawback.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Each transfer, redesignation, and amendment made by subsections (b) through (e) shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a good entered, or withdrawn from warehouse for consumption, on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a good entered, or withdrawn from warehouse for consumption, before the date on which the USMCA enters into force—

(A) the amendments made by subsections (b) through (e) shall not apply with respect to the good; and

(B) the provisions of law amended by such subsections, as such provisions were in effect on the day before that date, shall continue to apply on and after that date with respect to the good.

SEC. 502. RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION.

(a) CLERICAL AMENDMENT.—Subtitle A of title III of this Act is amended in the subtitle heading by striking "**[reserved]**".

(b) ARTICLE IMPACT IN IMPORT RELIEF CASES.—Section 311 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3371) is—

(1) transferred to subtitle A of title III of this Act;

(2) inserted after the heading (as amended by subsection (a)) of such subtitle;

(3) redesignated as section 301; and

(4) amended—

(A) in the section heading, by striking "**NAFTA**" and inserting "**USMCA**";

(B) in subsection (c), by striking "section 312(a)" and inserting "section 302(a)"; and

(C) by striking "NAFTA" each place it appears and inserting "USMCA".

(c) PRESIDENTIAL ACTION REGARDING IMPORTS.—Section 312 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3372) is—

(1) transferred to subtitle A of title III of this Act;

(2) inserted after section 301 (as inserted and redesignated by subsection (b));

(3) redesignated as section 302; and

(4) amended—

(A) in the section heading, by striking "**NAFTA**" and inserting "**USMCA**";

(B) in subsection (b), in the subsection heading, by striking "NAFTA" and inserting "USMCA";

(C) in subsection (c), in the subsection heading, by striking "NAFTA" and inserting "USMCA"; and

(D) by striking "NAFTA" each place it appears and inserting "USMCA".

(d) ADDITIONAL CLERICAL AMENDMENTS.—The table of contents for this Act is amended by striking the item relating to subtitle A of title III and inserting the following:

"Subtitle A—Relief From Injury Caused by Import Competition

"Sec. 301. USMCA article impact in import relief cases under the Trade Act of 1974.
"Sec. 302. Presidential action regarding USMCA imports.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Each transfer, redesignation, and amendment made by this section shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to an investigation under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) initiated on or after that date.

(2) TRANSITION FROM NAFTA.—In the case of an investigation under chapter 1 of title II of the Trade Act of 1974 initiated before the date on which the USMCA enters into force—

(A) the transfers, redesignations, and amendments made by this section shall not apply with respect to the investigation; and

(B) sections 311 and 312 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3371 and 3372), as in effect on the day before that date, shall continue to apply on and after that date with respect to the investigation.

SEC. 503. TEMPORARY ENTRY.

(a) CLERICAL AMENDMENT.—Subtitle B of title III of this Act is amended in the subtitle heading by striking "**[reserved]**".

(b) NONIMMIGRANT TRADERS AND INVESTORS.—Section 341 of the North American Free Trade Agreement Implementation Act (Public Law 103–182; 107 Stat. 2116) is—

(1) transferred to subtitle B of title III of this Act;

(2) inserted after the heading (as amended by subsection (a)) of such subtitle;

(3) redesignated as section 311; and

(4) amended—

(A) by striking subsections (b) and (c);

(B) by striking "(a)" and all that follows through "Upon" and inserting "Upon";

(C) by striking "the Agreement" each place it appears and inserting "the USMCA";

(D) by striking "Annex 1603" and inserting "Annex 16–A"; and

(E) by striking "Annex 1608" and inserting "article 16.1".

(c) NONIMMIGRANT PROFESSIONALS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(1) in subsection (e)—

(A) by striking paragraphs (1), (3), (4), and (5);

(B) by redesignating paragraphs (2) and (6) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1), as redesignated by subparagraph (B)—

(i) by striking "Annex 1603 of the North American Free Trade Agreement (in this subsection referred to as 'NAFTA')" and inserting "Annex 16–A of the USMCA

(as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)"; and

(ii) by striking the third and fourth sentences and inserting the following: "For purposes of this paragraph, the term 'citizen of Mexico' means 'citizen' as defined in article 16.1 of the USMCA."; and

(2) in subsection (j)(1)—

(A) in the first sentence, by striking "Annex 1603 of the North American Free Trade Agreement" and inserting "Annex 16–A of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)";

(B) in the second sentence, by striking "article 1603 of such Agreement" and inserting "article 16.4 of the USMCA"; and

(C) in the third sentence, by striking "Annex 1608 of such Agreement" and inserting "article 16.1 of the USMCA".

(d) CONFORMING AMENDMENTS.—

(1) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—Section 110(c)(1)(B) of the Illegal Immigration Reform and Immigrant Responsibility Act of

1996 (8 U.S.C. 1365a(c)(1)(B)) is amended by striking "North American Free Trade Agreement" and inserting "USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)".

(2) ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002.—Section 604 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1773) is amended by striking "North American Free Trade Agreement" and inserting "USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)".

(e) ADDITIONAL CLERICAL AMENDMENTS.—The table of contents for this Act is amended by striking the item relating to subtitle A of title III and inserting the following:

"Subtitle B—Temporary Entry of Business Persons

"Sec. 311. Temporary entry.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Each transfer, redesignation, and amendment made by this section shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a visa issued on or after that date.

(2) TRANSITION FROM NAFTA.—In the case of a visa issued before the date on which the USMCA enters into force—

(A) the transfers, redesignations, and amendments made by this section shall not apply with respect to the visa; and

(B) the provisions of law amended by subsections (b) through (d), as such provisions were in effect on the day before that date, shall continue to apply on and after that date with respect to the visa.

SEC. 504. DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES.

(a) CLERICAL AMENDMENT.—Subtitle B of title IV of this Act is amended in the subtitle heading by striking "**[reserved]**".

(b) REFERENCES IN SUBTITLE.—Section 401 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3431) is—

(1) transferred to subtitle B of title IV of this Act and inserted after the heading (as amended by subsection (a)) of such subtitle;

(2) redesignated as section 411; and

(3) amended by striking "the Agreement" and inserting "the USMCA".

(c) ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS.—Section 402 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3432) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 411 (as inserted and redesignated by subsection (b));

(2) redesignated as section 412; and

(3) amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (D), by striking "in paragraph 1" and all that follows and inserting "in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3; and";

(II) in subparagraph (E), by striking "chapter 19" and inserting "chapter 10"; and

(III) in the matter following subparagraph (E), by striking "in paragraph 1" and all that follows through "Annex 1904.13" and inserting "in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3"; and

(ii) in paragraph (2)—

(I) in the paragraph heading, by striking "UNDER" and all that follows before the period; and

(II) in the text—

(aa) by striking "paragraph 1 of Annex 1901.2" and inserting "paragraph 1 of Annex 10–B.1";

(bb) by striking "chapter 19" each place it appears and inserting "chapter 10"; and

(cc) by striking "article 1905" and inserting "article 10.13";

(B) in subsection (b)(1)—

(i) by striking "chapter 19" each place it appears and inserting "chapter 10"; and

(ii) by striking "article 1905" and inserting "article 10.13";

(C) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "chapter 19" each place it appears and inserting "chapter 10"; and

(II) by striking "article 1905" and inserting "article 10.13";

(ii) in paragraph (2)(B)—

(I) by striking "chapter 19" each place it appears and inserting "chapter 10"; and

(II) in clause (i)(II), by striking "article 1905" and inserting "article 10.13";

(iii) in paragraph (3)—

(I) in subparagraph (A)(i), by striking "Annex 1901.2" and inserting "Annex 10–B.1";

(II) in subparagraph (A)(ii), by striking "under Annex 1904.13" and all that follows and inserting "under Annex 10–B.3 and special committees under article 10.13."; and

(III) in subparagraph (B)(i), by striking "chapter 19" and inserting "chapter 10"; and

(iv) in paragraph (4)—

(I) in subparagraph (A), by striking "chapter 19" and inserting "chapter 10"; and

(II) in subparagraph (C)(iv)(III), by striking "chapter 19" and inserting "chapter 10";

(D) in subsection (d)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "in paragraph 1" and all that follows and inserting "in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3; or"; and

(II) in subparagraph (B), by striking "chapter 19" and inserting "chapter 10";

(ii) in paragraph (2)—

(I) in subparagraph (A)(i), by striking "in paragraph 1" and all that follows through "during" and inserting "in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3 during";

(II) in subparagraph (A)(ii)—

(aa) by striking "chapter 19" and inserting "chapter 10"; and

(bb) by striking "the Agreement" and inserting "the USMCA";

(III) in subparagraph (A)(iii), by striking "NAFTA" and inserting "USMCA";

(IV) in subparagraph (B)(i), by striking "in paragraph 1" and all that follows and inserting "in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3; or"; and

(V) in subparagraph (B)(ii), by striking "chapter 19" and inserting "chapter 10"; and

(iii) in paragraph (3)—

(I) in subparagraph (A), by striking "in paragraph 1" and all that follows through "during" and inserting "in paragraph 1 of Annex 10–B.1 and paragraph 1 of Annex 10–B.3 during"; and

(II) in subparagraph (B), by striking "chapter 19" and inserting "chapter 10";

(E) in subsection (e), in the matter preceding paragraph (1)—

(i) by striking "the Agreement" and inserting "the USMCA";

(ii) by striking "between the United States" and all that follows through "NAFTA country"; and

(iii) by striking "January 3, 1994" and inserting "January 3, 2020";

(F) in subsection (f), by striking "chapter 19" and inserting "chapter 10";

(G) in subsection (g), by striking "chapter 19" and inserting "chapter 10"; and

(H) in subsection (h), by striking "chapter 19" and inserting "chapter 10".

(d) TESTIMONY AND PRODUCTION OF PAPERS.—Section 403 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3433) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 412 (as inserted and redesignated by subsection (c));

(2) redesignated as section 413; and

(3) amended in subsection (a), in the matter preceding paragraph (1), by striking "under paragraph 13" and all that follows through "the com-

mittee—" and inserting "under paragraph 13 of article 10.12, and the allegations before the committee include a matter referred to in paragraph 13(a)(i) of article 10.12, for the purposes of carrying out its functions and duties under Annex 10–B.3, the committee—".

(e) REQUESTS FOR REVIEW OF DETERMINATIONS.—Section 404 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3434) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 413 (as inserted and redesignated by subsection (d));

(2) redesignated as section 414; and

(3) amended—

(A) in the section heading, by striking "**OF NAFTA COUNTRIES**";

(B) in subsection (a)—

(i) in paragraph (1), by striking "article 1911" and all that follows and inserting "article 10.8, of a USMCA country."; and

(ii) in paragraph (2), by striking "article 1908" and inserting "article 10.16";

(C) in subsection (b), by striking "article 1904" and inserting "article 10.12"; and

(D) in subsection (c), by striking "article 1904" each place it appears and inserting "article 10.12".

(f) RULES OF PROCEDURE FOR PANELS AND COMMITTEES.—Section 405 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3435) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 414 (as inserted and redesignated by subsection (e));

(2) redesignated as section 415; and

(3) amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "article 1904" and inserting "article 10.12";

(B) in subsection (b), by striking "Annex 1904.13" and inserting "Annex 10–B.3"; and

(C) in subsection (c), by striking "Annex 1905.6" and inserting "Annex 10–B.4".

(g) SUBSIDY NEGOTIATIONS.—Section 406 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3436) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 415 (as inserted and redesignated by subsection (f));

(2) redesignated as section 416; and

(3) amended, in the matter preceding paragraph (1), by striking "NAFTA country" and inserting "USMCA country".

(h) IDENTIFICATION OF INDUSTRIES FACING SUBSIDIZED IMPORTS.—Section 407 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3437) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 416 (as inserted and redesignated by subsection (g));

(2) redesignated as section 417; and

(3) amended—

(A) in subsection (a)(1)(A)—

(i) by striking "the Agreement" and inserting "the USMCA"; and

(ii) by striking "NAFTA country" and inserting "USMCA country";

(B) in subsection (c), in the matter following paragraph (3), by striking "NAFTA countries" and inserting "USMCA countries"; and

(C) in subsection (d)(3), by striking "the Agreement" and inserting "the USMCA".

(i) TREATMENT OF AMENDMENTS TO LAW.—Section 408 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3438) is—

(1) transferred to subtitle B of title IV of this Act and inserted after section 417 (as inserted and redesignated by subsection (h));

(2) redesignated as section 418; and

(3) amended—

(A) in the matter preceding paragraph (1), by striking "the Agreement" and all that follows through "United States" and inserting "the USMCA"; and

(B) in the flush text, by striking "NAFTA country" and inserting "USMCA country".

(j) ADDITIONAL CLERICAL AMENDMENTS.—The table of contents for this Act is amended by striking the item relating to subtitle B of title IV and inserting the following:

"Subtitle B—Dispute Settlement

"Sec. 411. References in subtitle.
"Sec. 412. Organizational and administrative provisions.
"Sec. 413. Testimony and production of papers in extraordinary challenges.
"Sec. 414. Requests for review of determination by competent investigating authorities.
"Sec. 415. Rules of procedure for panels and committees.
"Sec. 416. Subsidy negotiations.
"Sec. 417. Identification of industries facing subsidized imports.
"Sec. 418. Treatment of amendments to antidumping and countervailing duty law.".

(k) EFFECTIVE DATE.—

(1) IN GENERAL.—Each transfer, redesignation, and amendment made by this section shall take effect on the date on which the USMCA enters into force, but shall not apply—

(A) to any final determination described in paragraph (1)(B) or clause (i), (ii), or (iii) of paragraph (2)(B) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)) notice of which is published in the Federal Register before such date, or to a determination described in paragraph (2)(B)(vi) of that section notice of which is received by the Government of Canada or Mexico before such date; and

(B) to any binational panel review under NAFTA, or any extraordinary challenge arising out of any such review, that was commenced before such date.

(2) TRANSITION FROM NAFTA.—The transfers, redesignations, and amendments made by this section shall not apply, and the provisions of title IV of the North American Free Trade Agreement Implementation Act, as in effect on the day before the date on which the USMCA enters into force, shall continue to apply on and after that date with respect—

(A) to any final determination described in paragraph (1)(B) or clause (i), (ii), or (iii) of paragraph (2)(B) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)) notice of which is published in the Federal Register before such date, or to a determination described in paragraph (2)(B)(vi) of that section notice of which is received by the Government of Canada or Mexico before the date on which the USMCA enters into force; and

(B) to any binational panel review under NAFTA, or any extraordinary challenge arising out of any such review, that was commenced before the date on which the USMCA enters into force.

SEC. 505. GOVERNMENT PROCUREMENT.

(a) GENERAL AUTHORITY TO MODIFY DISCRIMINATORY PURCHASING REQUIREMENTS.—Section 301 of the Trade Agreements Act of 1979 (19 U.S.C. 2511) is amended—

(1) in subsection (b)(1), by striking "the North American Free Trade Agreement" and inserting "the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)"; and

(2) in subsection (e)—

(A) by striking "Annex 1001.1a–2 of the North American Free Trade Agreement" and inserting "Annex 13–A of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)"; and

(B) by striking "chapter 10 of such Agreement" and inserting "chapter 13 of the USMCA".

(b) DEFINITIONS.—Section 308(4)(A)(ii) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(A)(ii)) is amended—

(1) by striking "a party to the North American Free Trade Agreement," and inserting "Mexico, as a party to the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act),"; and

(2) by striking "the North American Free Trade Agreement for" and inserting "the USMCA for".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall—

(A) take effect on the date on which the USMCA enters into force; and

(B) apply with respect to a procurement on or after that date.

(2) TRANSITION FROM NAFTA TREATMENT.—In the case of a procurement before the date on which the USMCA enters into force—

(A) the amendments made by subsections (a) and (b) to sections 301 and 308 of the Trade Agreements Act of 1979 (19 U.S.C. 2511 and 2518) shall not apply with respect to the contract; and

(B) sections 301 and 308 of such Act, as in effect on the day before that date, shall continue to apply on and after that date with respect to the contract.

SEC. 506. ACTIONS AFFECTING UNITED STATES CULTURAL INDUSTRIES.

(a) IN GENERAL.—Section 182(f) of the Trade Act of 1974 (19 U.S.C. 2242(f)) is amended—

(1) in paragraph (1)(C), by striking "article 2106 of the North American Free Trade Agreement" and inserting "article 32.6 of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)"; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking "article 2106 of the

North American Free Trade Agreement" and inserting "article 32.6 of the USMCA".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which the USMCA enters into force.

SEC. 507. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) IN GENERAL.—Section 1017(c) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–6(c)) is amended by striking "North American Free Trade Agreement" and inserting "USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which the USMCA enters into force.

SEC. 508. REPORT ON AMENDMENTS TO EXISTING LAW.

Not later than 180 days after the date of the enactment of this Act, the Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report setting forth a proposal for technical and conforming amendments to the laws under the jurisdiction of such committees, and other laws, necessary to fully carry out the provisions of, and amendments made by, this Act.

TITLE VI—TRANSITION TO AND EXTENSION OF USMCA

Subtitle A—Transitional Provisions

SEC. 601. REPEAL OF NORTH AMERICAN FREE TRADE AGREEMENT IMPLEMENTATION ACT.

The North American Free Trade Agreement Implementation Act (Public Law 103–182; 19 U.S.C. 3301 et seq.) is repealed, effective on the date on which the USMCA enters into force.

SEC. 602. CONTINUED SUSPENSION OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT.

Section 501(c)(3) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (Public Law 100–449; 19 U.S.C. 2112 note) is amended—

(1) in the paragraph heading, by striking "NAFTA" and inserting "USMCA"; and

(2) in the matter preceding subparagraph (A), by striking "between them of the North American Free Trade Agreement" and inserting "of the USMCA (as defined in section 3 of the United States-Mexico-Canada Agreement Implementation Act)".

Subtitle B—Joint Reviews Regarding Extension of USMCA

SEC. 611. PARTICIPATION IN JOINT REVIEWS WITH CANADA AND MEXICO REGARDING EXTENSION OF THE TERM OF THE USMCA AND OTHER ACTION REGARDING THE USMCA.

(a) IN GENERAL.—Pursuant to the requirements of this section, the President shall consult with the appropriate congressional committees and stakeholders before each joint review, including consultation with respect to—

(1) any recommendation for action to be proposed at the review; and

(2) the decision whether or not to confirm that the United States wishes to extend the USMCA.

(b) CONSULTATIONS WITH CONGRESS AND STAKEHOLDERS.—

(1) PUBLICATION AND PUBLIC HEARING.—At least 270 days before a joint review commences, the Trade Representative shall publish in the Federal Register a notice regarding the joint review and shall, as soon as possible following such publication, provide opportunity for the presentation of views relating to the operation of the USMCA, including a public hearing.

(2) REPORT TO CONGRESS.—At least 180 days before a 6-year joint review under article 34.7 of the USMCA commences, the Trade Representative shall report to the appropriate congressional committees regarding—

(A) the assessment of the Trade Representative with respect to the operation of the USMCA;

(B) the precise recommendation for action to be proposed at the review and the position of the United States with respect to whether to extend the term of the USMCA;

(C) what, if any, prior efforts have been made to resolve any concern that underlies that recommendation or position; and

(D) the views of the advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) regarding that recommendation or position.

(c) SUBSEQUENT ACTION TO ADDRESS LACK OF AGREEMENT ON TERM EXTENSION.—

(1) IN GENERAL.—If, as part of a joint review, any USMCA country does not confirm that the country wishes to extend the term of the USMCA under article 34.7.3 of the USMCA, at least 70 days

before any subsequent annual joint review meeting conducted as required under article 34.7 of the USMCA, the Trade Representative shall report to the appropriate congressional committees regarding—

(A) any reason offered by a USMCA country regarding why the country is unable to agree to extend the term of the USMCA;

(B) the progress that has been made in efforts to achieve resolution of the concerns of that country;

(C) any proposed action that the Trade Representative intends to raise during the meeting; and

(D) the views of the advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) regarding the reasons described in subparagraph (A) and any proposed action under subparagraph (C).

(2) ADDITIONAL INFORMATION.—The Trade Representative shall also provide detailed and timely information in response to any questions posed by the appropriate congressional committees with respect to any meeting described in paragraph (1), including by submitting to those committees copies of

any proposed text that the Trade Representative plans to submit to the other parties to the meeting.

(d) CONGRESSIONAL ENGAGEMENT AFTER JOINT REVIEW.—

(1) IN GENERAL.—Not later than 20 days after the USMCA countries have met for a joint review, the Trade Representative shall brief the appropriate congressional committees regarding the positions expressed by the countries during the joint review and what, if any, actions were agreed to by the countries.

(2) CONTINUED ENGAGEMENT.—After a joint review, the Trade Representative shall keep the appropriate congressional committees timely apprised of any developments arising out of or related to the review.

(e) DEFINITIONS.—In this section:

(1) JOINT REVIEW.—The term "joint review" means a review conducted under the process provided for in article 34.7 of the USMCA relating to extension of the term of the USMCA.

(2) USMCA COUNTRY.—The term "USMCA country" has the meaning given that term in section 202(a).

Subtitle C—Termination of USMCA

SEC. 621. TERMINATION OF USMCA.

(a) TERMINATION OF USMCA COUNTRY STATUS.—During any period in which a country ceases to be a USMCA country, this Act (other than this subsection and title IX) and the amendments made by this Act shall cease to have effect with respect to that country.

(b) TERMINATION OF USMCA.—On the date on which the USMCA ceases to be in force with respect to the United States, this Act and the amendments made by this Act (other than this subsection and title IX) shall cease to have effect.

TITLE VII—LABOR MONITORING AND ENFORCEMENT

SEC. 701. DEFINITIONS.

In this title:

(1) LABOR ATTACHÉ.—The term "labor attaché" means an individual hired under subtitle B.

(2) LABOR OBLIGATIONS.—The term "labor obligations" means the obligations under chapter 23 of the USMCA (relating to labor).

(3) MEXICO'S LABOR REFORM.—The term "Mexico's labor reform" means the legislation on labor reform enacted by Mexico on May 1, 2019.

Subtitle A—Interagency Labor Committee for Monitoring and Enforcement

SEC. 711. INTERAGENCY LABOR COMMITTEE FOR MONITORING AND ENFORCEMENT.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall establish an Interagency Labor Committee for Monitoring and Enforcement (in this title referred to as the "Interagency Labor Committee"), to coordinate United States efforts with respect to each USMCA country—

(1) to monitor the implementation and maintenance of the labor obligations;

(2) to monitor the implementation and maintenance of Mexico's labor reform; and

(3) to request enforcement actions with respect to a USMCA country that is not in compliance with such labor obligations.

(b) MEMBERSHIP.—The Interagency Labor Committee shall—

(1) be co-chaired by the Trade Representative and the Secretary of Labor; and

(2) include representatives of such other Federal departments or agencies with relevant expertise as the President determines appropriate.

(c) MEETINGS.—The Interagency Labor Committee shall meet at least once every 90 days during the 5-year period beginning on the date of the enactment of this Act, and at least once every 180 days thereafter for 5 years.

(d) INFORMATION SHARING.—Notwithstanding any other provision of law, the members of the Interagency Labor Committee may exchange information for purposes of carrying out this title.

SEC. 712. DUTIES.

The duties of the Interagency Labor Committee shall include the following:

(1) Coordinating the activities of departments and agencies of the Committee in monitoring implementation of and compliance with labor obligations, including by—

(A) requesting and reviewing relevant information from the governments of USMCA countries and from the public;

(B) coordinating visits to Mexico as necessary to assess implementation of Mexico's labor reform and compliance with the labor obligations of Mexico;

(C) receiving and reviewing quarterly assessments from the labor attachés with respect

to the implementation of and compliance with Mexico's labor reform; and

(D) coordinating with the Secretary of Treasury with respect to support relating to labor issues provided to Mexico by the Inter-American Development Bank.

(2) Establishing an ongoing dialogue with appropriate officials of the Government of Mexico regarding the implementation of Mexico's labor reform and compliance with its labor obligations.

(3) Coordinating with other institutions and governments with respect to support relating to labor issues, such as the International Labour Organization and the Government of Canada.

(4) Identifying priority issues for capacity-building activities in Mexico to be funded by the United States, drawing primarily on the expertise of the Department of Labor.

(5) Meeting, at least biannually during the 5-year period beginning on the date of the enactment of this Act and at least annually for 5 years thereafter, with the Labor Advisory Committee for Trade Negotiations and Trade Policy established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) (or any successor advisory com-

mittee) to consult and provide opportunities for input with respect to—

(A) the implementation of Mexico's labor reform;

(B) labor capacity-building activities in Mexico funded by the United States;

(C) labor monitoring efforts;

(D) labor enforcement priorities; and

(E) other relevant issues.

(6) Based on the assessments required by section 714, making recommendations relating to dispute settlement actions to the Trade Representative, in accordance with section 715.

(7) Based on reports provided by the Forced Labor Enforcement Task Force under section 743, developing recommendations for appropriate enforcement actions by the Trade Representative.

(8) Reviewing reports submitted by the labor experts appointed in accordance with Annex 31–A of the USMCA, with respect to the functioning of that Annex.

(9) Reviewing reports submitted by the Independent Mexico Labor Expert Board under section 734.

SEC. 713. ENFORCEMENT PRIORITIES.

The Interagency Labor Committee shall—

(1) review the list of priority sectors under Annex 31–A of the USMCA and suggest to USTR additional sectors for review by the USMCA countries as appropriate;

(2) establish and annually update a list of priority subsectors within such priority sectors to be the focus of the enforcement efforts of the Committee, the first of which shall consist of—

(A) auto assembly;

(B) auto parts;

(C) aerospace;

(D) industrial bakeries;

(E) electronics;

(F) call centers;

(G) mining; and

(H) steel and aluminum; and

(3) review priority facilities within such priority subsectors for monitoring and enforcement.

SEC. 714. ASSESSMENTS.

(a) ONGOING ASSESSMENTS.—For the 10-year period beginning on the date of the enactment of this Act, except as provided in subsection (b), the Interagency Labor Committee shall assess on a biannual basis the ex-

tent to which Mexico is in compliance with its obligations under Annex 23–A of the USMCA.

(b) CONSULTATION RELATING TO ANNUAL ASSESSMENT.—On or after the date that is 5 years after the date of the enactment of this Act, the Interagency Labor Committee may consult with the appropriate congressional committees with respect to the frequency of the assessment required under subsection (a) and, with the approval of both such committees, may conduct such assessment on an annual basis for the following 5 years.

(c) MATTERS TO BE INCLUDED.—The assessment required under subsection (a) shall also include each of the following:

(1) Whether Mexico is providing adequate funding to implement and enforce Mexico's labor reform, including specifically whether Mexico has provided funding consistent with commitments made to contribute the following amounts for the labor reform implementation budget:

(A) $176,000,000 for 2021.

(B) $325,000,000 for 2022.

(C) $328,000,000 for 2023.

(2) The extent to which any legal challenges to Mexico's labor reform have succeeded in that court system.

(3) The extent to which Mexico has implemented the federal and state labor courts, registration entity, and federal and state conciliation centers consistent with the timeline set forth for Mexico's labor reform, in the September 2019 policy statements by the Government of Mexico on a national strategy for implementation of the labor justice system, and in subsequent policy statements in accordance with Mexico's labor reform.

SEC. 715. RECOMMENDATION FOR ENFORCEMENT ACTION.

(a) RECOMMENDATION TO INITIATE.—If the Interagency Labor Committee determines, pursuant to an assessment under section 714, as a result of monitoring activities described in section 712(1), or pursuant to a report of the Independent Mexico Labor Expert Board that a USMCA country has failed to meets its labor obligations, including with respect to obligations under Annex 23–A of the USMCA, the Committee shall recommend that the Trade Representative initiate enforcement actions under—

(1) article 23.13 or 23.17 of the USMCA (relating to cooperative labor dialogue and labor consultations);

(2) articles 31.4 and 31.6 of the USMCA (relating to dispute settlement consultations); or

(3) Annex 31–A of the USMCA (relating to the rapid response labor mechanism).

(b) TRADE REPRESENTATIVE DETERMINATIONS.—Not later than 60 days after the date on which the Trade Representative receives a recommendation pursuant to subsection (a), the Trade Representative shall—

(1) determine whether to initiate an enforcement action; and

(2) if such determination is negative, submit to the appropriate congressional committees a report on the reasons for such negative determination.

SEC. 716. PETITION PROCESS.

(a) IN GENERAL.—The Interagency Labor Committee shall establish procedures for submissions by the public of information with respect to potential failures to implement the labor obligations of a USMCA country.

(b) FACILITY-SPECIFIC PETITIONS.—With respect to information submitted in accordance with the procedures established under subsection (a) accompanying a petition relating to a denial of rights at a covered facility, as such terms are defined for purposes of Annex 31–A of the USMCA:

(1) The Interagency Labor Committee shall review such information within 30 days of submission and shall determine whether there is sufficient, cred-

ible evidence of a denial of rights (as so defined) enabling the good-faith invocation of enforcement mechanisms.

(2) If the Committee reaches a negative determination under paragraph (1), the Committee shall certify such determination to the appropriate congressional committees and the petitioner.

(3) If the Committee reaches an affirmative determination under paragraph (1), the Trade Representative shall submit a request for review, in accordance with article 31–A.4 of such Annex, with respect to the covered facility and shall inform the petitioner and the appropriate congressional committees of the submission of such request.

(4) Not later than 60 days after the date of an affirmative determination under paragraph (1), the Trade Representative shall—

(A) determine whether to request the establishment of a rapid response labor panel in accordance with such Annex; and

(B) if such determination is negative, certify such determination to the appropriate congressional committees in conjunction with the reasons for such determination and the details of any agreed-upon remediation plan.

(c) OTHER PETITIONS.—With respect to information submitted in accordance with the procedures established under subsection (a) accompanying a petition relating to any other violation of the labor obligations of a USMCA country:

(1) The Interagency Labor Committee shall review such information not later than 20 days after the date of the submission and shall determine whether the information warrants further review.

(2) If the Committee reaches an affirmative determination under paragraph (1), such further review shall focus exclusively on determining, not later than 60 days after the date of such submission, whether there is sufficient, credible evidence that the USMCA country is in violation of its labor obligations, for purposes of initiating enforcement action under chapter 23 or chapter 31 of the USMCA.

(3) If the Committee reaches an affirmative determination under paragraph (2), the Trade Representative shall—

(A) not later than 60 days after the date of the determination of the Committee, initiate appropriate enforcement action under such chapter 23 or chapter 31; or

(B) submit to the appropriate congressional committees a notification including the reasons for which action was not initiated within such 60-day period.

SEC. 717. HOTLINE.

The Interagency Labor Committee shall establish a web-based hotline, monitored by the Department of Labor, to receive confidential information regarding labor issues among USMCA countries directly from interested parties, including Mexican workers.

SEC. 718. REPORTS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter for 10 years except as provided in subsection (b), the Interagency Labor Committee shall submit to the appropriate congressional committees a report that includes—

(1) a description of Committee staffing and capacity building activities with Mexico;

(2) information regarding the budget resources for Mexico's labor reform and the deadlines in the September 2019 policy statements by the Government of Mexico on a national strategy for implementation of the labor justice system and in subsequent

policy statements in accordance with Mexico's labor reform;

(3) a summary of petitions filed in accordance with section 716 and the use of the rapid response labor mechanism under Annex 31–A of the USMCA;

(4) the results of the most recent assessment conducted under section 714; and

(5) if, with respect to any report of the Independent Mexico Labor Expert Board submitted under section 734 that includes a determination described in paragraph (2) of such section, the Interagency Labor Committee does not concur with such determination, an explanation of the reasons for not concurring in such determination and a commitment to provide an oral briefing with respect to such explanation upon request.

(b) CONSULTATION RELATING TO ANNUAL ASSESSMENT.—On or after the date that is 5 years after the date of the enactment of this Act, the Trade Representative and the Secretary of Labor may consult with the appropriate congressional committees with respect to the frequency of the reports required under subsection (a) and, with the approval of both such committees, may submit such report on an annual basis for the following 5 years.

(c) FIVE-YEAR ASSESSMENT.—Not later than the date that is 5 years after the date of the establishment of the Interagency Labor Committee pursuant to section 711(a), the Committee shall jointly submit to the appropriate congressional committees—

(1) a comprehensive assessment of the implementation of Mexico's labor reform, including with respect to—

(A) whether Mexico has reviewed and legitimized all existing collective bargaining agreements in Mexico;

(B) whether Mexico has addressed the preexisting legal or administrative labor disputes;

(C) whether Mexico has established the Federal Center for Conciliation and Labor Registration, and an assessment of that Center's operation;

(D) whether Mexico has established the federal labor courts, and an assessment of their operation; and

(E) whether Mexico has established the state conciliation centers and labor courts in all states and an assessment of their operation; and

(2) a strategic plan and recommendations for actions to address areas of concern relating to the implementation of Mexico's labor reform, for purposes of the joint review conducted pursuant to article 34.7 of the USMCA on the sixth anniversary of the entry into force of the USMCA.

SEC. 719. CONSULTATIONS ON APPOINTMENT AND FUNDING OF RAPID RESPONSE LABOR PANELISTS.

(a) IN GENERAL.—The Interagency Labor Committee shall consult with the Labor Advisory Committee established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) and the Advisory Committee for Trade Policy and Negotiations established under section 135(b) of such Act (or successor advisory committees) and the appropriate congressional committees with respect to the selection and appointment of candidates for the rapid response labor panelists described in Annex 31–A of the USMCA.

(b) FUNDING.—The United States, in consultation with Mexico, shall provide adequate funding for rapid response labor panelists to carry out the responsibilities under the USMCA promptly and fully.

Subtitle B—Mexico Labor Attachés

SEC. 721. ESTABLISHMENT.

The Secretary of Labor shall—

(1) hire and fix the compensation of up to 5 additional full-time officers or employees of the Department of Labor; and

(2) detail or assign such officers or employees to the United States Embassy or a United States Consulate in Mexico to carry out the duties described in section 722.

SEC. 722. DUTIES.

The duties described in this section are the following:

(1) Assisting the Interagency Labor Committee to monitor and enforce the labor obligations of Mexico.

(2) Submitting to the Interagency Labor Committee on a quarterly basis reports on the efforts undertaken by Mexico to comply with its labor obligations.

SEC. 723. STATUS.

Any officer or employee, while detailed or assigned under this subtitle, shall be considered, for the purpose of preserving their allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and shall continue to receive compensation, allowances, and benefits from program funds appropriated to

that agency or made available to that agency for purposes related to the activities of the detail or assignment, in accordance with authorities related to their employment status and agency policies.

Subtitle C—Independent Mexico Labor Expert Board

SEC. 731. ESTABLISHMENT.

There is hereby established a board, to be known as the "Independent Mexico Labor Expert Board", to be responsible for monitoring and evaluating the implementation of Mexico's labor reform and compliance with its labor obligations. The Board shall also advise the Interagency Labor Committee with respect to capacity-building activities needed to support such implementation and compliance.

SEC. 732. MEMBERSHIP; TERM.

(a) MEMBERSHIP.—The Board shall be composed of 12 members who shall be appointed as follows:

(1) Four members to be appointed by the Labor Advisory Committee established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) (or successor advisory committee).

(2) Two members appointed by the Speaker of the House of Representatives, in consultation with

the Chair of the Committee on Ways and Means of the House of Representatives.

(3) Two members appointed by the president pro tempore of the Senate from among individuals recommended by the majority leader of the Senate and in consultation with the Chair of the Committee on Finance of the Senate.

(4) Two members appointed by the minority leader of the House of Representatives, in consultation with the Ranking Member of the Committee on Ways and Means of the House of Representatives.

(5) Two members appointed by the President pro tempore of the Senate from among individuals recommended by the minority leader of the Senate and in consultation with the Ranking Member of the Committee on Finance of the Senate.

(b) TERM.—Except as provided in subsection (c), members of the Board shall serve for a term of 6 years.

(c) EXTENSION OF TERM.—If the Board determines, at the end of the 6-year period beginning on the date of the appointment of the last member appointed in accordance with subsection (a), that Mexico is not fully in compliance with its labor obligations, a majority of the members of the Board may determine to extend its term for 4 additional years. A new Board shall be appointed in ac-

cordance with subsection (a) and shall serve for a single term of 4 years.

SEC. 733. FUNDING.

The United States shall provide necessary funding to support the work of the Board, including with respect to translation services and personnel support.

SEC. 734. REPORTS.

For the 6-year period beginning on the date of the enactment of this Act, and for an additional 4 years if the term of the Board is extended in accordance with section 732(c), the Board shall submit to appropriate congressional committees and to the Interagency Labor Committee an annual report that—

(1) contains an assessment of—

(A) the efforts of Mexico to implement Mexico's labor reform; and

(B) the manner and extent to which labor laws are generally enforced in Mexico; and

(2) may include a determination that Mexico is not in compliance with its labor obligations.

Subtitle D—Forced Labor

SEC. 741. FORCED LABOR ENFORCEMENT TASK FORCE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall establish a Forced Labor Enforcement Task Force to

monitor United States enforcement of the prohibition under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(b) MEMBERS; MEETINGS.—

(1) MEMBERS.—The Task Force shall be chaired by the Secretary of Homeland Security and shall be comprised of representatives from such other agencies with relevant expertise, including the Office of the United States Trade Representative and the Department of Labor, as the President determines appropriate.

(2) MEETINGS.—The Task Force shall meet on a quarterly basis regarding active Withhold and Release Orders, ongoing investigations, petitions received, and enforcement priorities, and other relevant issues with respect to enforcing the prohibition under section 307 of the Tariff Act.

SEC. 742. TIMELINE REQUIRED.

(a) IN GENERAL.—Not later than 90 days after the establishment of the Forced Labor Enforcement Task Force pursuant to section 741(a), the Task Force shall establish timelines for responding to petitions submitted to the Commissioner of U.S. Customs and Border Protection alleging that goods are being imported by or with child or forced labor.

(b) CONSULTATION REQUIRED.—In establishing the timelines during such 90-day period, the Task Force shall consult with the appropriate congressional committees.

(c) REPORT.—The Task Force shall timely submit to the appropriate congressional committees a report that contains the timelines established pursuant to subsection (a) and shall make such report publicly available.

SEC. 743. REPORTS REQUIRED.

The Forced Labor Enforcement Task Force shall submit to appropriate congressional committees a biannual report that includes the following:

(1) The enforcement activities and priorities of the Department of Homeland Security with respect to enforcing the prohibition under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(2) The number of instances in which merchandise was denied entry pursuant to such prohibition during the preceding 180-day period.

(3) A description of the merchandise so denied entry.

(4) An enforcement plan regarding goods included in the most recent "Findings on the Worst Forms of Child Labor" report submitted in accordance with section 504 of the Trade Act of 1974 (19 U.S.C. 2464) and "List of Goods Produced by Child

Labor or Forced Labor'' submitted in accordance with section 105(b)(2)(C) of the Trafficking Victims Protection Reauthorization Act of 2005 (22 U.S.C. 7112(b)(2)(C)).

(5) Such other information as the Forced Labor Enforcement Task Force considers appropriate with respect to monitoring and enforcing compliance with section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 744. DUTIES RELATED TO MEXICO.

The Task Force shall—

(1) develop, in consultation with the appropriate congressional committees, an enforcement plan regarding goods produced by or with forced labor in Mexico; and

(2) report to the Interagency Labor Committee with respect to any concerns relating to the enforcement of the prohibition under section 307 of the Tariff Act with respect to Mexico, including any allegations that may be filed with respect to forced labor in Mexico.

Subtitle E—Enforcement Under Rapid Response Labor Mechanism

SEC. 751. TRANSMISSION OF REPORTS.

Each report issued by a rapid response labor panel constituted in accordance with Annex 31–A of the USMCA shall be immediately submitted to the appropriate congressional committees, the Labor Advisory Committee established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) (or successor advisory committee), and, as appropriate, the petitioner submitting information pursuant to section 716. The Trade Representative shall also make each such report publicly available in a timely manner.

SEC. 752. SUSPENSION OF LIQUIDATION.

(a) IN GENERAL.—If the United States files a request pursuant to article 31–A.4.2 of Annex 31–A of the USMCA, the Trade Representative may direct the Secretary of the Treasury to suspend liquidation for unliquidated entries of goods from such covered facility until such time as the Trade Representative notifies the Secretary that a condition described in subsection (b) has been met.

(b) RESUMPTION OF LIQUIDATION.—The conditions described in this subsection are the following:

(1) The rapid response labor panel has determined that there is no denial of rights at the covered

facility within the meaning of such terms under Annex 31–A of the USMCA.

(2) A course of remediation for denial of rights has been agreed to and has been completed in accordance with the agreed-upon time.

(3) The denial of rights has been otherwise remedied.

SEC. 753. FINAL REMEDIES.

(a) IN GENERAL.—If a rapid response labor panel constituted in accordance with Annex 31–A of the USMCA determines with respect to a case that there has been a denial of rights within the meaning of such Annex, the Trade Representative may, in consultation with the appropriate congressional committees—

(1) direct the Secretary of the Treasury, until the date of the notification described in subsection (b) and in accordance with Annex 31–A of the USMCA—

(A) to—

(i) deny entry to goods, produced wholly or in part, from any covered facility involved in such case; or

(ii) allow for the release of goods, produced wholly or in part, from such covered

facilities only upon payment of duties and any penalty; and

(B) to apply any duties or penalties to customs entries for which liquidation was suspended pursuant to section 752; and

(2) apply other remedies that are appropriate and available under Annex 31–A of the USMCA, until the denial of rights with respect to the case has been remedied.

(b) REMEDIATION NOTIFICATION.—The Trade Representative shall promptly notify the Secretary when the denial of rights with respect to a case described in subsection (a) has been remedied.

TITLE VIII—ENVIRONMENT MONITORING AND ENFORCEMENT

SEC. 801. DEFINITIONS.

In this title:

(1) ENVIRONMENTAL LAW.—The term "environmental law" has the meaning given the term in article 24.1 of the USMCA.

(2) ENVIRONMENTAL OBLIGATIONS.—The term "environmental obligations" means obligations relating to the environment under—

(A) chapter 1 of the USMCA (relating to initial provisions and general definitions); and

(B) chapter 24 of the USMCA (relating to environment).

Subtitle A—Interagency Environment Committee for Monitoring and Enforcement

SEC. 811. ESTABLISHMENT.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the President shall establish an Interagency Environment Committee for Monitoring and Enforcement (in this title referred to as the "Interagency Environment Committee")—

(1) to coordinate United States efforts to monitor and enforce environmental obligations generally; and

(2) with respect to the USMCA countries—

(A) to carry out an assessment of their environmental laws and policies;

(B) to carry out monitoring actions with respect to the implementation and maintenance of their environmental obligations; and

(C) to request enforcement actions with respect to USMCA countries that are not in compliance with their environmental obligations.

(b) MEMBERSHIP.—The members of the Interagency Environment Committee shall be the following:

(1) The Trade Representative, who shall serve as chairperson.

(2) Representatives from each of the following:

(A) The National Oceanic Atmospheric Administration.

(B) The U.S. Fish and Wildlife Service.

(C) The U.S. Forest Service.

(D) The Environmental Protection Agency.

(E) The Animal and Plant Health Inspection Service.

(F) U.S. Customs and Border Protection.

(G) The Department of State.

(H) The Department of Justice.

(I) The Department of the Treasury.

(J) The United States Agency for International Development.

(3) Representatives from other Federal agencies, as the President determines to be appropriate.

(c) INFORMATION SHARING.—Notwithstanding any other provision of law, the members of the Interagency Environment Committee may exchange information for purposes of carrying out this subtitle.

SEC. 812. ASSESSMENT.

(a) IN GENERAL.—The Interagency Environment Committee shall carry out an assessment of the environmental laws and policies of the USMCA countries—

(1) to determine if such laws and policies are sufficient to implement their environmental obligations; and

(2) to identify any gaps between such laws and policies and their environmental obligations.

(b) MATTERS TO BE INCLUDED.—The assessment required by subsection (a) shall identify the environmental laws and policies of the USMCA countries with respect to which enhanced cooperation, including the provision of technical assistance and capacity building assistance, monitoring actions, and enforcement actions, if appropriate, should be carried out on an enhanced and continuing basis.

(c) REPORT.—Not later than 90 days after the date on which the Interagency Environment Committee is established, or the date on which the USMCA enters into force, whichever occurs earlier, the Interagency Environment Committee shall submit a report that contains the assessment required by subsection (a) to—

(1) the appropriate congressional committees; and

(2) the Trade and Environment Policy Advisory Committee (or successor advisory committee) established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)).

(d) UPDATE.—The Interagency Environment Committee shall—

(1) update the assessment required by subsection (a) at the appropriate time prior to submission of the report required by section 816(a) that is to be submitted in the fifth year after the USMCA enters into force; and

(2) submit the updated assessment to the Trade Representative for inclusion in such fifth annual report.

(e) CONSULTATION.—The Interagency Environment Committee shall consult on a regular basis with the USMCA countries—

(1) in carrying out the assessment required by subsection (a) and the update to the assessment required by subsection (d); and

(2) in preparing the report required by subsection (c).

SEC. 813. MONITORING ACTIONS.

(a) IN GENERAL.—The Interagency Environment Committee shall carry out monitoring actions, which shall

include the monitoring actions described in subsections (b), (c), and (d), with respect to the implementation and maintenance of the environmental obligations of the USMCA countries.

(b) REVIEW OF CEC SECRETARIAT SUBMISSIONS.—

(1) IN GENERAL.—Not later than 30 days after the date on which the Secretariat of the Commission for Environmental Cooperation prepares a factual record under article 24.28 of the USMCA relating to a submission filed under article 24.27 of the USMCA with respect to a USMCA country, the Interagency Environment Committee—

(A) shall review the factual record; and

(B) may, based on findings of the review under subparagraph (A) that the USMCA country is not in compliance with its environmental obligations, request enforcement actions under section 814 with respect to the USMCA country.

(2) WRITTEN JUSTIFICATION.—If the Interagency Environment Committee finds that a USMCA country is not in compliance with its environmental obligations under paragraph (1)(B) and determines not to request enforcement actions under section 814 with respect to the USMCA country, the

Committee shall, not later than 30 days after the date on which it makes the determination, provide to the appropriate congressional committees a written explanation and justification of the determination.

(c) REVIEW OF REPORTS OF UNITED STATES ENVIRONMENT ATTACHÉS TO MEXICO.—The Interagency Environment Committee shall—

(1) review each report submitted to the Committee under section 822(b)(2); and

(2) based on the findings of each such report, assess the efforts of Mexico to comply with its environmental obligations.

(d) UNITED STATES IMPLEMENTATION OF ENVIRONMENT COOPERATION AND CUSTOMS VERIFICATION AGREEMENT.—

(1) VERIFICATION OF SHIPMENTS.—The Interagency Environment Committee—

(A) may request verification of particular shipments of Mexico under the Environment Cooperation and Customs Verification Agreement between the United States and Mexico, done at Mexico City on December 10, 2019, in response to—

(i) comments submitted by the public to request verification of particular shipments of Mexico under such Agreement; or

(ii) on its own motion; and

(B) upon receipt of comments described in subparagraph (A)(i)—

(i) shall review the comments not later than 30 days after the date on which the comments are submitted to the Trade Representative; and

(ii) may request the Trade Representative to, within a reasonable period of time, request Mexico to provide relevant information for purposes of verification of particular shipments of Mexico described in subparagraph (A).

(2) REVIEW OF RELEVANT INFORMATION AND REQUEST FOR ADDITIONAL STEPS.—The Interagency Environment Committee—

(A) shall review relevant information provided by Mexico as described in paragraph (1)(B)(ii) to determine if the Trade Representative should request additional steps to verify information provided or related to a particular shipment of Mexico; and

(B) may request the Trade Representative to, within a reasonable period of time, request Mexico to take such additional steps with respect to the particular shipment.

(3) CONSULTATION.—The Trade Representative, on behalf of the Interagency Environment Committee, shall, on a quarterly basis, consult with the appropriate congressional committees and the Trade and Environment Policy Advisory Committee (or successor advisory committee) established under section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) regarding the public comments and relevant information described in paragraph (1) and the actions taken under paragraph (2).

(e) APPLICATION.—Subsections (c) and (d) shall apply with respect to Mexico for such time as the USMCA is in force with respect to, and the United States applies the USMCA to, Mexico.

SEC. 814. ENFORCEMENT ACTIONS.

The Interagency Environment Committee—

(1) may request the Trade Representative to, within a reasonable period of time, request consultations under—

(A) article 24.29 of the USMCA (relating to environment consultations) with respect to the USMCA country; or

(B) articles 31.4 and 31.6 of the USMCA (relating to dispute settlement consultations) with respect to the USMCA country; or

(2) may request the heads of other Federal agencies described in section 815 to initiate monitoring or enforcement actions with respect to the USMCA country under the provisions of law described in section 815.

SEC. 815. OTHER MONITORING AND ENFORCEMENT ACTIONS.

(a) MARINE MAMMAL PROTECTION ACT.—The Secretary of Commerce has authority to take appropriate monitoring or enforcement actions under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(b) MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.—The Secretary of Commerce has authority to take appropriate monitoring or enforcement actions under the following provisions of law:

(1) The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891 et seq.).

(3) The High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.).

(4) The Shark Conservation Act of 2010 (16 U.S.C. 1826k note; 1857 note).

(5) The Shark Finning Prohibition Act (16 U.S.C. 1822 note).

(c) FISHERMEN'S PROTECTIVE ACT OF 1967.—The Secretary of Commerce and Secretary of the Interior have authority to take appropriate monitoring or enforcement actions under section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978).

(d) AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING.—The Secretary of Commerce has authority to take appropriate monitoring or enforcement actions under the Port State Measures Agreement Act of 2015 (16 U.S.C. 7401 et seq.).

(e) ENDANGERED SPECIES ACT.—The Secretary of Agriculture, the Secretary of the Interior, the Secretary of Homeland Security, the Secretary of Commerce, and the Secretary of the Treasury have authority to take ap-

propriate monitoring or enforcement actions under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(f) LACEY ACT.—The Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Interior, the Secretary of Homeland Security, and the Secretary of the Treasury have authority to take appropriate monitoring or enforcement actions under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(g) MIGRATORY BIRD TREATY ACT.—The Secretary of the Interior has authority to take appropriate monitoring or enforcement actions under the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703 et seq.).

(h) ELIMINATE, NEUTRALIZE, AND DISRUPT WILDLIFE TRAFFICKING ACT.—The Secretary of State, the Secretary of the Interior, the Attorney General, and Administrator of the United States Agency for International Development have authority to take appropriate monitoring or enforcement actions under the Eliminate, Neutralize, and Disrupt Wildlife Trafficking Act of 2016 (16 U.S.C. 7601 et seq.).

(i) WILD BIRD CONSERVATION ACT.—The Secretary of the Interior has authority to take appropriate monitoring or enforcement actions under the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901 et seq.).

(j) CUSTOMS SEIZURE AND OTHER AUTHORITIES.—The Secretary of Homeland Security has authority to take appropriate monitoring or enforcement actions under section 499 of the Tariff Act of 1930 (19 U.S.C. 1499) or section 596 of such Act (19 U.S.C. 1595a).

(k) OTHER RELEVANT PROVISIONS OF LAW.—The Interagency Environment Committee may request the heads of other Federal agencies to take appropriate monitoring or enforcement actions under other relevant provisions of law.

(l) RULE OF CONSTRUCTION.—Nothing in this section may be construed to supersede or otherwise limit in any manner the functions or authority of the head of any Federal agency described in this section under any other provision of law.

SEC. 816. REPORT TO CONGRESS.

(a) IN GENERAL.—The Trade Representative, in consultation with the head of any Federal agency described in this subtitle, shall submit to the appropriate congressional committees a report on the implementation of this subtitle, including—

(1) a description of efforts of the USMCA countries to implement their environmental obligations; and

(2) a description of additional efforts to be taken with respect to USMCA countries that are failing to implement their environmental obligations.

(b) TIMING OF REPORT.—The report required by subsection (a) shall be submitted—

(1) not later than one year after the date on which the USMCA enters into force;

(2) annually for each of the next four years; and

(3) biennially thereafter.

(c) ADDITIONAL MATTERS TO BE INCLUDED IN THE FIFTH ANNUAL REPORT.—The report required by subsection (a) that is submitted in the fifth year after the USMCA enters into force shall also include the following:

(1) The updated assessment required by section 812(d).

(2) A comprehensive determination regarding USMCA countries' implementation of their environmental obligations.

(3) An explanation of how compliance with environmental obligations will be taken into consideration during the "joint review" conducted pursuant to article 34.7.2 of the USMCA on the sixth anniversary of the entry into force of the USMCA.

SEC. 817. REGULATIONS.

The head of any Federal agency described in this subtitle, in consultation with the Interagency Environment Committee, may prescribe such regulations as are necessary to carry out the authorities of the Federal agency as provided for under this subtitle.

Subtitle B—Other Matters

SEC. 821. BORDER WATER INFRASTRUCTURE IMPROVEMENT AUTHORITY.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall, in coordination with eligible public entities, carry out the planning, design, construction, and operation and maintenance of high priority treatment works in the covered area to treat wastewater (including stormwater), nonpoint sources of pollution, and related matters resulting from international transboundary water flows originating in Mexico.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall submit to Congress a report on activities carried out pursuant to this section.

(c) DEFINITIONS.—In this section:

(1) COVERED AREA.—The term "covered area" means the portion of the Tijuana River watershed that is in the United States.

(2) ELIGIBLE PUBLIC ENTITIES.—The term "eligible public entities" means—

(A) the United States Section of the International Boundary and Water Commission;

(B) the Corps of Engineers;

(C) the North American Development Bank;

(D) the Department of State;

(E) any other appropriate Federal agency;

(F) the State of California; and

(G) any of the following entities with jurisdiction over any part of the covered area:

(i) A local government.

(ii) An Indian Tribe.

(iii) A regional water board.

(iv) A public wastewater utility.

(3) TREATMENT WORKS.—The term "treatment works" has the meaning given that term in section 212 of the Federal Water Pollution Control Act.

SEC. 822. DETAIL OF PERSONNEL TO OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) IN GENERAL.—Upon the request of the Trade Representative, the Administrator of the Environmental Protection Agency, the Director of the U.S. Fish and Wildlife Service, and the Administrator of the National

Oceanic Atmospheric Administration may detail, on a reimbursable basis, one employee of each such respective agency to the Office of the United States Trade Representative to be assigned to the United States Embassy in Mexico to carry out the duties described in subsection (b).

(b) DUTIES.—The duties described in this subsection are the following:

(1) Assist the Interagency Environment Committee to carry out monitoring and enforcement actions with respect to the environmental obligations of Mexico.

(2) Prepare and submit to the Interagency Environment Committee on a quarterly basis a report on efforts of Mexico to comply with its environmental obligations.

Subtitle C—North American Development Bank

SEC. 831. GENERAL CAPITAL INCREASE.

Part 2 of subtitle D of title V of Public Law 103–182 (22 U.S.C. 290m et seq.) is amended by adding at the end the following:

"SEC. 547. FIRST CAPITAL INCREASE.

"(a) SUBSCRIPTION AUTHORIZED.—

"(1) IN GENERAL.—The Secretary of the Treasury is authorized to subscribe on behalf of the United States to, and make payment for, 150,000 additional shares of the capital stock of the Bank.

"(2) LIMITATION.—Any subscription by the United States to the capital stock of the Bank shall be effective only to such extent and in such amounts as are provided in advance in appropriations Acts.

"(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—In order to pay for the increase in the United States subscription to the Bank under subsection (a), there are authorized to be appropriated, without fiscal year limitation, $1,500,000,000 for payment by the Secretary of the Treasury.

"(2) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated under paragraph (1)—

"(A) $225,000,000 shall be for paid in shares of the Bank; and

"(B) $1,275,000,000 shall be for callable shares of the Bank.".".

SEC. 832. POLICY GOALS.

(a) IN GENERAL.—To the extent consistent with the mission and scope of the North American Development Bank on the day before the date of the enactment of this Act and pursuant to section 2 of article II of the Charter, the Secretary of the Treasury should direct the representatives of the United States to the Board of Directors of the Bank to use the voice and vote of the United States to give preference to the financing of projects related to environmental infrastructure relating to water pollution, wastewater treatment, water conservation, municipal solid waste, stormwater drainage, non-point pollution, and related matters.

(b) CHARTER DEFINED.—In this section, the term "Charter" means the Agreement Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank, signed at Washington and Mexico November 16 and 18, 1993, and entered into force January 1, 1994 (TIAS 12516), between the United States and Mexico.

SEC. 833. EFFICIENCIES AND STREAMLINING.

The Secretary of the Treasury should direct the representatives of the United States to the Board of Directors of the North American Development Bank to use the voice and vote of the United States to seek to require the Bank to develop and implement efficiency improvements to

streamline and accelerate the project certification and financing process, including through initiatives such as single certifications for revolving facilities, programmatic certification of similar groups of small projects, expansion of internal authority to approve qualified projects below certain monetary thresholds, and expedited certification for public sector projects subject to lender bidding processes.

SEC. 834. PERFORMANCE MEASURES.

(a) IN GENERAL.—The Secretary of the Treasury should direct the representatives of the United States to the Board of Directors of the North American Development Bank to use the voice and vote of the United States to seek to require the Bank to develop performance measures that—

(1) demonstrate how projects and financing approved by the Bank are meeting the Bank's mission and providing added value to the region near the international land border between the United States and Mexico; and

(2) are reviewed and updated not less frequently than annually.

(b) REPORT TO CONGRESS.—The Secretary of the Treasury shall submit to Congress, with the submission to Congress of the budget of the President for a fiscal year under section 1105(a) of title 31, United States

Code, a report on progress in imposing the performance measures described in subsection (a) of this section.

TITLE IX—USMCA SUPPLEMENTAL APPROPRIATIONS ACT, 2019

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2020 and for other purposes, namely:

DEPARTMENT OF AGRICULTURE

AGRICULTURAL PROGRAMS

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", for enforcement of the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) during fiscal years 2020 through 2023 related to trade activities between the United States and Mexico, $4,000,000, to remain available until September 30, 2023: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", $16,000,000, to remain available until September 30, 2023: *Provided*, That $8,000,000 shall be available to engage in cooperation with the Government of Mexico to combat illegal, unreported, and unregulated fishing and enhance the implementation of the Seafood Import Monitoring Program pursuant to 16 U.S.C. 1826 and 1829, during fiscal years 2020 through 2023: *Provided further*, That $8,000,000 shall be available to carry out section 3 of the Marine Debris Act (33 U.S.C. 1952) during fiscal years 2020 through 2023 in the North American region: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $50,000,000, to remain available until September 30, 2023: *Provided*, That $30,000,000 shall be available

solely to provide for additional capacity of the Office during fiscal years 2020 through 2023 to monitor compliance with labor obligations (as such term is defined in section 701 of this Act), including the necessary expenses of additional full-time employees to participate in the Interagency Labor Committee for Monitoring and Enforcement established pursuant to section 711 of this Act: *Provided further*, That $20,000,000 shall be available to reimburse the necessary expenses of personnel participating in the Interagency Environment Committee for Monitoring and Enforcement established pursuant to section 811 of this Act during fiscal years 2020 through 2023 to monitor compliance with environmental obligations (as such term is defined in section 801 of this Act), including up to 1 additional full-time employee detailed to the United States Embassy in Mexico from each of the United States Fish and Wildlife Service, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration: *Provided further*, That, if the United States Trade Representative determines that the additional amount appropriated under this heading in this Act exceeds the amount sufficient to provide for the reimbursement of personnel specified in the previous proviso, such excess amounts may be used to reimburse the necessary expenses of additional personnel participating in the Interagency

Environment Committee for Monitoring and Enforcement during fiscal years 2020 through 2023 to monitor compliance with environmental obligations (as such term is defined in section 801 of this Act): *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TRADE ENFORCEMENT TRUST FUND

For an additional amount for the "Trade Enforcement Trust Fund", $40,000,000, to remain available until September 30, 2023, to carry out the enforcement of environmental obligations under the USMCA, including for state-to-state dispute settlement actions, during fiscal years 2020 through 2023: *Provided*, That, amounts appropriated in this paragraph shall not count toward the limitation specified in section 611(b)(2) of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4405): *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource Management", to enforce the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) and sections 42 and 43 of title 18, United States Code, with respect to goods imported or exported between the United States and Mexico, during fiscal years 2020 through 2023, $4,000,000, to remain available until September 30, 2023: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount for "Environmental Programs and Management" for necessary expenses for carrying out the Environmental Protection Agency's efforts through the Commission for Environmental Cooperation during fiscal years 2020 through 2023, to reduce pollution, strengthen environmental governance, conserve biological diversity, and sustainably manage natural resources, $4,000,000, to remain available until expended: *Provided*, That such amount is designated by the Congress

as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for "State and Tribal Assistance Grants" for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission, $300,000,000, to remain available until expended: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $210,000,000, for the Bureau of International Labor Affairs to administer or operate international labor activities, bilateral and multilateral technical assistance, and microfinance programs, by or through contracts, grants, subgrants and other arrangements; of which $180,000,000, to remain available until December 31,

2023, shall be used to support reforms of the labor justice system in Mexico, including grants to support worker-focused capacity building, efforts to reduce workplace discrimination in Mexico, efforts to reduce child labor and forced labor in Mexico, efforts to reduce human trafficking, efforts to reduce child exploitation, and other efforts related to implementation of the USMCA; and of which $30,000,000, to remain available until September 30, 2027, shall be available to provide for additional capacity of the Bureau of International Labor Affairs during fiscal years 2020 through 2027 to monitor compliance with labor obligations (as such term is defined in section 701 of this Act), including the necessary expenses of additional full-time employees of the Bureau to participate in the Interagency Labor Committee for Monitoring and Enforcement established pursuant to section 711 of this Act: *Provided*, That the Secretary of Labor may detail or assign up to 5 additional full-time employees of the Bureau to the United States Embassy or consulates in Mexico to (1) assist in monitoring and enforcement actions with respect to the labor obligations of Mexico, and (2) prepare a report, to be submitted on a quarterly basis to the Interagency Labor Committee for Monitoring and Enforcement through September 30, 2027, on the efforts of Mexico to comply with labor obligations (as such term is defined in

section 701 of this Act): *Provided further*, That such employees, while detailed or assigned, shall continue to receive compensation, allowances, and benefits from funds made available to the Bureau for purposes related to the activities of the detail or assignment, in accordance with authorities related to their employment status and agency policies: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

MULTILATERAL ASSISTANCE

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE NORTH AMERICAN DEVELOPMENT BANK

For payment to the North American Development Bank by the Secretary of the Treasury for the United States share of the paid-in portion of the increase in capital stock, $215,000,000, to remain available until expended: *Provided*, That the authorities and conditions applicable to accounts in title V of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2019 (division F of Public Law 116–6) shall apply to the amounts provided under this heading: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to

section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS - THIS TITLE

SEC. 901. Each amount appropriated or made available by this title is in addition to any amounts otherwise appropriated for any of the fiscal years involved.

SEC. 902. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 903. Unless otherwise provided for by this title, the additional amounts appropriated by this title to appropriations accounts shall be available under the authorities and conditions applicable to such appropriations accounts for fiscal year 2020.

SEC. 904. Each amount designated in this title by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be available (or rescinded or transferred, if applicable) only if the President subsequently so designates all such amounts and transmits such designations to the Congress.

BUDGETARY EFFECTS

SEC. 905. (a) STATUTORY PAYGO SCORECARDS.—The budgetary effects of this title shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARDS.—The budgetary effects of this title shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

(c) CLASSIFICATION OF BUDGETARY EFFECTS.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217 and section 250(c)(7) and (c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the budgetary effects of this title shall be estimated for purposes of section 251 of such Act.

This title may be cited as the "USMCA Supplemental Appropriations Act, 2019".

THE IMPLEMENTATION ACT FOR THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, THE UNITED MEXICAN STATES, AND CANADA (USMCA)

STATEMENT OF ADMINISTRATIVE ACTION

This Statement of Administrative Action ("Statement") is submitted to the Congress in compliance with section 106(a)(1)(E)(ii) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 ("Trade Priorities Act") and accompanies the implementing bill for the Agreement Between the United States of America, the United Mexican States, and Canada ("Agreement" or "USMCA"). The bill approves and makes statutory changes strictly necessary or appropriate to implement the Agreement, which is attached as an Annex to 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"), which the United States Trade Representative signed in Buenos Aires, Argentina on November 30, 2018, and which was amended by the Protocol of Amendment to the Agreement Between the United States of America, the United Mexican States, and Canada (the "Amended Protocol"), which the United States Trade Representative signed in Mexico City, Mexico on December 10, 2019.

As is the case with Statements of Administrative Action submitted to the Congress in connection with implementing bills for other free trade agreements approved under trade promotion authority procedures, this Statement represents an authoritative expression by the Administration concerning its views regarding the interpretation and application of the Agreement, both for purposes of U.S. international obligations and domestic law. The Administration understands that it is the expectation of the Congress that future administrations will observe and apply the interpretations and commitments set out in this Statement. In addition, because Congress will approve this Statement when it approves the implementing bill for the Agreement, the interpretation of the USMCA included in this Statement carries particular authority.

This Statement describes significant administrative actions proposed to implement U.S. obligations under the USMCA. In addition, incorporated into this Statement are two other statements required under section 106(a)(2)(A) of the Trade Priorities Act: (1) an explanation of how the implementing bill and proposed administrative action will change or affect existing law; and (2) a statement setting forth the reasons why the implementing bill and proposed administrative action are strictly necessary or appropriate to carry out the Agreement.

Section 106(a)(2)(A)(ii)(bb) of the Trade Priorities Act also requires a statement regarding whether and how the agreement changes provisions of an agreement previously negotiated. In May 2017, the United States Trade Representative notified Congress of the President's intent to enter into negotiations with Canada and Mexico to modernize the North American Free Trade Agreement (NAFTA), which has been in force since January 1994. As set out in paragraph 1 of the Protocol, the USMCA will supersede the NAFTA once it enters into

force. Certain transitional provisions provided for in the USMCA are intended to ensure a smooth transition from one agreement to another.

Although the USMCA is a comprehensive overhaul of the NAFTA, many provisions of NAFTA are replicated so that the treatment the United States has committed to provide to Canada and Mexico remains the same. For example, with respect to industrial goods and textiles, the USMCA preserves the duty free treatment that had been achieved under the NAFTA. Some provisions of the NAFTA have been reproduced in the USMCA with no changes, for example with respect to temporary entry for business persons, and review and dispute settlement in antidumping and countervailing duty matters. Others have been reproduced with minimal changes, for example on duty drawback, the merchandise processing fee, origin procedures, and customs measures. However, the USMCA contains significant updates to many disciplines and adds disciplines in areas that were not covered by the NAFTA. Significantly, it includes robust labor and environment chapters as integral parts of the Agreement, rather than separate supplemental agreements. The USMCA also implements significant changes to the rules of origin for automotive goods compared to NAFTA, as well as changes to the rules for other products, in order to reflect the structure of current supply chains and incentivize additional production in the North American region, and in particular the United States. In addition, it includes disciplines to address new issues not dealt with in NAFTA, such as digital trade and state-owned enterprises.

Each USMCA Party affirms its existing rights and obligations with respect to each other under other existing international agreements.

For ease of reference, this Statement generally follows the organization of the Agreement, with the exception of grouping the Protocol and the general provisions of the USMCA (Chapters 1, 29, 30, 32, and 34) at the beginning of the discussion.

For each chapter of the USMCA, the Statement describes the pertinent provisions of the implementing bill, explaining how the bill changes or affects existing law, and stating why those provisions are strictly necessary or appropriate to implement the Agreement. The Statement then describes the administrative action proposed to implement the particular chapter of the Agreement, explaining how the proposed action changes existing administrative practice or authorizes further action and stating why such actions are required to implement the Agreement.

It should be noted that this Statement does not, for the most part, discuss those many instances in which U.S. law or administrative practice will remain unchanged under the Agreement. In many cases, U.S. laws and regulations are already in conformity with the obligations assumed under the Agreement.

Finally, references in this Statement to particular sections of U.S. statutes are based on those statutes in effect as of the date this Statement was submitted to the Congress.

Protocol and Chapters:
1 (Initial Provisions and General Definitions)
29 (Publication and Administration)
30 (Administrative and Institutional Provisions)
32 (Exceptions and General Provisions)
34 (Final Provisions)

1. Implementing Bill

a. Congressional Approval

As required by sections 103(b)(3)(B)(i) and 106(a)(1) of the Trade Priorities Act, Section 101(a) of the implementing bill provides Congressional approval for: the Protocol and the USMCA, which is an Annex to the Protocol; the Protocol Amending the Agreement; and this Statement.

b. Entry into Force

Paragraph 1 of the Protocol provides that upon entry into force of the Protocol, the USMCA, which is attached as an Annex to the Protocol, will supersede the NAFTA. Paragraph 2 of the Protocol provides that each Party shall notify the others, in writing, once it has completed the internal procedures required for the entry into force of the Protocol. The Protocol and the USMCA will enter into force on the first day of the third month following the last notification.

Section 101(b) of the implementing bill authorizes the President to provide written notification to Canada and Mexico that the United States has completed its applicable legal procedures, if the President has determined that Canada and Mexico have taken measures necessary to comply with those of its obligations that are to take effect at the time the Agreement enters into force, and the President provides written notice of this determination to Congress in accordance with section 106(a)(1)(G) of the Trade Priorities Act.

Certain provisions of the USMCA become effective after the Agreement enters into force.

c. Relationship to Federal Law

Section 102(a) of the bill establishes the relationship between the USMCA and U.S. law. The implementing bill, including the authority granted to federal agencies to promulgate implementing regulations, is intended to bring U.S. law fully into compliance with U.S. obligations under the USMCA. The bill accomplishes that objective with respect to federal legislation by amending existing federal statutes that would otherwise be inconsistent with the Agreement and, in certain instances, by creating entirely new provisions of law.

As section 102(a) of the bill makes clear, those provisions of U.S. law that are not addressed by the bill are left unchanged. In particular, neither the USMCA nor the implementing bill amend section 301 of the Trade Act of 1974. Section 301 authorizes the U.S. Trade Representative to take action, subject to the direction of the President, against acts, policies, or practices that are inconsistent with, or deny benefits under, trade agreements or that are unreasonable, unjustifiable, or discriminatory and burden or restrict U.S. commerce.

Section 102(a) clarifies that no provision of the Agreement will be given effect under domestic law if it is inconsistent with federal law, including provisions of federal law enacted or amended by the bill. Section 102(a) will not prevent implementation of federal statutes consistent with the Agreement, if permissible under the terms of such statutes. Rather, the section reflects the Congressional view that necessary changes in federal statutes should be specifically enacted rather than provided for in a blanket preemption of federal statutes by the USMCA.

The Administration has made every effort to include all laws in the implementing bill and to identify all administrative actions in this Statement that must be changed or adopted in order to conform with the new U.S. rights and obligations arising from the USMCA. The latter include both regulations resulting from statutory changes made in the bill itself and changes to regulations, rules, and orders that can be implemented without a change in the underlying U.S. statute.

Accordingly, at this time it is the expectation of the Administration that no changes in existing federal law, rules, regulations, or orders -- other than those specifically indicated in the implementing bill and this Statement -- will be required to implement the new international obligations that the United States will assume under the USMCA. This is without prejudice to the President's continuing responsibility and authority to carry out U.S. law and agreements. As experience under the USMCA is gained over time, other or different administrative actions may be taken in accordance with applicable law to implement the Agreement. If additional action is called for, the Administration will seek legislation from Congress or, if a change in regulation is required, follow normal agency procedures for amending regulations.

d. Relationship to State Law

The USMCA's obligations generally cover state and local laws and regulations, as well as those at the federal level. There are a number of exceptions to, or limitations on, this general rule, however, such as in the areas of government procurement, labor, environment, investment, cross-border trade in services, and financial services.

The Agreement does not automatically "preempt" or invalidate state laws that do not conform to the Agreement's rules, even if a dispute settlement panel were to find a state measure inconsistent with the Agreement. The United States is free under the Agreement to determine

how it will conform with the Agreement's obligations at the federal and non-federal level. The Administration is committed to carrying out U.S. obligations under the USMCA, as they apply to the states, through the greatest possible degree of state-federal consultation and cooperation.

Section 102(b)(1) of the bill makes clear that only the United States is entitled to bring an action in court in the event of an unresolved conflict between a state law, or the application of a state law, and the USMCA. The authority conferred on the United States under this paragraph is intended to be used only as a "last resort," in the unlikely event that efforts to achieve consistency through consultations have not succeeded.

The reference in section 102(b)(2) of the bill to the business of insurance is required by virtue of section 2 of the McCarran-Ferguson Act (15 U.S.C. 1012). That section states that no federal statute shall be construed to supersede any state law regulating or taxing the business of insurance unless the federal statute "specifically relates to the business of insurance." Certain provisions of the USMCA (for example, Chapter 17 relating to financial services) do apply to state measures regulating the insurance business, although "grandfathering" provisions in Chapter 17 exempt existing inconsistent (*i.e.*, "non-conforming") measures from key rules.

Given the provision of the McCarran-Ferguson Act, the implementing act must specifically reference the business of insurance in order for the USMCA's provisions covering the insurance business to be given effect with respect to state insurance law. Insurance is otherwise treated in the same manner under the USMCA and the implementing bill as other financial services under the USMCA.

e. Private Lawsuits

Section 102(c) of the implementing bill precludes any private right of action or remedy against the federal government, a state or local government, or against a private party, based on the provisions of the USMCA. A private party thus could not sue (or defend a suit against) the United States, a state, or a private party on grounds of consistency (or inconsistency) with the Agreement. The provision also precludes a private right of action attempting to require, preclude, or modify federal or state action on grounds such as an allegation that the government is required to exercise discretionary authority or general "public interest" authority under other provisions of law in conformity with the USMCA.

With respect to the states, section 102(c) represents a determination by the Congress and the Administration that private lawsuits are not an appropriate means for ensuring state compliance with the USMCA. Suits of this nature may interfere with the Administration's conduct of trade and foreign relations and with suitable resolution of disagreements or disputes under the USMCA.

Section 102(c) does not preclude the exercise of the right to challenge determinations under section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a). Section 102(c) also does not

preclude a private party from submitting a claim against the United States to arbitration under Chapter 14 (Investment) of the USMCA or seeking to enforce an award against the United States issued pursuant to such arbitration. The provision also would not preclude any agency of government from considering, or entertaining argument on, whether its action or proposed action is consistent with the USMCA, although any change in agency action would have to be consistent with domestic law.

f. Implementing Regulations

Section 103(a) of the bill provides the authority for new or amended regulations to be issued, and for the President to proclaim actions implementing the provisions of the USMCA, as of the date of its entry into force. Section 103(b) of the bill requires that, whenever possible, all federal regulations required or authorized under the bill and those proposed in this Statement to implement immediately applicable U.S. obligations under the USMCA are to be developed and promulgated within one year of the Agreement's entry into force. In practice, the Administration intends, wherever possible, to amend or issue the other regulations required to implement U.S. obligations under the USMCA at the time the Agreement enters into force. The process for issuing regulations pursuant to this authority will comply with the requirements of the Administrative Procedures Act, including requirements to provide notice of and an opportunity for public comment on such regulations. If issuance of any regulation will occur more than one year after the date provided in section 103(b), the officer responsible for issuing such regulation will notify the relevant committees of both Houses of Congress of the delay, the reasons for such delay, and the expected date for issuance of the regulation. Such notice will be provided at least 30 days prior to the end of the one-year period.

g. Effective Dates

Section 106(a) of the bill provides that Title I and the first three sections of the bill go into effect on the date the bill is enacted into law.

Section 621(a) provides that during any period in which a country ceases to be a Party to the USMCA, any provision of the bill and the amendments made by the bill cease to have effect with respect to that country. Section 621(b) provides that the provisions of the bill and the amendments to other statutes made by the bill will cease to have effect on the date the USMCA ceases to be in force with respect to the United States.

h. Joint Review

Article 34.7 of the USMCA provides a mechanism for the Parties to conduct a joint review of the Agreement on the sixth anniversary of its entry into force, and for annual reviews thereafter, if a Party does not confirm it wishes to extend the term of the Agreement at such joint review. Section 611 of the bill provides that the U.S. Trade Representative will seek public comment prior to participating in a joint review. In addition, section 611 provides for

consultations between the U.S. Trade Representative and the Ways and Means Committee of the House of Representatives and the Finance Committee of the Senate with respect to joint reviews or any annual reviews.

2. Administrative Action

No administrative changes will be necessary to implement Chapter 1 (Initial Provisions), Chapter 29 (Publication and Administration), and Chapter 32 (Exceptions and General Provisions).

a. U.S. Sovereignty

Under the USMCA, U.S. sovereignty and that of the states is fully protected. U.S. laws and regulations will continue to be enacted, administered, enforced, and amended solely by appropriate U.S. entities and authorities. All domestic legislative, judicial, or administrative prerogatives are fully maintained. The USMCA establishes a mechanism for resolving disputes between the USMCA governments. In no case does a finding by a panel established under that mechanism have the force of law in the United States. The appropriate federal and state executive and legislative authorities will decide how to respond under domestic law to any adverse panel finding.

The following administrative actions will be necessary to implement Chapter 30 (Administrative and Institutional Provisions), and Chapter 34 (Final Provisions).

b. Commission and Agreement Coordinator

Article 30.1 of the USMCA establishes a Commission to oversee the implementation of the Agreement and the work of committees and other bodies established under the USMCA. The United States Trade Representative, or his or her designee, will represent the United States on the Commission. Article 30.5 of the USMCA requires each Party to designate an Agreement Coordinator to facilitate communications between the Parties regarding the Agreement. An official with the Office of the United States Trade Representative ("USTR") will serve as the Agreement Coordinator.

Chapter 2 (National Treatment and Market Access for Goods)

1. Implementing Bill

a. Proclamation Authority

Section 103(a) of the bill grants the President authority to implement by proclamation

U.S. rights and obligations under Chapter 2 of the Agreement through the application or elimination of customs duties and tariff-rate quotas ("TRQs") or Tariff Preference Levels ("TPLs"). Section 103(c) authorizes the President to:

(i) modify or continue any duty;

(ii) keep in place duty-free or excise treatment; or

(iii) impose any duty

that the President determines to be necessary or appropriate to carry out or apply Article 2.4 (Treatment of Customs Duties), Article 2.7 (Temporary Admission of Goods), Article 2.8 (Goods Re-Entered After Repair or Alteration), Article 2.9 (Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials), Article 2.10 (Most-Favored-Nation Rates of Duty on Certain Goods), Article 6.2 (Handmade, Traditional Folkloric, or Indigenous Handicraft Goods), Article 6.3 (Special Provisions), and the Tariff Schedule of the United States to Annex 2-B (Tariff Commitments), including the appendices to that Annex, Annex 2-C (Provisions Between Mexico and the United States on Automotive Goods), and Annex 6-A (Special Provisions) and its appendices.

The proclamation authority with respect to Article 2.4 authorizes the President to provide for the continuation, phase-out, and elimination, according to the Tariff Schedule of the United States to Annex 2-B of the USMCA, of customs duties on imports from Canada and Mexico that meet the Agreement's rules of origin.

The proclamation authority with respect to Articles 2.7, 2.8, 2.9, and 2.10 authorizes the President to provide for the elimination of duties on particular categories of imports from USMCA Parties. Article 2.7 pertains to the temporary admission of certain goods, goods intended for display at an exhibition, and goods necessary for carrying out the business activity of a person who qualifies for temporary entry into the United States. Article 2.8 pertains to the importation of goods: (i) returned to the United States after undergoing repair or alteration in a USMCA Party; or (ii) sent from a USMCA Party for repair or alteration in the United States. Article 2.9 pertains to the entry of commercial samples of negligible value and printed advertising materials imported from a USMCA Party. Article 2.10 provides for duty free treatment for certain categories of goods, such as automated processing machines, continuing treatment implemented under NAFTA.

The proclamation authority with respect to Article 6.2 authorizes the President to provide duty-free treatment for certain textile or apparel products that the United States and the exporting USMCA Party agree are within the categories of hand-loomed fabrics of a cottage industry; hand-made cottage industry goods made of those hand-loomed fabrics; traditional folklore handicraft goods; or indigenous handicraft goods, provided that these goods meet any requirements for such duty-free treatment that the United States and the exporting USMCA Party agree.

The proclamation authority with respect to Article 6.3 (Special Provisions) and Annex 6-A (Special Provisions) authorizes the President to provide preferential tariff treatment applicable to originating goods to certain textile and apparel goods from a USMCA Party that do not meet the rules of origin, up to the annual quantities specified in the Appendices to that Annex.

Section 103(c)(2) of the bill authorizes the President, subject to the consultation and layover provisions of section 104 of the bill, to:

(i) modify or continue any duty;

(ii) modify the staging of any duty elimination set out in the U.S. Schedule to Annex 2-B, pursuant to an agreement with another USMCA Party, under Article 2.4;

(iii) keep in place duty-free or excise treatment; or

(iv) impose any duty

by proclamation whenever the President determines it to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to a USMCA Party provided by the Agreement.

Section 104 of the bill sets forth consultation and layover steps that must precede the President's implementation of any duty modification by proclamation. This would include, for example, modifications of duties under section 103(c)(2) of the bill. Under the consultation and layover provisions, the President must obtain the advice of the appropriate private sector advisory committees (established pursuant to section 135 of the Trade Act of 1974) and the U.S. International Trade Commission ("ITC") on the proposed action. The President must submit a report to the Trade Committees setting forth the action proposed, the reasons for the proposed action, and the advice of the private sector and the ITC. The bill sets aside a 60-day period following the date of transmittal of the report for the President to consult with the Trade Committees on the action. Following the expiration of the 60-day period, the President may proclaim the action.

The President may initiate the consultation and layover process under section 104 on enactment of the bill. However, under section 103(a), any modifying proclamation cannot take effect until the Agreement enters into force. In addition to modifications of customs duties, these provisions apply to other Presidential proclamation authority provided in the bill that is subject to consultation and layover, such as authority to implement a proposal to modify the Agreement's specific rules of origin in accordance with Article 5.18 (Committee on Rules of Origin and Origin Procedures) and Article 6.4 (Review and Revision of Rules of Origin) of the USMCA.

Section 103(c) of the bill provides for the conversion of existing specific or compound rates of duty for various goods to *ad valorem* rates for purposes of implementing the Agreement's customs duty reductions. (A compound rate of duty for a good would be a rate of duty stated, for example, as the sum of X dollars per kilogram plus Y percent of the value of the good).

b. Drawback

Section 208 of the bill implements U.S. commitments under USMCA Article 2.5 (Drawback and Duty Deferral Program) with respect to drawback for goods traded between the Parties to the Agreement.

This section amends section 203 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3333) to provide exceptions to the limitation on drawback implemented in NAFTA for certain goods traded between the Parties to the Agreement. This amendment includes conforming terminology changes and references to provisions of the USMCA, as well as changes to the exception for sugar to reflect new tariff nomenclature. This section also amends sections 311, 312, 313, and 562 of the Tariff Act of 1930 (19 U.S.C. 1311, 1312, 1313, and 1562) which provide that drawback with respect to goods imported into the United States and subsequently exported to the territory of another Party, used in the production of a good exported to another Party, or substituted by goods used in the production of a good exported to another Party, be limited to the lesser of the duties paid or owed upon importation into the United States, or the duties paid on the good to another Party. The amendments make conforming terminology changes with respect to the limitation on drawback implemented in NAFTA relating to bonded manufacturing warehouses, bonded smelting and refining warehouses, substitution drawback, and manipulation in bonded warehouses. This section also amends section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c), to make conforming terminology changes regarding the limitation on drawback as provided under the Foreign Trade Zones Act.

c. Merchandise Processing Fee

Section 203 of the bill implements U.S. commitments under USMCA Article 2.16.3 and Annex 6-A, regarding waiver of customs user fees on certain goods. Article 2.16.3 maintains the treatment that was provided under the NAFTA with respect to originating goods of Canada or Mexico. In Annex 6-A, the United States agreed to waive the merchandise processing fee for textile or apparel goods of Canada or Mexico that are imported under a Trade Preference Level (TPL). Section 203 implements these commitments by amending section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

d. Country of Origin Marking

Section 209 of the bill implements U.S. commitments under paragraph 7 of the General Notes to the Tariff Schedule of the United States, by amending section 304 of the Tariff Act of 1930 (19 U.S.C. 1304). Paragraph 7 provides for the applicable tariff treatment if, under Appendix 1 to the Tariff Schedule of the United States, the United States provides different tariff treatment to one USMCA Party than to the other, with reference to whether the good qualifies to be marked as a good of Canada or Mexico. The amendment makes conforming terminology

changes with respect to provisions regarding marking of goods of Canada or Mexico.

2. Administrative Action

a. Regulations

As discussed above, section 103(c) of the bill authorizes the President to proclaim duty-free treatment for certain goods to carry out Article 2.7 (Temporary Admission of Goods), Article 2.8 (Goods Re-entered after Repair or Alteration), Article 2.9 (Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials), and Article 2.10 (Most-Favored-Nation Rates of Duty on Certain Goods) of the USMCA, and to proclaim the continuation, phase-out, and elimination of customs duties if there are tariff differentials among USMCA Parties and the related rules of origin, as set out in Annex 2-B. The Secretary of the Treasury will issue regulations to carry out this portion of the proclamation.

Chapter 3 (Agriculture)

1. Implementing Bill

a. Exemption from Special Agricultural Safeguard Measures

Section 202 of the bill amends section 405 of the Uruguay Round Agreements Act (19 U.S.C. 3602). The amendment will provide for exemption from any duty imposed under the special agricultural safeguard authority for goods from Canada or Mexico that qualify for preferential treatment under the USMCA. This amendment is necessary to comply with Article 3.9 of the USMCA.

2. Administrative Action

Article 3.7 (Committee on Agricultural Trade) establishes an inter-governmental Committee on Agricultural Trade ("Agriculture Committee") composed of government representatives of each Party. As under NAFTA, an official in USTR's Office of Agricultural Affairs will serve as the U.S. representative to the Agriculture Committee.

Article 3.13 (Contact Points) provides that each Party shall designate and notify a contact point for sharing of information on matters related to agricultural biotechnology. An official in USTR's Office of Agricultural Affairs will serve as the contact point for the United States.

Article 3.16 (Working Group for Cooperation on Agricultural Biotechnology) establishes an inter-governmental working group for information exchange and cooperation on policy and trade-related matters associated with products of agricultural biotechnology. An official in USTR's Office of Agricultural Affairs will serve as a co-chair of the Working Group.

Article 3.A.2 (Tariff Rate Quota Administration) provides that Canada and the United States shall designate and notify a contact point to facilitate communications between the two countries on matters relating to the administration of its tariff-rate quotas. An official in USTR's Office of Agricultural Affairs will serve as the contact point.

Paragraph 10 of Annex 3-B (Agricultural Trade Between Mexico and the United States) establishes an inter-governmental technical working group between Mexico and the United States to review matters related to agricultural grade and quality standards, technical specifications, and other standards in Mexico and the United States and their application and implementation insofar as they affect trade between the two countries. An official in USTR's Office of Agricultural Affairs will serve as a co-chair of the technical working group.

Chapter 4 (Rules of Origin) and Chapter 5 (Origin Procedures)

1. Implementing Bill

a. General

Section 202 of the implementing bill codifies the general rules of origin set forth in Chapter 4 (Rules of Origin) of the USMCA. These rules apply only for the purposes of this bill and for the purposes of implementing the customs duty treatment provided under the Agreement. An originating good for the purposes of this bill would not necessarily be a good of, or import from, a USMCA Party for the purposes of other U.S. laws or regulations.

Under the general rules, there are four basic ways for a good of a USMCA Party to qualify as an "originating" good, and therefore be eligible for preferential treatment when it is imported into the United States. First, a good is "originating" if it is wholly obtained or produced entirely in the territory of one or more USMCA Parties as established in Article 4.3 of the Agreement and defined in section 202(a)(4) of the bill. This includes, for example, minerals extracted from the territory of one or more USMCA Parties, animals born and raised in the territory of one or more USMCA Parties, and waste and scrap derived from production of goods that takes place in the territory of one or more of the USMCA Parties or derived from used goods collected there that are fit only for the recovery of raw materials.

Second, the general rules of origin provide that a good is "originating" if the good is produced entirely in the territory of one or more USMCA Parties, using non-originating materials, provided that the resulting good satisfies all applicable requirements of Annex 4-B (Product-Specific Rules of Origin). Such requirements include, for example, non-originating materials meeting change in tariff classification requirement, or the good meeting a regional value content or processing requirement. These requirements also include those provided for in the Appendix to Annex 4-B, Provisions Related to the Product Specific Rules of Origin for

Automotive Goods. Some product-specific rules in those Annexes have multiple requirements.

Third, the general rules of origin provide that a good is "originating" if the good is produced entirely in the territory of one or more USMCA Parties exclusively from materials that themselves qualify as originating.

Fourth, under Article 4.2(d) (Originating Goods), the change in tariff classification requirement is supplemented, in sectors other than goods of Chapters 61 through 63 of the Harmonized Tariff Schedule (HTS), by a rule conferring origin based on a percentage of regional value content if, as a result of classification of the good and materials in the same heading, the rule of origin in Annex 4-B could not confer origin.

Article 4.4 (Treatment of Recovered Materials Used in the Production of a Remanufactured Good) of the Agreement provides that a recovered material qualifies as "originating" for the purposes of determining whether a remanufactured good is originating if it is derived in the territory of one or more USMCA Parties and it is used in the production of and incorporated into the remanufactured good. A recovered material is one or more parts resulting from the disassembly of used goods that are brought into sound working condition through necessary cleaning, inspecting, testing, or other processing. A remanufactured good is an originating good only if it satisfies the applicable product-specific rule of origin. The term "remanufactured good" is separately defined in section 202(a)(19) to mean a good falling within Chapters 84 through 90 of the HTS or heading 94.02 (except goods classified under certain headings and subheadings in chapters 84, 85, or 87) that is entirely or partially composed of recovered materials, has a similar life expectancy and performs the same as or similar to such a good when new and has a factory warranty similar to such a good when new.

The remainder of section 202 of the implementing bill sets forth specific rules related to determining whether a good meets the Agreement's requirements to qualify as an originating good. While many of these rules are similar in structure to rules in previous U.S. Free Trade Agreements, the USMCA also includes new requirements, such as those found in the Appendix to Annex 4-B of the Agreement concerning the rules for automotive goods. Section 202A sets forth procedures to certify and verify the requirements regarding steel and aluminum purchases and Labor Value Content in that Appendix. Section 202A directs the Trade Representative to establish procedures and requirements to implement the Alternative Staging provided for under Article 8 of the Appendix and requires Trade Representative, in consultation with other agencies, to review the operation of the USMCA with respect to trade in automotive goods.

Section 202(f) provides that a good is not disqualified as an originating good if it contains *de minimis* quantities of non-originating materials that do not undergo an applicable change in tariff classification. Other provisions in section 202 address exceptions to the *de minimis* provisions for certain agricultural goods, how materials are to be valued when calculating "regional value content," and how to determine whether fungible goods and materials qualify as originating.

Section 202(l) allows an originating good to be shipped through a non-Party without losing its status as an originating good, provided certain conditions are met. While in a non-Party, the good may not undergo further operations except operations like unloading, reloading, storing, labeling and marking required by a USMCA Party, or any other operation necessary to preserve the good in good condition or transport the good to the importing USMCA Party. The good must also remain under customs control while in that non-Party.

Section 202(l) recognizes that, in modern commerce, a good may not be directly shipped from another USMCA Party to the United States or vice versa; for example, shipments may be consolidated at an interim port. At the same time, in order to ensure that the preferential tariff treatment under the Agreement goes to producers in USMCA Parties, rather than producers in third countries, the USMCA limits the operations on the good that are permitted in non-Parties for it to retain its originating status and requires that the good remain under customs control while in the non-Party.

b. Proclamation Authority

Section 103(c)(5) of the bill authorizes the President to proclaim the specific rules of origin in Annex 4-B (Product-Specific Rules of Origin), including the Appendix to Annex 4-B (Provisions Related to the Product Specific Rules of Origin for Automotive Goods), and any additional subordinate rules necessary to carry out the customs duty provisions of the bill consistent with the Agreement. In addition, section 103(c)(5) gives authority to the President to modify certain specific origin rules in the Agreement by proclamation, subject to the consultation and layover provisions of section 104 of the bill. (See item 1.a under the discussion of Chapter 2, above).

Section 103(c)(5)(B)(ii) of the bill limits the President's authority to modify by proclamation specific rules of origin pertaining to textile or apparel goods. Those rules of origin may be modified by proclamation within one year of enactment of the implementing bill, to correct typographical, clerical, or other non-substantive technical errors. In addition, changes to textile and apparel rules for reasons of availability of fibers, yarns, or fabrics in the USMCA region can be proclaimed subject to the consultation process described in Article 6.4 (Review and Revision of Rules of Origin) of the USMCA.

c. Disclosure of Incorrect Information and Suspension of Preferential Treatment

Article 5.4 of the USMCA (Obligations Regarding Importation) provides that a USMCA Party shall not penalize an importer that invalidly claims preferential tariff treatment under the Agreement if the importer on becoming aware that such claim is not valid and prior to the Government's discovery of the error voluntarily corrects the claim and pays any customs duty

owing, subject to exceptions provided for in the Party's law. Pursuant to Article 5.9 of the USMCA (Origin Verification), if verifications of identical goods indicate a pattern of conduct by an importer, exporter, or producer of false or unsupported representations relevant to a claim that a good imported into its territory qualifies as an originating good, the importing Party may withhold preferential tariff treatment to identical goods imported, exported, or produced by that person until that person demonstrates that the identical goods qualify as originating.

Section 204(a) of the bill implements Article 5.4 for the United States by amending section 592(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1592(c)). Section 204(b) of the bill implements Article 5.9 for the United States by amending section 514 of the Tariff Act of 1930, as amended (19 U.S.C. 1514).

d. Claims for Preferential Tariff Treatment

Article 5.11 of the USMCA (Refunds and Claims for Preferential Tariff Treatment after Importation) provides that an importer may claim preferential tariff treatment for an originating good within one year of importation, even if a claim was not made at the time of importation, provided that the good would have qualified for preferential tariff treatment at the time of importation. In seeking a refund for excess duties paid, the importer may be asked to provide to the customs authorities a certification of origin and any other information substantiating that the good was in fact an originating good at the time of importation.

Section 205 of the bill implements U.S. obligations under Article 5.11 of the USMCA by amending section 520(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1520(d)) to allow an importer to claim preferential tariff treatment for originating goods within one year of their importation.

e. Certifications of Origin

Article 5.2 of the USMCA (Claims for Preferential Treatment) provides that an importer may base a claim for preferential tariff treatment on a certification of origin completed by the importer, exporter, or producer. As an exception, under Article 5.5 (Exception to Certification of Origin), a USMCA Party cannot require a certification of origin if the customs value of the importation does not exceed $1,000 (or the equivalent amount in domestic currency) or it is a good for which the USMCA Party has waived the requirement for certification, except in such circumstances where a series of importations may reasonably be considered to have been undertaken or arranged for the purpose of evading compliance with the importing Party's laws, regulations, or procedures governing claims for preferential tariff treatment.

Article 5.3 (Basis of a Certification of Origin) sets out the basis of a certification. If the producer completes a certification of origin of a good, the certification is completed on the basis of the producer having information that the good is originating. If an exporter completes a certification of origin, it must either be based on the person's knowledge that the good is

originating or reasonable reliance on the producer's information that the good is originating. If the importer completes a certification of origin, it must be on the basis of the importer having documentation that the good is originating or reasonable reliance on supporting documentation provided by the exporter or producer that the good is originating.

Article 5.6 (Obligations Regarding Exportations) sets out rules governing incorrect certifications of origin issued by exporters or producers. If an exporter or producer becomes aware that a certification of origin contains or is based on incorrect information, it must promptly notify in writing every person and every Party to whom the exporter or producer issued the certification of any change that could affect the accuracy or validity of the certification.

Section 204(a) of the bill implements U.S. obligations under Article 5.6 by amending section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592). New subsection (f) of section 592, as added by section 204(a), imposes penalties on exporters and producers that issue false USMCA certifications of origin through fraud, gross negligence, or negligence.

f. Record Keeping Requirements

Article 5.8 of the USMCA (Record Keeping Requirements) sets forth record keeping requirements that each USMCA Party must apply to its importers. U.S. obligations under Article 5.8 regarding importers are satisfied by current law, including the record keeping provisions in section 508 of the Tariff Act of 1930, as amended (19 U.S.C. 1508).

Article 5.8 also sets forth record keeping requirements that each Party must apply to exporters and producers issuing certifications of origin for goods exported under the Agreement. Section 206 of the bill implements Article 5.8 as it relates to exporters and producers for the United States by amending the customs record keeping statute (section 508 of the Tariff Act of 1930).

As added by section 206 of the bill, subsection (l) of section 508 of the Tariff Act of 1930, as amended defines the terms "USMCA certification of origin" and "records and supporting documents." It then provides that a U.S. exporter or producer that issues a USMCA certification of origin must make, keep, and, if requested pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection a copy of the certification and such records and supporting documents. The exporter or producer must keep these records and supporting documents for five years from the date it issues the certification. Section 508 of the Tariff Act of 1930 also sets forth penalties for violations of this record keeping requirement, which will appear in renumbered subsection (m).

g. Determinations on Claims for Preferential Treatment

Under Article 5.10 (Claims for Preferential Tariff Treatment), the importing Party must grant a claim for preferential tariff treatment made in accordance with Chapter 4 of the

Agreement, except in the instances set forth in Article 5.10.2 or Article 6.7 (Determinations) of the USMCA. Articles 5.10.2 and 6.7 provide the circumstances when an importing Party may deny a claim for preferential tariff treatment. Such circumstances include when the importing Party determines that the good does not satisfy the rules of origin or the information is not sufficient to make a positive determination, when the importer, exporter, or producer does not respond to a request for information or the exporter or producer does not consent to a visit, and when the importer, exporter, or producer fails to comply with any requirement of Chapter 4, the Rules of Origin Chapter. Section 208 implements these obligations.

2. Administrative Action

The rules of origin in Chapter 4 of the USMCA are intended to direct the benefits of customs duty elimination under the Agreement principally to firms producing or manufacturing goods in USMCA Parties. The rules ensure that, in general, a good is eligible for benefits under the Agreement only if it is: (i) wholly produced or obtained in the territory of one or more USMCA Parties, or (ii) undergoes substantial processing in the territory of one or more USMCA Parties as set out in the USMCA, including the product-specific rules of origin.

a. Claims for Preferential Treatment

Section 210 of the bill authorizes the Secretary of the Treasury to prescribe regulations necessary to carry out the tariff-related provisions of the bill, including the rules of origin and customs user fee provisions. The Secretary will use this authority in part to promulgate any regulations necessary to implement the Agreement's provisions governing claims for preferential treatment. As noted above, Article 5.3 of the USMCA (Basis of a Certification of Origin) sets out the basis on which an importer, exporter, or producer may complete a certification of origin. A certification need not be in a prescribed format, but must include the elements set out in that article. Under Article 5.7 (Errors and Discrepancies), a Party may not reject a certification of origin based on minor errors or discrepancies in the certification of origin. Article 5.2 (Claims for Preferential Tariff Treatment) provides that a Party can require that a certification of origin must be separate from the invoice if the invoice is issued in a non-Party.

b. Verification

Under Article 5.9 of the USMCA (Origin Verification), an importing USMCA Party may use a variety of methods to verify claims that goods imported from another USMCA Party satisfy the USMCA's rules of origin. The importing USMCA Party may request information from the importer, exporter, or producer of the good, conduct a visit to the premises of the exporter or producer, or use other methods as may be decided by the importing Party and the Party where the exporter or producer is located. Section 207 of the bill implements U.S. obligations under Article 5.9.16 by providing that U.S. customs authorities must seek information from the exporter or producer before denying a claim for preferential tariff treatment when conducting a verification though an importer that based the claim on a certification of

origin completed by the exporter or producer. In addition, Article 6.6 (Verification) sets out special procedures for verifying claims that textile or apparel goods imported from another USMCA Party meet the Agreement's origin rules or by conducting a visit to an exporter or producer with respect to customs offenses. U.S. officials will carry out verifications under Articles 5.9 and 6.6 of the USMCA pursuant to authorities under current law, including inquiries and visits to U.S. importers, exporters, and producers. For example, section 509 of the Tariff Act of 1930 (19 U.S.C. 1509) provides authority to examine records and issue summonses to determine liability for duty and ensure compliance with U.S. customs laws.

c. Automotive Goods

The USMCA sets forth specific provisions related to the automotive sector, including the rules of origin in the Appendix to Annex 4-B (Provisions Related to the Product Specific Rules of Origin for Automotive Goods). The Appendix covers new requirements for passenger vehicles and trucks to be eligible for preferential treatment, including stronger product-specific rules for vehicles and vehicle parts and a requirement that certain core parts used in the production of a vehicle be originating. The Appendix eliminates NAFTA's "tracing" provisions. It also includes new requirements that vehicle producers' purchases of steel and aluminum have a minimum percentage of originating steel and aluminum.

The USMCA rules also require that vehicle producers source a significant share of content from North American plants or facilities that, on average, pay direct production workers at least $16 per hour, also known as a Labor Value Content requirement. The Labor Value Content requirement, when combined with the core parts and other requirements in the Product Specific Rules, will incentivize U.S. jobs and facilitate U.S. development and manufacture of high-technology parts, such as advanced batteries.

The Appendix includes provisions to facilitate the transition in the sector to meet the above requirements of the USMCA, including alternative staging, and provisions to ensure that the USMCA rules remain relevant to the sector and continue to promote U.S. and North American competitiveness, investment, and jobs in light of new technology and the changing composition and character of automobiles.

Section 213 of the bill will authorize the development of regulations and other guidelines to carry out these provisions. Such regulations and guidelines will help facilitate implementation of the rules of origin with automotive producers and other stakeholders. Specifically, Section 210 of the bill will authorize the Secretaries of Treasury and Labor to prescribe regulations necessary to carry out certain provisions of the bill with respect to the Labor Value Content requirement in the Appendix. Section 202A(c)(2)(C) will also authorize the Secretary of Treasury to prescribe regulations relating to purchases of originating steel and aluminum. Such regulations would supplement customs regulations to facilitate the implementation of other product-specific rules for vehicles and vehicle parts.

To facilitate the transition to these new requirements and ensure effective coordination with U.S. agencies and with stakeholders in implementing such requirements, the President will issue an Executive Order establishing an interagency committee, led by the United States Trade Representative with participation by other relevant agencies, such as the Department of Commerce, the U.S. Customs and Border Protection, the U.S. International Trade Commission, and the Department of Labor. This Committee will issue guidelines to facilitate implementation and enforcement of provisions of the USMCA related to automotive goods. The Committee will also review the operation of the agreement with respect to trade in automotive goods, to ensure that the Agreement's provisions remain relevant in light of changes in technology and vehicle content, and facilitate the use of originating auto parts, as prescribed under the Appendix.

Chapter 6 (Textiles and Apparel)

1. Implementing Bill

a. Proclamation Authority

Section 103(c)(5)(B) of the implementing bill grants the President authority to proclaim modifications to the HTS regarding textile and apparel products in order to put into effect USMCA's textile and apparel provisions, including Tariff Preference Levels (TPLs) and preferential tariff treatment for handmade, traditional folkloric, or indigenous handicraft goods provided for under Article 6.2 (Handmade, Traditional Folkloric, or Indigenous Handicraft Goods) of the USMCA. Section 103(c)(5)(B)(ii) grants the President authority to proclaim modifications to the rules of origin in the USMCA based on issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties, subject to the layover and consultation provisions of section 104. Section 103(c)(5)(B) provides that no modifications can be made to the rules of origin for products covered by chapters 50 through 63 of the HTS.

b. Enforcement of Textile and Apparel Rules of Origin

The USMCA includes verification provisions designed to ensure the accuracy of claims of origin and to detect and address violations of the Agreement and of customs laws and regulations. In addition to the general verification provisions in Chapter 5 (Rules of Origin Procedures), Article 6.6 of the Agreement (Verification) provides for verifications and in particular visits to exporters and producers of textile and apparel goods, to determine the accuracy of claims of origin for textile or apparel goods, and to determine that exporters and producers are complying with customs laws, regulations, and procedures regarding trade in textile or apparel goods.

Under Article 6.6, the United States may conduct a verification of whether a textile or apparel good qualifies for preferential tariff treatment by using the procedures that apply for goods that are not textile or apparel goods (under Article 5.9 (Origin Verification)) or through a

site visit to a textile or apparel exporter or producer. In a site visit to a textile or apparel exporter or producer, the United States may verify whether a textile or apparel good qualifies for preferential tariff treatment or customs offenses are occurring or have occurred.

Under Article 6.6.11, if verifications of identical goods indicate a pattern of conduct by an exporter or producer of making false or unsupported representations that a good imported into the United States qualifies for preferential tariff treatment, the United States may withhold that preferential treatment for identical textile or apparel goods imported, exported, or produced by that person until it is demonstrated to the United States that the identical goods qualify for preferential tariff treatment. In addition, under Article 6.7 (Determinations), the United States may deny a claim for preferential tariff treatment for a textile or apparel good: (i) for the reasons listed in Article 5.10 (see description above); (ii) if it has not received sufficient information to determine that the good qualifies as originating; or (iii) if access or permission for a site visit is denied, U.S. officials are prevented from completing the visit on the proposed date and an acceptable alternative is not provided, or the exporter or producer does not provide access to the relevant records or facilities during a site visit.

Section 208 of the bill implements Articles 5.9, 5.10, 6.6, and 6.7 of the Agreement. Section 207(a) authorizes the President to direct the Secretary to take "appropriate action" while a verification is being conducted. For textile and apparel goods, the purpose of a verification is to determine the accuracy of a claim for preferential tariff treatment under the Agreement or compliance with applicable customs law. Under section 207(a)(2)(D), appropriate action for a textile and apparel good may include, but is not limited to, suspension of liquidation of entries of textile or apparel goods exported or produced by the person that is the subject of the verification.

Under section 207(c), "action" based on a determination that the good does not qualify for preferential treatment would include denying preferential treatment under the Agreement for the goods subject to the verification.

2. Administrative Action

a. Enforcement of Textile and Apparel Rules of Origin

The President will delegate to the Committee for the Implementation of Textile Agreements (CITA) his authority under the bill to direct appropriate U.S. officials to take an action described in section 207(a)(2)(D) of the bill while such a verification is being conducted. CITA is an interagency entity created by Executive Order 11651 that carries out U.S. textile trade policies as directed by the President. The President will also authorize CITA to direct pertinent U.S. officials to take an action described in section 207(c) in the case of an adverse determination, if sufficient information has not been received to determine if the good qualifies as originating, or if access to exporter or producer sites or relevant information is not made available. If CITA decides that it is appropriate to deny preferential tariff treatment or deny entry to particular goods, CITA will issue an appropriate directive to CBP.

Section 207 of the bill provides the exclusive basis in U.S. law for CITA to direct appropriate action implementing Article 6.6 of the Agreement.

b. Consultations on Rules of Origin

The President will authorize CITA to review and make recommendations on requests to modify a rule of origin for a textile or apparel good under the USMCA. Any interested person may submit to CITA a request for a modification to a rule of origin based on a change in the availability in North America of a particular fiber, yarn, or fabric. The requesting party will bear the burden of demonstrating that a change is warranted. If, on the basis of this consideration, CITA recommends a change to a rule of origin for a textile or apparel good, and the USMCA Parties have agreed following consultations as provided for in the USMCA, the President may proclaim the recommended change under section 103(c)(5), subject to the consultation and layover provisions contained in Section 104 of the bill.

c. Handmade, Traditional Folkloric, and Indigenous Handicraft Goods

The President will authorize CITA to consult with Mexico and Canada to determine which, if any, textile or apparel goods will be treated as handloomed, handmade, folklore, or indigenous handicraft articles. The President will delegate to CITA his authority under the bill to provide duty-free treatment for these articles.

d. Contact Point for Textile and Apparel Matters

Article 6.5 (Cooperation) calls for each USMCA Party to designate a contact point for information exchange and other cooperation with regard to matters under the Textiles and Apparel Chapter. USTR's Office of Textiles will be designated as the U.S. contact point.

Chapter 7 (Customs Administration and Trade Facilitation)

1. Implementing Bill

The USMCA maintains the treatment currently provided under the NAFTA. While no substantive changes to U.S. law are required to implement Chapter 7, conforming changes must be made to maintain the treatment currently provided with respect to a "NAFTA country" in certain provisions of the Tariff Act of 1930, as amended. Section 210 amends the following sections of that Act: (i) section 304(k) (19 U.S.C. 1304(k)) with respect to marking of imported articles and containers; (ii) section 509 (19 U.S.C. 1509) with respect to examination of books and witnesses; and (iii) section 628(c) (19 U.S.C. 1628(c)) with respect to exchange of information.

2. Administrative Action

a. Advance Rulings

No substantive changes to authority and practice are required to implement the USMCA provisions on advance rulings as the Treasury regulations for advance rulings under Article 7.5 (Advance Rulings) (including on classification, valuation, origin, and qualification as an originating good) will parallel in most respects existing regulations in Part 177 of the CBP Regulations (19 C.F.R. Part 177) for obtaining advance rulings. For example, a ruling may be relied on provided that the facts and circumstances represented in the ruling are complete and do not change. The regulations will make provision for modifications and revocations as well as for delaying the effective date of a modification where the firm in question has relied on an existing ruling. Advance rulings under the USMCA will be issued within 150 days of receipt of all information reasonably required to process the application for the ruling.

b. Enquiry Point and Communication with Traders

Article 7.4 (Enquiry Points) requires each USMCA Party to designate or maintain an enquiry point for inquiries from interested persons concerning importation, exportation, or transit procedures. CBP will serve as the U.S. enquiry point for this purpose. Consistent with Article 7.2 (Online Publication), CBP will post information on the Internet at www.cbp.gov on how interested persons can make customs-related inquiries. CBP also will post information for traders on its mechanism to communicate on its procedures to give traders and opportunity to raise emerging issues and provide views as required by Article 7.3 (Communication with Traders).

c. Contact Point for Cooperation and Enforcement relating to USMCA

Article 7.26 (Exchange of Specific Confidential Information) requires each Party to designate or maintain a contact point for cooperation under Section B of the Chapter, Cooperation and Enforcement. USTR will be the designated USMCA contact point.

Chapter 8 (Recognition of the United Mexican States' Direct, Inalienable, and Imprescriptible Ownership of Hydrocarbons)

The United States does not have any obligations under this Chapter. No statutory or administrative changes will be required to implement Chapter 8.

Chapter 9 (Sanitary and Phytosanitary Measures)

1. Implementing Bill

No statutory changes are required to implement Chapter 9. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 9.5 (Competent Authorities and Contact Points) provides that each Party shall provide to the other Parties a list of its central level of government competent authorities. On request of a Party, and, if applicable, a Party shall provide contact information or written descriptions of the sanitary and phytosanitary responsibilities of its competent authorities.

Article 9.5 provides that each Party shall designate and notify a contact point for SPS matters. An official in USTR's Office of Agricultural Affairs will serve as the contact point for the United States, as was the practice under the NAFTA.

Article 9.13.5 provides that a USMCA party should normally allow at least 60 days for another USMCA party to comment on an SPS measure, other than legislation, that affects international trade. This is consistent with existing U.S. policy as reflected in Executive Order 12889. The Administration will ensure that the appropriate notice and comment periods continue under USMCA.

Article 9.17 (Committee on Sanitary and Phytosanitary Measures) establishes an inter-governmental Committee on Sanitary and Phytosanitary Measures ("SPS Committee") composed of government representatives of each Party. An official in USTR's Office of Agricultural Affairs will serve as the U.S. representative to the SPS Committee. USTR will coordinate with other agencies with relevant responsibility, including U.S. Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), the U.S. Environmental Protection Agency (EPA), and the National Oceanic and Atmospheric Administration (NOAA).

Chapter 10 (Trade Remedies)

1. Implementing Bill

a. Relief from Global Safeguard Measures

Article 10.2 of the USMCA, which replicates Article 802 of the NAFTA, provides that a Party shall exclude imports of a good from each other Party from global safeguard actions subject to certain conditions. Sections 301 and 302 of the bill implement Article 10.2 by maintaining the treatment provided in sections 311 and 312 of the North American Free Trade

Agreement Implementation Act (19 U.S.C. 3371 and 3372) authorizing the President, in granting global import relief under sections 201 through 204 of the Trade Act of 1974, to exclude imports of a Canadian or a Mexican good when certain conditions are present.

Specifically, section 301(a) replicates section 311 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3371) by requiring the ITC to make special findings with respect to imports from Canada or Mexico if the ITC makes an affirmative determination in a global safeguard action investigation under section 202(b) of the Trade Act of 1974. The ITC must find whether:

(i) imports of the good from Canada or Mexico, considered individually, account for a "substantial share" of total imports; and

(ii) imports of the good from Canada or Mexico, considered individually or, in exceptional circumstances, import from Canada or Mexico considered collectively, "contribute importantly" to the serious injury, or threat thereof, caused by imports.

The term "contribute importantly" is defined to mean "an important cause, but not necessarily the most important cause".

The ITC normally will not consider imports from Canada and Mexico to constitute a "substantial share" of total imports if the country is not among the top five suppliers of the product subject to the investigation, measured in terms of import share during the most recent three-year period. Nor will imports from Canada and Mexico, individually or collectively, normally be considered to contribute importantly to serious injury or the threat of serious injury if the growth rate of imports from Canada and Mexico, individually or collectively, during the period in which the injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period. In determining whether imports from Canada and Mexico, individually or collectively, "contribute importantly" to the serious injury or threat thereof, the ITC is to consider such factors as the change in the import shares from Canada and Mexico, individually or collectively, and the level and change in the level of imports from Canada and Mexico.

As the use of the modifier "normally" makes clear, there will likely be instances when it is appropriate for the ITC to find that Canada or Mexico accounts for a substantial share of total imports even though the country is not one of the top five suppliers. For example, when there is little difference between the share of the fifth-place supplier and those that fall below fifth-place, or there are many suppliers, each accounting for a substantial share, the sixth- or seventh-place supplier may nevertheless account for a substantial share of imports. Similarly, a growth rate in imports from Canada or Mexico that is appreciably lower than the growth rate from all sources would not necessarily be determinative of whether imports from Canada or Mexico contribute importantly to the serious injury or threat thereof. In addition, the ITC is likely to consider

imports from Canada and Mexico collectively when imports from them individually are each small in terms of import penetration, but collectively are found to contribute importantly to the serious injury or threat thereof.

Section 302 replicates section 312 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3372) by providing that the President must exclude a Canadian or Mexican good from a global safeguard action if the President makes a negative determination that imports from Canada or Mexico account for a substantial share of total imports or imports from Canada or Mexico, individually or collectively, contribute importantly to the serious injury or threat thereof. Section 302 includes a "surge" provision that allows the President to include the previously excluded imports in the action if the President later determines that a surge in imports of the good from the excluded country is undermining the effectiveness of the action. The domestic industry may request the ITC to conduct an investigation to determine whether a surge in imports is undermining the effectiveness of the action. The ITC must submit its findings on the surge investigation to the President no later than 30 days after the request is received.

b. Dispute Settlement in Antidumping and Countervailing Duties

Article 10.5 (Rights and Obligations) and Annex 10-A (Practices Relating to Antidumping and Countervailing Duty Proceedings) provide for greater cooperation and transparency among USMCA Parties in the administration of their antidumping and countervailing duty laws, including online access to laws and regulations that pertain to antidumping and countervailing duty proceedings, sample questionnaires for antidumping proceedings, and electronic files for the record of each proceeding. Annex 10-A (Practices Relating to Antidumping and Countervailing Duty Proceedings) also provides for the disclosure of verification information, antidumping and countervailing duty rate calculations, and sharing of information about third-country unfair trade practices. U.S. laws and regulations are already in conformity with the obligations assumed under this section of the Chapter.

c. Cooperation on Preventing Duty Evasion of Trade Remedy Laws

Articles 10.6 (General) and 10.7 (Duty Evasion Cooperation) provide for cooperation on the prevention of duty evasion of trade remedy laws, including the exchange of information between respective authorities and the opportunity to conduct a duty evasion verification in the territory of another USMCA Party. U.S. laws and regulations are already in conformity with the obligations assumed under this section of the Chapter.

Section 401 of the bill amends section 414 of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4374) to provide that Canada and Mexico shall be deemed countries signatory to a bilateral agreement, as provided for in subsection (b) of section 414, for purposes of trade enforcement and compliance assessment activities of U.S. customs authorities that concern evasion by such country's exports.

d. Dispute Settlement in Antidumping and Countervailing Duty Cases

Articles 10.8 through 10.18 and Annexes 10-B.1 through 10-B.5 of the USMCA replicate Chapter 19 of the NAFTA, providing, among other things, for binational review and dispute settlement in antidumping and countervailing duty matters. Section 501 of the bill implements Article 10.12 (Review of Final Antidumping and Countervailing Duty Determinations), which replicates Article 1904 of the NAFTA, Article 10.13 (Safeguarding the Panel Review System), and Annex 10-B.5 (Amendments to Domestic Laws). This section replicates the amendments enacted in Pub. Law 103-182 to implement Chapter 19 of the NAFTA, adding the relevant provisions of Chapter 10 of the USMCA. In substance, U.S. laws and regulations are already in conformity with the obligations assumed under this section of the Chapter.

2. Administrative Action

No changes in administrative regulations, practices, or procedures are required to implement the safeguard, duty evasion, or antidumping and countervailing duty related provisions of Chapter 10. U.S. administrative regulations, practices, and procedures are already in conformity with the obligations assumed under the Chapter.

Chapter 11 (Technical Barriers to Trade)

1. Implementing Bill

No statutory changes will be required to implement Chapter 11. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 11.11 (Committee on Technical Barriers to Trade) establishes an inter-governmental Committee on Technical Barriers to Trade ("TBT Committee") composed of government representatives of each Party. A USTR official responsible for TBT matters will serve as the U.S. representative to the TBT Committee.

Article 11.7.4 provides that a USMCA party should normally allow at least 60 days for another USMCA party to comment on a technical regulation, other than legislation, that affects international trade. This is consistent with existing U.S. policy as reflected in Executive Order 12889. The Administration will ensure that the appropriate notice and comment periods continue under USMCA.

Article 11.12 provides that each Party shall designate and notify a contact point for TBT matters. A USTR official responsible for TBT matters will serve as the contact point for the

United States.

Chapter 12 (Sectoral Annexes)

1. Implementing Bill

No statutory changes will be required to implement Chapter 12. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Articles 12.A.3, 12.B.3, 12.D.3, 12.E.3, and 12.F.3 (Competent Authorities) provides that each Party shall publish online a description of each of its central level of government competent authorities that has responsibility for matters covered by that respective sectoral annex as well as a contact point within each competent authority. The United States will meet these obligations by having the relevant competent authority describe its responsibilities and provide a contact point on its respective webpage. The Consumer Product Safety Commission (CPSC), the Environmental Protection Agency (EPA), and the Occupational Safety and Health Administration (OSHA) are the competent authorities for purposes of Annex A. The U.S. Food and Drug Administration (FDA) is the competent authority for purposes of Annexes B, D, E, and F.

For pharmaceuticals, Article 12.F.5 (Application of Regulatory Controls) further provides that, upon certification by the competent authority in the United States, the competent authority of the United States shall establish mechanisms with the competent authority in Canada or Mexico, as applicable, to permit the exchange of confidential information relevant to pharmaceutical inspections, including unredacted Good Manufacturing Practice inspection reports. The mechanism in this case would be a confidentiality commitment made by FDA that would allow FDA, at its discretion, to share trade secret and commercial confidential information with the competent authority in Canada or Mexico.

Chapter 13 (Government Procurement)

1. Implementing Bill

Chapter 13 of the USMCA establishes rules that certain government entities listed in Annex 13-A will apply whenever these entities undertake procurements of covered goods and services valued above thresholds specified in Annex 13-A. Chapter 13 applies only as between the United States and Mexico. The United States already had procurement obligations with respect to Mexico under the NAFTA and will continue to have similar obligations under the USMCA. Under USMCA, however, the United States has excluded uniforms and clothing

procurement by the Transportation Security Administration of the Department of Homeland Security from coverage. Once the USMCA enters into force, the United States will continue to have procurement obligations with respect to Canada under the WTO Agreement on Government Procurement and will also have national treatment and most-favored-nation obligations with respect to the purchase or acquisition of financial services by public entities in the United States under the GATS, as set out in the U.S. Schedule of Commitments and the Understanding on Commitments in Financial Services.

Section 301(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2511(a)) (Trade Agreements Act), as amended, authorizes the President to waive for eligible products of foreign countries that the President designates under section 301(b) of that Act the application of certain federal laws, regulations, procedures, and practices that ordinarily treat foreign goods and services and suppliers of such goods and services less favorably than U.S. goods, services, and suppliers. The term "eligible product" in section 301(a) of the Trade Agreements Act is defined in section 308(4)(A) of that Act.

Section 505 of the bill implements U.S. obligations under Chapter 13 by amending the definition of "eligible product" in section 308(4)(A) of the Trade Agreements Act. As amended, section 308(4)(A) will provide that "eligible product" means a product or service of Mexico that is covered under the USMCA for procurement by the United States. This amended definition, coupled with the President's exercise of his waiver authority under section 301(a) of the Trade Agreements Act, will allow U.S. government entities covered by the USMCA to purchase on non-discriminatory terms covered products and services from Mexico for procurements that fall above the thresholds established under the USMCA.

Section 505 of the bill also makes certain conforming changes to the procurement provisions of the Trade Agreements Act of 1979. Sections 301(b)(1) (19 U.S.C. 2511) and 301(e) are amended by replacing the references to the NAFTA with references to the USMCA.

2. Administrative Action

As noted above, Annex 13-A of the USMCA provides that U.S. government entities subject to Chapter 13 must apply the chapter's rules to covered goods and services from Mexico when they make purchases valued above certain dollar thresholds. USTR will notify the Federal Acquisition Regulatory Council ("FAR Council") of the entry into force of the USMCA and the thresholds that pertain to Mexico under the USMCA. The FAR Council will then make the necessary changes to provide for the appropriate treatment for Mexico under the Federal Acquisition Regulation ("FAR") in accordance with applicable procedures under the Office of Federal Procurement Policy Act. The FAR Council will also make the necessary changes to treatment with respect to Canada and Mexico once the NAFTA is no longer in force. Specific changes to the FAR include, removal of Canada from the list of Free Trade Agreement Countries in FAR 25.003, removal of references to NAFTA and addition of USMCA in FAR Subpart 25.4, and removal of Canada from the summary of thresholds in FAR Subpart 25.402. The

Department of Homeland Security will also make changes with respect to the removal of obligations with respect to uniforms and clothing by the Transportation Security Administration.

Article 13.7.5 (Conditions for Participation) clarifies that a procuring entity is not precluded from promoting compliance with laws in the territory in which a good is produced or the service is performed relating to the fundamental principles and rights at work and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. Thus, for example, a procuring entity is permitted to require a foreign producer to comply with laws guaranteeing freedom of association and protecting collective bargaining rights that generally apply in the territory in which the good is produced. In addition, Article 13.11 of the USMCA (Technical Specifications) clarifies that a procuring entity is not precluded from preparing, adopting, or applying "technical specifications" to promote the conservation of natural resources or protect the environment.

Finally, neither this provision nor any other provision of Chapter 13 will affect application of the Davis-Bacon Act and related Acts (40 U.S.C. 3141 - 48 and 29 C.F.R. 5.1).

Chapter 14 (Investment)

No statutory or administrative changes will be required to implement Chapter 14. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 15 (Cross-Border Trade in Services)

No statutory or administrative changes will be required to implement Chapter 15. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 16 (Temporary Entry)

1. Implementing Bill

Consistent with the overall trade negotiating objectives under the Trade Priorities Act, the USMCA does not require changes to U.S. immigration laws nor does it change access to visas under section 1101(a)(15) of the Immigration and Nationality Act (INA). The USMCA maintains the same treatment as provided under the NAFTA with respect to the temporary entry of four categories of business persons: business visitors, traders and investors, intra-corporate transferees, and professionals. Section 503 of the implementing bill, makes conforming changes to the NAFTA-specific elements of the INA in order to continue to provide the same treatment to Canada and Mexico as had been provided under the NAFTA, but neither modifies nor expands access to visas issued under the INA.

2. Administrative Action

No administrative changes will be required to implement Chapter 16.

Chapter 17 (Financial Services)

1. Implementing Bill

No statutory changes will be required to implement Chapter 17. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 17.20 (Consultations) sets out that each Party's financial authorities specified in Annex 17-B (Authorities Responsible for Financial Services) shall serve as the contact point to respond to requests and to facilitate the exchange of information regarding the operation of measures covered by those requests. For the United States, the Department of the Treasury is the contact point for the purposes of Annex 17-C (Mexico-United States Investment Disputes in Financial Services) and for all matters involving banking, securities, and financial services other than insurance, and the Department of the Treasury, in cooperation with the Office of the United States Trade Representative, is the contact point for insurance matters.

Chapter 18 (Telecommunications)

No statutory or administrative changes will be required to implement Chapter 18. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 19 (Digital Trade)

No statutory or administrative changes will be required to implement Chapter 19. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 20 (Intellectual Property Rights)

1. Implementing Bill

No statutory changes will be required to implement Chapter 20. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 20.12 (Contact Points for Cooperation) permits a Party to designate one or more contact points for the purpose of cooperation under Section B of Chapter 20. USTR's Innovation and Intellectual Property Office will serve as the contact point for this purpose.

Article 20.14 (Committee on Intellectual Property Rights) establishes an inter-governmental Committee on Intellectual Property Rights ("IPR Committee") composed of government representatives of each Party. An official in USTR's Innovation and Intellectual Property Office will serve as the U.S. representative to the IPR Committee.

Chapter 21 (Competition Policy)

No statutory or administrative changes will be required to implement Chapter 21. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 22 (State-Owned Enterprises and Designated Monopolies)

No statutory or administrative changes will be required to implement Chapter 22. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 23 (Labor)

As noted earlier, one of the significant improvements from NAFTA is the inclusion of the labor disciplines subject to dispute resolution into the core of the USMCA. Paragraph 3 of the Protocol sets out that upon entry into force of the Protocol, the *North American Agreement on Labor Cooperation* (NAALC), shall be terminated. The NAALC established a tri-national Commission for Labor Cooperation, composed of a Ministerial Council and an administrative Secretariat. By agreement of the NAFTA Parties, the NAALC Secretariat ceased operations in 2010, and since then the National Administrative Offices (NAOs) have assumed its duties, including carrying out cooperative activities. (Each NAFTA Party established an NAO within its Labor Ministry to serve as a contact point with the other Parties to the NAALC and to provide for the submission and review of public communications on labor law matters). Chapter 23 includes, and improves upon, the substantive obligations under the NAALC and provides for the continuation of the submission and review process. In addition, the USMCA Labor Chapter includes Annex 23-A, on Worker Representation in Collective Bargaining in Mexico, which establishes specific legislative actions that Mexico must take to reform its system of labor justice and provide for the effective recognition of the right to collectively bargain. To further support compliance with USMCA labor obligations, Annex 31-A of the Dispute Settlement Chapter

establishes a Rapid Response Mechanism between the United States and Mexico that provides for monitoring and expedited enforcement of labor rights in Mexico at particular facilities.

1. Implementing Bill

No statutory changes will be required for the United States to implement its obligations under Chapter 23. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

However, the implementing bill contains provisions to ensure that Mexico and Canada implement their obligations under the Labor Chapter, and contains provisions implementing Annex 31-A specifically to identify labor rights problems in Mexico related to Annex 23-A of the Labor Chapter.

Sections 711 to 718 of the implementing bill require the establishment of an Interagency Labor Committee for Monitoring and Enforcement ("Labor Committee") that shall be responsible for overseeing the implementation of the Labor Chapter including by monitoring Mexico's implementation of the Chapter and Annex 23-A and recommending enforcement actions to the Trade Representative, as warranted. The Labor Committee shall regularly assess Mexico's implementation of, and compliance with, its obligations under the Labor Chapter of the USMCA, including in particular whether it has implemented its labor reform as required under Annex 23-A of the USMCA. If the Labor Committee determines that Mexico is failing to meet its obligations, it shall recommend that the Trade Representative initiate enforcement actions. The Labor Committee will also receive and review petitions from the public regarding USMCA labor matters, and establish a web-based hotline administered by the U.S. Department of Labor, to receive confidential information. The Labor Committee will provide regular reports to the Congress regarding its activities and labor rights issues in Mexico.

Section 719 of the implementing bill requires the Labor Committee to consult with the Labor Advisory Committee, the Advisory Committee for Trade Policy and Negotiations, the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives on the appointment of candidates for the list of Rapid Response Panelists under Annex 31-A of the Dispute Settlement Chapter.

Sections 721 to 723 of the implementing bill direct the U.S. Department of Labor to hire and assign five Labor Attaches at the U.S. Embassy or a Consulate in Mexico, to monitor labor rights issues related to the USMCA Labor Chapter and Annex 23-A. The Labor Attaches will regularly report to the Labor Committee and support its monitoring activities.

Sections 731 to 734 of the implementing bill establish an Independent Mexico Labor Expert Board. The Board will monitor and evaluate Mexico's implementation of its labor reform legislation from 2019, as well as compliance with the USMCA labor obligations, and report to the Congress and the Labor Committee. The Board will have 12 members, four appointed by the

Labor Advisory Committee for Trade Negotiations and Trade Policy, and eight appointed by the Congress. The U.S Department of Labor, in coordination with the Labor Committee, will provide logistical support for the Board, as appropriate.

Section 741 to 744 of the implementing bill require the establishment of a Forced Labor Enforcement Task Force, chaired by the U.S. Department of Homeland Security, to monitor enforcement by United States of prohibitions on the importation of goods produced by forced labor under the Tariff Act of 1930. The Task Force will develop a plan for addressing forced labor issues in Mexico, and report its activities and findings to the Labor Committee and the Congress.

Section 751 of the implementing bill requires that all reports of the Rapid Response Labor Panels be provided to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Labor Advisory Committee, as well as a version for the public.

Section 752 and 753 authorize the Trade Representative to direct the Secretary of the Treasury to impose trade remedies or other penalties on goods and services from facilities in Mexico that are found to be out of compliance with USMCA labor obligations per the procedures of the Rapid Response Mechanism established in Annex 31-A.

2. Administrative Action

a. Labor Council

Article 23.14 (Labor Council) of the Agreement establishes a Labor Council, composed of senior governmental representatives at the ministerial or other level from trade and labor ministries, as designated by each Party. The Assistant U.S. Trade Representative for Labor Affairs and the Deputy Undersecretary for International Affairs at the U.S. Department of Labor will serve as the U.S. representatives. Article 23.15 (Contact Points) calls for each Party to designate a contact point to address matters related to the Labor Chapter. The Department of Labor's Bureau of International Labor Affairs (ILAB) will serve as the U.S. contact point for these purposes, in regular consultation and coordination with USTR's Office of Labor Affairs.

b. Interagency Labor Committee for Monitoring and Enforcement

Not later than 90 days after the enactment of the implementing bill, the President will establish the interagency Labor Committee provided for in section 711 of the implementing bill. The Labor Committee will be co-chaired by the Trade Representative and the Secretary of Labor, and be comprised of other agencies with relevant experience, as appropriate. The day-to-day operations of the Labor Committee for the lead agencies will be carried out by the Assistant U.S. Trade Representative for Labor Affairs in the Office of the United States Trade Representative, and the Deputy Undersecretary for International Affairs at the U.S. Department

of Labor. The Labor Committee will meet at least quarterly during the first five years after its establishment, and semi-annually for the following five years. During the first five years after its establishment, the Labor Committee will conduct monitoring visits to Mexico semi-annually. Labor attachés in Mexico will be required to provide quarterly monitoring reports to the Labor Committee. The Labor Committee will coordinate monitoring activities with officials from the Departments of Labor and State, including labor attachés stationed in Mexico, as well as other U.S. government agencies, and interested labor and human rights stakeholders with knowledge of labor issues in Mexico.

The Labor Committee will provide opportunities for input by members of the Labor Advisory Committee for Trade Negotiations and Trade Policy in its work. The Labor Committee will also provide other stakeholders with opportunities to provide input, consistent with Federal Advisory Committee Act requirements. In order to maximize the opportunities for interested parties to provide information, including confidential information, regarding Mexico's labor reform efforts and compliance by Mexican enterprises with labor laws, the Labor Committee will establish a web-based "hotline", to be managed by the Secretary of Labor, to receive such information.

In order to ensure ongoing communications with the Government of Mexico regarding its labor reforms and the resources being committed to carry out those reforms, the Labor Committee will establish and maintain a dialogue with officials from the Ministries of Labor, Trade, and Foreign Affairs, as well as officials from the legislative and judicial branches. The Labor Committee, drawing on the expertise of the Department of Labor, shall identify issues for capacity building activities in Mexico.

c. Enforcement

The USMCA, as compared to NAFTA, makes a greater range of labor practices subject to dispute settlement under Chapter 31 (Dispute Settlement). In addition, Annex 31-A establishes a Facility-Specific Rapid Response Mechanism between the United States and Mexico, which will provide an expedited procedure to identify labor rights problems in Mexico related to Annex 23-A of the Labor Chapter. The Labor Committee will establish procedures for recommending that the United States take actions under the Mechanism, including trade remedies and other penalties for goods or services from specific facilities in Mexico. In implementing the petition process set out in Section 716, the USTR shall promptly submit a request for review under 716(b)(3), upon the affirmative determination under Section 716(b)(1), absent extraordinary circumstances.

By entry into force of the Agreement, the Trade Representative will establish lists of panelists per Annex 31-A, to serve as labor experts for cases under the Rapid Response Mechanism, and will consult with the Congress on the appointment and funding for panelists.

The effective implementation of this Facility-Specific Rapid Response Mechanism recognizes that, in connection with the assessment of any Denial of Rights, that an on-site verification is an effective and typically necessary tool to ascertain the facts, obtain input from the affected parties at such facility, and ensure that the Mechanism advances the goals of this Agreement.

The USTR recognizes that the goals of procedures under Annex 31-A is to address Denial of Rights on an expedited basis. Where the respondent Party seeks to remediate such violations, the USTR will seek the shortest possible remediation period, commensurate with the nature of such Denial of Rights and recognizing that in cases of severe labor violations, including violence against workers, pursuing a course of remediation may not be adequate.

d. Independent Mexico Expert Labor Board

The USMCA implementing legislation establishes and Independent Mexico Expert Labor Board (Board), to monitor Mexico's compliance with USMCA labor obligations as well as is implementation of Mexico's historic labor law reform. Mexico is in the process of creating a new national system of labor justice, which include new federal and state labor courts, and new administrative institutions to register unions and ensure worker support for collective bargaining agreements. Mexico's reforms are in accordance with Annex 23-A, and the Board will report to the Labor Committee on these issues. The U.S. Department of Labor will coordinate with the Trade Representative to provide logistical support for the Board, whose membership will include appointments from the Labor Advisory Committee and the Congress, per the implementing legislation.

e. Forced Labor Task Force

The USMCA Labor Chapter includes an obligation for Parties to prohibit the importation of goods produced by forced labor, and the implementing legislation establishes a Forced Labor Enforcement Task Force. The Task Force will be chaired by the Secretary of Homeland Security, and work with the Labor Committee to monitor forced labor issues in Mexico, as well as report to the Congress on activities by the U.S. Department of Homeland Security to enforce prohibitions under Section 307 of the Tariff Act of 1930.

Chapter 24 (Environment)

No statutory changes will be required for the United States to implement its obligations under Chapter 24. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

However, the implementing bill contains provisions to ensure that Mexico and Canada implement their obligations under the Environment Chapter.

As noted earlier, one of the significant improvements from NAFTA was the inclusion of the environment disciplines subject to dispute resolution into the core of the USMCA. Chapter 24 includes and improves upon the substantive provisions of the *North American Agreement on Environmental Cooperation* (NAAEC). In parallel to the negotiations of the USMCA, the Governments of the United States, Canada, and Mexico, negotiated the *Agreement on Environmental Cooperation* (ECA). The ECA was signed by Mexico on November 30, 2018, by the United States on December 11, 2018, and by Canada on December 19, 2018. The ECA will support implementation of the environmental commitments of the UMSCA and will modernize and enhance the effectiveness of environmental cooperation between the Parties. Article 17 of the ECA provides that the ECA will enter into force upon entry into force of the UMSCA and will supersede the NAAEC. In addition, in parallel to the USMCA, the Governments of the United States and Mexico entered into the Environment Cooperation and Customs Verification Agreement. The Environment Cooperation and Customs Verification Agreement was signed in Mexico City on December 10, 2019.

1. Implementing Bill

The Environment Chapter (Chapter 24) of the USMCA calls on the United States, Mexico, and Canada to take certain actions with respect to the implementation of certain Multilateral Environmental Agreements (MEAs), effective enforcement of environmental laws and regulations, sustainable management of fisheries, conservation of wild flora and fauna, and other related environment commitments. The Chapter commits the Parties to comply with certain MEAs to which they are a party, to conserve natural resources and sustainably manage their fisheries, and to combat and cooperate to prevent trade in illegally harvested wildlife, fish, and timber species, among other obligations.

Section 811 of the bill establishes the Interagency Environment Committee for Monitoring and Enforcement ("Interagency Environment Committee") to oversee implementation, monitoring, and enforcement of the Environment Chapter of the USMCA. Section 812 provides for the Interagency Environment Committee to carry out an assessment of the environmental laws and policies of the USMCA countries to determine if such laws and policies are sufficient to implement their environmental obligations and identify any gaps. Section 813 describes monitoring actions that the Interagency Environment Committee will undertake relating to implementation of the Environment Chapter of the USMCA. Section 813 also provides authority to the Interagency Environment Committee to: review public submissions filed pursuant to Article 24.27 (Submissions on Enforcement Matters) and factual records prepared by the Secretariat of the Commission for Environmental Cooperation; review reports provided by U.S. government environment experts; and request verifications and review information regarding the legality of certain wildlife, timber and seafood shipments from Mexico, pursuant to the bilateral Environment Cooperation and Customs Verification Agreement between the United States and Mexico. Section 814 describes enforcement actions that the Committee may undertake, including requesting environment consultations under article 24.29 of

the USMCA Environment Chapter or requesting the initiation of monitoring or enforcement actions under the existing authorities as set out in Section 815.

Section 816 of the bill provides that no later than one year after the USMCA enters into force, and annually for each of the next four years, and biennially thereafter, USTR will report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on steps the Parties have taken to implement and enforce the commitments in the Environment Chapter of the USMCA, and additional actions that may need to be taken with respect to USMCA countries that might be failing to implement their environmental obligations. Additionally, Section 816 provides for a comprehensive determination regarding the USMCA countries' implementation efforts along with an updated assessment to be submitted in the fifth year report.

Section 822 provides for additional monitoring and implementation resources, including three environmental experts from relevant U.S. government agencies to be detailed to the Office of the USTR and assigned as environment attaches at the U.S. Embassy or a Consulate in Mexico in order to assist the Committee in carrying out its duties to monitor and enforce the Environment Chapter.

Subtitle C of title VIII contains provisions concerning the role of the North American Development Bank in relation to the implementation of the Environment Chapter of the USMCA. The Administration affirms the operations and purposes of the North American Development Bank as set forth in the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a North American Development Bank. In particular, the Administration recognizes Article II of Chapter III of such Agreement which gives preference in financial assistance to environmental infrastructure projects relating to water pollution, wastewater treatment, water conservation, municipal solid waste, and related matters.

2. Administrative Action

a. Environment Committee

Article 24.26(1) of the Agreement provides that each Party will designate and notify a contact point from its relevant authorities to facilitate communication between the Parties on implementation of the Environment Chapter. The USTR Environment and Natural Resources Office, in regular consultation and coordination with the U.S. Environmental Protection Agency and the U.S. Department of State (Bureau of Oceans and International and Scientific Affairs), will serve as the U.S. contact point. Article 24.26(2) of the Agreement establishes an Environment Committee, composed of senior government representatives, or their designees, of the relevant trade and environment national authorities of each Party responsible for implementation of this Chapter. The Assistant U.S. Trade Representative for Environment and Natural Resources will serve as the U.S. representative, in regular consultation and coordination

with the U.S. Environmental Protection Agency and the U.S. Department of State (Bureau of Oceans and International and Scientific Affairs). USTR will coordinate with other agencies with relevant expertise.

b. Interagency Environment Committee for Monitoring and Enforcement

USTR and other agencies will monitor the progress of Mexico and Canada in implementing the broad range of obligations contained in the Environment Chapter, including those designed to further improve the Parties' governance of natural resources, including fisheries. In particular, USTR will work with the U.S. Environmental Protection Agency (EPA), U.S. Department of Interior, U.S. Department of State, U.S. Department of Commerce, and other appropriate agencies to identify specific areas in which the United States, Mexico, and Canada can collaborate, through capacity building, to ensure compliance with the Environment Chapter of the USMCA. USTR will coordinate the interagency effort to address these specific areas under the Environmental Cooperation Agreement, as provided for in Article 24.25 (Environmental Cooperation).

No later than 30 days after enactment of the USMCA, the President will establish the interagency committee provided for in Section 811 and will direct the appropriate authorities in the executive branch, in consultation with USTR, to issue those measures, including agency regulations, that may be necessary to implement the Environment Chapter of the USMCA. The interagency committee, which USTR will chair and coordinate, will comprise of agencies with relevant authorities or expertise, including the U.S. Department of State, EPA, the U.S. Department of Agriculture (USDA) – Animal and Plant Health Inspection Service (APHIS), the U.S. Department of the Interior – Fish and Wildlife Service (FWS), Department of Commerce – National Oceanic and Atmospheric Administration (NOAA), U.S. Customs and Border Protection (CBP), the U.S. Department of Justice and other agencies, as appropriate. The interagency committee will coordinate across U.S. government agencies to fully utilize all existing authorities under the USMCA enforcement mechanisms, the Cooperation and Customs Verification Agreement, and existing U.S. law to ensure the obligations set out in the Environment Chapter are implemented and the USMCA is effectively enforced.

Especially in the context of sustainable fisheries management, marine species conservation, and efforts to combat illegal, unreported and unregulated (IUU) fishing, NOAA will bring to the interagency committee its long history of developing and implementing policies to protect and manage marine resources and make use of enforcement tools available, such as MSRA. The experience of FWS and APHIS in ensuring compliance with the Endangered Species Act and the Lacey Act, and in particular in making use of the enforcement tools available under those statutes, will serve to inform the interagency committee as it determines whether the Parties are complying with their laws implementing the Convention on International Trade in Endangered Species (CITES) and what compliance measures, if any, may be appropriate. The Department of State, through its Bureau of Oceans and International Environmental and Scientific Affairs, has worked extensively with other governments, including

in Mexico and Canada, to address concerns relating to local and cross-border wildlife and forest issues, as well as IUU fishing under Regional Fisheries Management Organizations (RFMOs), such as IATTC and CCAMLR. EPA has extensive experience working with Canada and Mexico on environmental cooperation, including developing, monitoring, and enforcing environmental laws and regulations. CBP has experience targeting high-risk shipments of illegal timber and wildlife and sharing information with counterpart agencies in Canada and Mexico.

USTR will coordinate with the Department of State, FWS, EPA, NOAA, and other agencies, as appropriate, ahead of reporting to the Senate Committee on Finance and the House of Representatives Committee on Ways and Means as required under Section 816 (Report to Congress) of the bill.

Chapter 25 (Small and Medium-Sized Enterprises)

For the first time in a U.S. free trade agreement, the USMCA includes a dedicated, stand-alone chapter on small and medium-sized enterprises (SMEs), which is intended to promote cooperation between the three Parties and help ensure that SMEs can benefit from the Agreement.

1. Implementing Bill

No statutory or administrative changes will be required to implement Chapter 25. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 25.4 establishes the Committee on SME Issues ("SME Committee"), which will convene within one year after the date of entry into force of the USMCA.

Chapter 26 (Competitiveness)

1. Implementing Bill

No statutory changes will be required to implement Chapter 26. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

Article 26.1 establishes the inter-governmental North American Competitiveness Committee ("Competitiveness Committee") and provides that each Party shall designate and notify a contact point for the Competitiveness Committee. A USTR official will serve as the contact point for the United States.

Chapter 27 (Anticorruption)

No statutory or administrative changes will be required to implement Chapter 27. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

Chapter 28 (Good Regulatory Practices)

1. Implementing Bill

No statutory changes will be required to implement Chapter 28. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

U.S. administrative regulations, practices, and procedures, including pursuant to the APA, are already in conformity with the obligations assumed under this Chapter.

Article 28.9 provides that each Party shall designate and notify a contact point for matters arising under this Chapter. A USTR official responsible for good regulatory practices (GRP) matters will serve as the contact point for the United States.

Article 28.18 (Committee on Good Regulatory Practices) establishes an inter-governmental Committee on Good Regulatory Practices ("GRP Committee") composed of government representatives of each Party, including representatives from their central regulatory coordinating bodies as well as relevant regulatory agencies. A USTR official responsible for GRP matters will serve as the lead U.S. representative to the GRP Committee.

Chapter 31 (Dispute Settlement)

1. Implementing Bill

Section 105(a) of the bill authorizes the President to establish or designate within the Department of Commerce a United States Section of the Secretariat established under Article 30.6 of the USMCA. The United States Section, subject to the oversight of the interagency group established under section 402 of the North American Free Trade Agreement

Implementation Act, shall carry out its functions with the Secretariat to facilitate the operation of the Agreement, including the operation of the panels and committees under Section D of Chapter 10 and the work of panels under Chapter 31 of the USMCA. The United States Section will not be an "agency" within the meaning of 5 U.S.C. 552, consistent with treatment provided under other U.S. free trade agreements. Thus, for example, the office will not be subject to the Freedom of Information Act or the Government in the Sunshine Act. Since they are international bodies, panels and committees established under Section D of Chapter 10 and panels established under Chapter 31 are not subject to those acts.

Section 105(b) of the bill authorizes the appropriation of funds to support the United States Section established pursuant to section 105(a).

Section 105(c) of the bill authorizes the U.S. Section to retain funds distributed to it by the Mexican or Canadian sections of the Secretariat in connection with the reimbursement of expenses generated by panel proceedings under Chapter 10 or 31. Continuing the practice from NAFTA, the governments involved in the proceedings will share the costs of such proceedings equally and will agree in advance on the nature and amount of expenses that panelists and other experts will be permitted to incur.

2. Administrative Action

a. Implementation of Panel Reports

It bears repeating that panel reports presented under Chapter 31 have no effect under the law of the United States. Neither federal agencies nor state governments are bound by any finding or recommendation included in such reports. In particular, panel reports do not provide legal authority for federal agencies to change their regulations or procedures or refuse to enforce particular laws or regulations, such as those related to human, animal or plant health, or the environment. Furthermore, the United States will not seek to introduce a panel report into evidence in any civil suit brought by the United States challenging a state law or regulation on the ground that it is inconsistent with the NAFTA.

In normal circumstances, the United States will agree with its USMCA partners on a resolution of disputes under Chapter 31 that is in conformity with panel recommendations. Where the matter involves a law or regulation of a state of the United States, any resolution would be reached in consultation and coordination with the state concerned, as described in this Statement in connection with Chapter 1.

The USMCA recognizes that it may not be possible for a USMCA government to agree to the removal of a federal or state or provincial measure that a panel has found to be inconsistent with the Agreement. Accordingly, it provides for alternative resolutions, including the provision of trade compensation and other negotiated settlements, or the suspension of benefits. In all cases following a panel report, the USMCA makes discretionary any change in U.S. law and

leaves to the United States the manner in which any such change may be implemented – whether through the adoption of legislation, a change in regulation, judicial action, or otherwise.

b. Dispute Settlement: Nominations for Dispute Settlement Roster

Article 31.8 of the USMCA requires that by the date of entry into force of the USMCA the Parties establish a roster of up to 30 individual who are willing to serve as panelists. USTR will consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate ("Trade Committees") as it considers nominees for the roster of panelists and will provide the Trade Committees with the names of the experts it is considering, and detailed background information on each, at least 30 days before submitting the names of any nominees.

c. Enforcement of U.S. Rights

Legislative authority currently exists for the Executive Branch fully to enforce U.S. rights under Chapter 31. Section 301 of the Trade Act of 1974, as amended, authorizes the United States Trade Representative ("USTR") to take specific action, subject to the President's direction, and to take all "appropriate and feasible action" in the President's power that the President directs the USTR to take to enforce U.S. rights under trade agreements such as the USMCA.

The United States shall enforce its rights under the USMCA through consultations and the dispute settlement mechanism provided for in Chapter 31 when possible. However, a decision by Canada or Mexico to prevent or unreasonably delay formation of a dispute settlement panel would not prevent the Executive Branch from enforcing U.S. rights. In this circumstance, the USTR's determination on whether the USMCA partner breached USMCA obligations or impaired U.S. rights under the USMCA would be based on the USTR's evaluation of the relevant legal and factual issues, including the fact that the USMCA partner failed to cooperate in the dispute settlement process.

Once the USMCA enters into force, an interested person may file a petition with the USTR requesting section 301 action in any case in which the person considers that another USMCA government has failed to honor a provision of the Agreement or has caused the nullification or impairment of benefits that the United States could reasonably have anticipated under the Agreement. Alternatively, the USTR may, on his or her own initiative, institute a section 301 proceeding.

If the USTR decides to initiate an investigation under section 301 with respect to alleged Canadian or Mexican practices, section 303(a) of the Trade Act requires the USTR initially to attempt consultations with the government of the relevant USMCA country to resolve the matter. If the case involves a possible breach of the USMCA or impairment of U.S. rights under the USMCA, and if consultations have failed to produce a mutually acceptable solution, then section 303(a) requires that the matter be submitted to the formal dispute resolution procedures of the

Agreement, or to the applicable dispute settlement procedures of another trade agreement to which the United States and the other USMCA country are parties. The USTR will seek information and advice from the private sector, including from the petitioner, if any, in preparing U.S. presentations for consultations and formal dispute resolution procedures.

Section 301 provides the USTR with authority to take appropriate retaliatory action in the event that a panel report upholds a U.S. allegation that another USMCA government has breached the Agreement or nullified or impaired U.S. benefits and the other government does not take satisfactory remedial action or provide satisfactory compensation.

Chapter 32 (Exceptions and General Provisions)

Article 32.6 (Cultural Industries) exempts certain measures adopted or maintained by Canada with respect to a cultural industry, as defined in the Article, from a number of obligations under the USMCA. It also allows the United States or Mexico to take a measure of equivalent commercial effect in response. The Administration is committed to using all appropriate tools at its disposal to discourage Canada from taking measures that discriminate against it, or restrict market access for U.S. industries. In addition, although the Administration agreed to carry over the NAFTA cultural industry exception in revised form, it remains the policy of the United States not to agree to this type of exception in future free trade agreements.

1. Implementing Bill

Section 306 of the bill amends subsection (f) to section 182 of the Trade Act of 1974 (19 U.S.C. 2242). Subsection (f) was added by the NAFTA Implementation Act to address the similar concerns arising from NAFTA Article 2106. It requires the U.S. Trade Representative to identify, within 30 days of the release of the annual National Trade Estimates Report on Foreign Barriers, any new Canadian act, policy, or practice affecting cultural industries that is actionable under Article 2106. In deciding whether to identify an act, policy, or practice, the U.S. Trade Representative will consult with the relevant domestic industries, the appropriate advisory committees, and other U.S. agencies, and take into account such other information as may be available. Any act, policy, or practice identified under subsection (f) will become the subject of an investigation under section 301 of the Trade Act of 1974 unless the United States has already taken action against it.

In order to maintain this enforcement tool, section 306 makes conforming changes to subsection (f) in order to continue its application for purposes of the USMCA.

2. Administrative Action

No administrative changes will be required to implement Chapter 32.

Article 32.10 (Non-Market Country FTA) of the USMCA requires that any Party intending to negotiate a free trade agreement with a non-market country must inform the other Parties and provide information and an opportunity to review the text. It also provides that entry into such an agreement by one Party allows for the other Parties to terminate the USMCA and replace it with an agreement as between those other Parties. This provision is intended to ensure that the negotiated benefits of the USMCA remain with the USMCA Parties and are not diluted by one Party's agreement with a non-market country. If a USMCA Party were to enter into such an agreement, it is the policy of the United States to rigorously review the information and ensure that the United States is not disadvantaged.

Chapter 33 (Macroeconomic Policies and Exchange Rate Matters)

1. Implementing Bill

No statutory changes will be required to implement Chapter 33. U.S. laws and regulations are already in conformity with the obligations assumed under the Chapter.

2. Administrative Action

For the United States, the Department of the Treasury will serve as the point of contact for all matters arising under Chapter 33.

Annex II (Schedule of the United States)

1. Implementing Bill

Subtitle C of Title III of the implementing bill establishes a petition mechanism whereby the U.S. International Trade Commission (the "Commission") would initiate an investigation to determine whether grants of authority, or requests for grants of authority, for persons of Mexico to provide cross-border long-haul trucking services in the territory of the United States outside the border commercial zones are causing, or threaten to cause, material harm to U.S. suppliers, operators, or drivers. Section 324(a) of the bill authorizes the President, where the Commission has made an affirmative finding of material harm or threat thereof, to direct the Secretary of Transportation to impose limitations on grants of authority for persons of Mexico to provide cross-border long-haul trucking services in the territory of the United States outside the border commercial zones. The focus of the Commission's investigation will be on determining whether the grants of authority described in section 322(a)(1)-(3) of the bill are causing or threaten to cause material harm to U.S. suppliers, operators, or drivers of cross-border long-haul trucking services beyond the border commercial zone. For purposes of such determinations, the term "causing" or "cause" does not necessarily mean "wholly causing" or "wholly cause."

2. Administrative Action

a. Confidential Business Information

The implementing bill requires the U.S. International Trade Commission (the "Commission") to promulgate regulations to provide access to confidential business information under protective order in limited circumstances. In promulgating such regulations, the Commission shall adopt procedures similar to those the Commission has adopted for conducting investigations under the countervailing duty and antidumping duty provisions in title VII of the Tariff Act of 1930 and under section 202 of the Trade Act of 1974.

b. Provision of Information by Other Agencies

To assist the Commission in making determinations under subtitle C of Title III, the implementing bill requires the U.S. Department of Transportation, the U.S. Department of Commerce, and U.S. Customs and Border Protection to make available to the Commission any information requested by the Commission as necessary to conduct its investigation. Upon enactment of this bill, the three agencies shall promptly meet with the Commission to identify the types of information that the respective agencies routinely collect relevant to cross-border long-haul trucking and may be able to provide to the Commission. The implementing bill also provides that Customs will collect and maintain such additional data and other information on trucks engaged in cross-border long-haul trucking as the Commission may request. If appropriate, the Commission may also request that the Department of Transportation require additional information from persons of Mexico providing or seeking to provide long-haul trucking services in the United States beyond the border commercial zone.

c. Inspector General Review

Within 60 days of the filing of the report in section 327, the Inspector General of the Department of Transportation shall review the procedures and actions taken by the Secretary to determine whether each Mexico-domiciled motor carrier with any operating authority covered under section 321(7) is in compliance with applicable Federal motor carrier safety laws and regulations and Title III, section 350 of Public Law 107-87, 115 Stat. 833, 864 (2001) (49 U.S.C. 13902 Note), and shall report on the result of the review to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

Miscellaneous

1. Implementing Bill

The Annex on Energy Regulatory Measures and Regulatory Transparency, attached to the exchange of letters executed on Nov. 30, 2018 between the United States and Canada, which is integral to the USMCA, contains obligations with respect to energy regulatory measures similar to obligations under Chapter 6 of the NAFTA (Energy and Basic Petrochemicals). Section 1017(c) of the Energy Policy Act of 1992 (42 U.S.C. 2296b-6) contains a savings clause that references the NAFTA. Section 307 of the bill makes a conforming change to that section to maintain the treatment provided with respect to Canada once the USMCA enters into force.

STATEMENT ON HOW THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, THE UNITED MEXICAN STATES, AND CANADA MAKES PROGRESS IN ACHIEVING U.S. PURPOSES, POLICIES, OBJECTIVES, AND PRIORITIES

A. INTRODUCTION

This statement is provided pursuant to Section 106(a)(2)(A)(ii) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Trade Priorities Act). The Agreement between the United States of America, the United Mexican States, and Canada (USMCA or Agreement) makes progress in achieving the applicable purposes, policies, objectives, and priorities of the Trade Priorities Act. This Statement describes how and to what extent the Agreement does so.

In passing the Trade Priorities Act, Congress endorsed a trade policy focused on opening foreign markets to the full range of American industrial goods, agricultural products, and services, and more fully supporting American small and medium-sized businesses as they participate in international trade. The Act further called upon the Administration to use trade agreements to promote employment and high living standards in the United States, to help ensure the integrity of the open global Internet, and to more effectively protect U.S. intellectual property rights (IPR). The negotiating objectives of the Act reflect U.S. interests and project U.S. values, placing high priority on transparency and good governance, environmental protection, labor rights and acceptable conditions of work, and sound currency practices that promote accountability and do not distort markets. The USMCA includes commitments reflecting these detailed objectives of the Trade Priorities Act.

The USMCA is the result of a comprehensive renegotiation of the North American Free Trade Agreement (NAFTA). It will update the NAFTA to the highest standards of any U.S. trade agreement and seeks to address the realities of the 21st century economy through innovative provisions that will strengthen the economies of the United States and North America, including by rebalancing the agreement to promote greater production and investment here at home.

Under the USMCA, the vast majority of U.S. trade with Canada and Mexico will be duty free. Canada and Mexico are the top two markets for U.S. goods exports and the USMCA will maintain the duty-free treatment of originating goods that was achieved under the NAFTA. In addition, in the case of Canada, the Agreement will provide valuable new access for U.S. producers to that country's market for dairy, poultry, and eggs through the creation of new tariff-rate quotas, subject to rigorous requirements to ensure that U.S. producers and exporters benefit from these commitments.

The USMCA also will substantially enhance the access of U.S. service suppliers and investors to the North American market. U.S. service suppliers are the most competitive in the world, and the USMCA will reinforce, or create significant new opportunities for U.S. service suppliers in all service sectors, including telecommunications, financial services, logistics and delivery services, information and communication services, wholesale and retail services, energy services, health care, entertainment, software, and professional services.

The USMCA also does more than any previous agreement to address the non-tariff barriers that can undermine U.S. exports, even after tariffs have been eliminated. It includes the highest-standard rules on intellectual property rights, customs and trade facilitation, standards and regulatory issues, and labor and environmental protection of any U.S. trade agreement. The USMCA also recognizes the key role of energy in North American competitiveness. The Agreement captures the recent historic energy reforms in Mexico, provides strong investment protections for energy companies, and ensures that the North American market remains open to U.S. energy goods and services, including those related to renewable energy and energy efficiency.

The USMCA also includes ground-breaking provisions to address the realities of the 21st century economy. It includes the most comprehensive set of rules any free trade agreement has ever contained on digital trade, as well as strong new rules to ensure that private businesses and workers are able to compete on fair terms with state-owned enterprises. The USMCA also breaks new ground by including unprecedented provisions to address the trade-distorting effects of unfair currency practices.

In all these ways, the USMCA reflects the bipartisan principal negotiating objectives Congress set out in the Trade Priorities Act. It will modernize and rebalance our trade relations with Mexico and Canada, and in particular, it will address many longstanding trade irritants with both countries. The USMCA also reflects core American values and prioritizes the need to ensure a level playing field for U.S. workers, including by promoting internationally recognized labor rights and the elimination of the worst forms of child labor. The USMCA also takes into account legitimate U.S. domestic objectives such as the need to maintain flexibility in addressing U.S. national security, public health, safety, and consumer interests, as well as the need to preserve U.S. sovereignty in international trade relations.

In sum, the USMCA makes progress in achieving the applicable purposes, policies, priorities, and objectives that the Congress spelled out in the Trade Priorities Act. Accordingly, the President strongly believes that the Congress should approve the USMCA and enact the legislation needed to implement it. The following report reviews the overall trade negotiating objectives and principal trade negotiating objectives applicable to the USMCA, and the ways in which the Agreement makes progress in achieving them.

B. OVERALL TRADE NEGOTIATING OBJECTIVES

The Trade Priorities Act sets out a variety of "overall trade negotiating objectives" that call for future U.S. trade agreements to: (1) obtain more open, equitable and reciprocal access to markets by eliminating or reducing barriers to and distortions of trade, especially those that disproportionately affect small enterprises; (2) foster economic growth, raise living standards and promote full employment in the United States; (3) recognize the growing significance of the Internet as a trading platform in international commerce; (4) promote respect for and protection of workers' rights; (5) seek to preserve and protect the environment and; (6) take into account other legitimate U.S. domestic objectives.

The USMCA makes substantial progress in achieving these objectives by building on the foundation of existing trade agreements and incorporating new state-of-the art provisions in virtually every chapter. In rebalancing certain elements of the NAFTA, the USMCA will better support U.S. and North American manufacturing and employment, including through the strongest ever labor provisions in a U.S. agreement and innovative new approaches to rules of origin that will incentivize production in the United States and North America, helping to ensure that non-parties do not gain unwarranted benefits from the Agreement.

1. Obtaining More Open, Equitable Market Access

The USMCA is a comprehensive update to the outdated NAFTA, which will create new market opportunities and a rebalanced trade relationship that will benefit U.S. workers, businesses, farmers, ranchers, and consumers. Each Party has committed to new rules that better reflect the current North American economy and address contemporary global trade concerns. In particular, the USMCA prioritizes the needs of small and medium-sized enterprises (SMEs) in North American trade.

Industrial Goods. The USMCA ensures that U.S. manufacturers retain the duty-free access for originating goods they enjoyed under the NAFTA. In addition, the USMCA will address non-tariff barriers, such as restrictions on remanufactured goods, cryptographic goods, import licensing, and export licensing, and will support all exporters through new, state-of-the-art provisions, including those related to regulatory matters, customs, and intellectual property. The USMCA expands access to the Canadian market for U.S.-made apparel and other finished textile products by increasing tariff preference levels for exports to Canada of these U.S. products.

Agriculture. The USMCA ensures that U.S. agricultural exporters retain the duty-free access for originating goods they enjoyed under the NAFTA. In addition, the USMCA will provide U.S. producers with valuable new access to Canada's market for dairy, poultry, and eggs, and Canada also will eliminate its discriminatory treatment for grading of U.S. wheat. The USMCA contains state-of-the-art provisions on biotechnology and

will help minimize the use of trade distorting policies. Through provisions in multiple chapters, the USMCA also will address non-tariff barriers, including those related to sanitary and phytosanitary (SPS) measures, as well as other technical barriers to trade affecting agricultural products.

Services/Financial Services/Telecommunications. The USMCA will secure non-discriminatory market access in a broad range of service sectors in which U.S. companies are globally competitive, including delivery services, construction and engineering, computer and related services, advertising, professional services, distribution services, insurance, banking and other financial services, and telecommunications. It will also preclude Parties from discriminating against digital products, helping to ensure that U.S. service suppliers can export in digital form directly from the United States.

SMEs. Mexico and Canada are the top two export destinations for U.S. SMEs. In 2017 (latest data available), identified U.S. small and medium enterprises (SMEs) exported $137 billion in goods to Canada and Mexico – 89,000 U.S. SMEs exported $57.8 billion in goods to Canada, and 52,000 U.S. SMEs exported $79.7 billion in goods to Mexico. SMEs are key drivers of new jobs and economic growth and the USMCA goes further than any previous agreement in creating new mechanisms to help SMEs benefit from international trade. Under the USMCA, U.S. SMEs will benefit from the further elimination or reduction of the non-tariff barriers that disproportionately affect SMEs, including through provisions that streamline customs procedures, strengthen intellectual property protections, and promote open digital trade policies, as well as more efficient and transparent regulatory regimes. In addition, for the first time in a U.S. trade agreement, the USMCA will include a SME Chapter that establishes information sharing tools to help SMEs access useful information about doing business in North American markets. The USMCA also launches a new framework for an ongoing SME Dialogue, open to participation by SMEs, including those owned by women and under-represented groups.

2. Promoting Economic Growth, Employment and High Living Standards

The USMCA fulfills the objective of fostering economic growth and promoting full employment and high living standards in the United States. Open access to foreign markets supports higher-paying export jobs and encourages higher GDP growth. Beyond this, improved protection and enforcement of intellectual property rights, more efficient and transparent customs procedures, and strengthened guarantees with respect to the free flow of digital data will promote investment, support creative industries, enhance the ability of U.S. businesses to export sophisticated digital products to the world, and encourage small business exports.

In addition, the USMCA will help reorient key manufacturing sectors back to the United States and North America, thereby promoting employment in the well-paid manufacturing jobs

that help maintain high living standards for American workers. To achieve this, the USMCA includes a complete overhaul of certain NAFTA rules of origin, which will support manufacturing jobs in the United States and help ensure that countries not Party to the Agreement do not enjoy unwarranted benefits from the USMCA. In particular, the USMCA includes stronger product-specific rules of origin for passenger vehicles, light trucks, and auto parts that will close loopholes in the NAFTA that incentivized the production of vehicles and major vehicle parts using low-wage labor abroad, and will put in place new rules that will instead reward producers that manufacture in the United States. For the first time in a trade agreement, the USMCA will encourage high-wage North American labor by establishing a new labor value content rule, helping to ensure that U.S. producers and workers in this sector are able to compete on a level playing field. These new rules will not only help to preserve existing production of vehicles and vehicle parts in the United States and the region, they will also help incentivize additional production in the United States.

The USMCA also includes stronger rules of origin for other industrial products, including new rules for chemicals, steel-intensive products, textiles and apparel, glass, and optical fiber. These rules will help ensure that only producers that use sufficient amounts of U.S. or regional parts or materials receive preferential tariff benefits. Finally, as a complement to these improved rules of origin, the USMCA also includes new provisions on customs cooperation and enforcement. The USMCA envisions strong cooperation between governments on implementation and enforcement, including cooperation to prevent duty evasion.

All these innovations will help revitalize the American manufacturing sector, preserve and support new U.S. jobs, and promote a higher standard of living for U.S. workers.

3. Supporting the Digital Economy

The USMCA recognizes that digital trade is a principle driver of U.S. economic growth and critically important to SMEs. In chapters throughout the Agreement, the USMCA sets the highest standard of any U.S. trade agreement for provisions related to trade in digital products, such as software, music, images, videos, and text. It draws from traditional trade principles to fashion customized non-discrimination rules that will apply specifically to products traded electronically and includes entirely new provisions that will support a secure and competitive digital economy in North America.

The Digital Trade Chapter of the USMCA prohibits the imposition of customs duties on electronic transmissions, including content transmitted electronically. It also prohibits a Party from requiring that, with limited exceptions, businesses use or locate computing facilities in the Party's territory as a condition for conducting business in the Party's territory. Furthermore, each Party must allow service suppliers and investors to transfer information on a cross-border basis by electronic means when this activity is for the conduct of the business. The USMCA also includes provisions relating to electronic authentication, online consumer protection, the

acceptance of electronically transmitted trade documents, and cooperation among Parties to address cybersecurity challenges. To promote competition and innovation in digital trade, the USMCA also limits Parties' ability to require disclosure of proprietary computer source code and algorithms and promotes open access to government generated public data. The USMCA Digital Trade Chapter also limits Internet platforms' civil liability with respect to third party content, except regarding intellectual property enforcement (which is addressed in the Intellectual Property Chapter).

The USMCA seeks to ensure that workers and businesses can fully realize the Agreement's market-opening potential by building on disciplines currently in place through other agreements. It sets out rules on intellectual property that clarify and build on those in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and provide for implementation of more recent World Intellectual Property Organization treaties on protection of copyright and rights of performers and producers to strengthen enforcement and enhance IPR rules.

The Agreement also includes detailed rules governing telecommunications services, under which the Parties will apply market-oriented disciplines that extend beyond those in effect under the WTO. In addition, the Agreement contains other ambitious rules that support digital trade, such as new provisions on customs and trade facilitation, as well as competitive delivery services, including express delivery services.

4. Promoting and Protecting Labor Rights

To ensure that U.S. trade and labor policies are mutually supportive, the USMCA sets a high, new standard for labor provisions in a trade agreement. It remedies the shortcomings associated with the North American Agreement on Labor Cooperation (NAALC) and includes strong new rules on collective bargaining in Mexico to help ensure that U.S. workers are able to compete on a level playing field. Under the USMCA, a comprehensive Labor Chapter in the main text of the Agreement will replace the NAALC, and labor provisions will be subject to the same dispute settlement mechanisms and potential trade sanctions as the rest of the Agreement. Importantly, the USMCA also includes an Annex on Worker Representation in Collective Bargaining in Mexico, under which Mexico undertakes significant commitments with respect to specific legislative actions to provide for the effective recognition of the right to collective bargaining. On May 1, 2019, Mexico approved legislation to implement the requirements of this Annex in its comprehensive labor reform package.

The USMCA requires the Parties to adopt and maintain in law and practice labor rights as recognized by the International Labor Organization (ILO), to effectively enforce their labor laws, and not to waive or derogate from their labor laws in a manner affecting trade or investment between the Parties. It includes new provisions requiring Parties to take measures to prohibit the importation of goods produced by forced labor, to ensure that migrant workers are protected

under labor laws and, for the first time in a U.S. trade agreement, to address violence against workers exercising their labor rights. It provides procedural guarantees for enforcement of labor laws, including due process through independent and impartial judicial and administrative tribunals. The Government Procurement Chapter of the USMCA also clarifies that a procuring entity is not precluded from promoting compliance with laws in the territory in which a good is produced or the service is performed relating to the labor rights recognized by the Parties and set forth in the Article 23.3 of the Labor Chapter.

The USMCA also establishes institutional mechanisms to provide for intergovernmental engagement and cooperation with stakeholder input and a public submission process whereby members of the public can seek review of claims that a Party is not meeting its obligations under the Labor Chapter.

5. Environmental Protection and Conservation

The USMCA seeks to enhance the mutual supportiveness of trade and environmental policies and to protect and preserve the environment through the most comprehensive set of enforceable environmental obligations of any previous U.S. trade agreement. Under the USMCA, a comprehensive Environment Chapter in the main text of the Agreement and an accompanying Environmental Cooperation Agreement (ECA) will replace the North American Agreement on Environmental Cooperation, and the Environment Chapter will be subject to the same dispute settlement mechanisms and potential trade sanctions as the rest of the Agreement.

The Environment Chapter of the USMCA commits each Party to strive to ensure that its laws and policies provide for and encourage high levels of environmental protection and to continue to improve its levels of environmental protection. It also provides that a Party shall not waive or otherwise derogate from its environmental laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment between the Parties. It requires Parties to "adopt, maintain and implement" the multilateral environmental agreements (MEAs) referenced in TPA to which they are party, such as the Convention on International Trade in Endangered Species (CITES), Montreal Protocol and MARPOL.

The USMCA also includes state-of-the-art new provisions on conservation, including new commitments to combat trafficking in wildlife, timber, and fish, and promote effective enforcement against such trafficking. It also prohibits some of the most harmful fisheries subsidies and includes new protections for marine species, such as prohibitions on shark-finning and the killing of great whales for commercial purposes. It also includes first-ever provisions to improve air quality, prevent and reduce marine litter, support sustainable forest management, and ensure appropriate procedures for environmental impact assessments. In addition, the Government Procurement Chapter of the USMCA clarifies that government agencies may include technical specifications in their procurements to promote environmental protection. Consistent with the objectives of the Trade Priorities Act, the USMCA does not establish

obligations for the United States regarding greenhouse gas emissions measures, including obligations that would require changes to U.S. laws or regulations or that would affect the implementation of such laws or regulations. Under the Environment Chapter, the Parties also will work together to address potential non-tariff barriers to environmental goods and services in order to further facilitate trade.

The Environment Chapter also includes improved public participation provisions, including a streamlined mechanism for public submissions regarding a failure of one or more Parties to effectively enforce their environmental laws.

The Parties also agree to support implementation of the USMCA Environment Chapter by continuing their longstanding and successful history of environmental cooperation under a modernized Commission for Environmental Cooperation, operating under a new Environmental Cooperation Agreement separate from and in parallel with the USMCA.

6. Taking into Account Legitimate Domestic Objectives

The Agreement fully takes into account critical U.S. domestic policy objectives, such as the need to maintain flexibility in addressing U.S. national security, public health, safety, and consumer interests. It includes a broad set of general policy exceptions for measures governing trade in both goods and services to ensure that the United States remains fully free to safeguard the national and public interest, including specific exceptions for national security, public health and morals, conservation, taxation, and protection of confidential information. Provisions such as those requiring stronger cooperation among the customs authorities of the USMCA Parties will complement domestic policies meant to protect public health and safety, for example by taking action against those trafficking in counterfeit goods. The Agreement also avoids disturbing existing state and local governmental measures by including "grandfather" clauses that exempt those measures from challenge under key provisions of the Agreement. In addition, nothing in the USMCA will require the United States to change its immigration laws, or to grant or expand access to visas beyond what is currently provided for in U.S. immigration laws.

C. PRINCIPAL TRADE NEGOTIATING OBJECTIVES

The Trade Priorities Act establishes a variety of "principal trade negotiating objectives", covering trade in goods and services, investment, intellectual property, digital trade, regulatory practices, trade remedies, textiles, currency, and other issues. The Agreement makes substantial progress toward each of the applicable goals set out in the Trade Priorities Act.

1. Trade in Goods

The USMCA maintains the duty-free treatment for originating goods in the NAFTA. All tariffs that were eliminated under the NAFTA will remain at zero under the USMCA.

At the same time, the Agreement significantly updates and improves rules governing non-tariff barriers that can inhibit trade, even after tariffs have been eliminated. For example, the National Treatment and Market Access for Goods Chapter of the USMCA includes new commitments to reflect developments in U.S. trade agreements that address non-tariff barriers. These include provisions related to trade in remanufactured goods, restrictions on cryptographic goods, import licensing, and export licensing. The USMCA will more effectively support trade in goods among the Parties by removing provisions of the NAFTA that are no longer relevant, updating key references, and affirming commitments that were phased in under the NAFTA. The Parties will also enhance cooperation on technical regulations, standards, and conformity assessment procedures, which will help to prevent unnecessary technical barriers to trade that hinder U.S. exports.

2. Trade in Services

The USMCA will enhance market opportunities for U.S. service suppliers in all services sectors. It will either open new, or lock in existing access to the region's services markets in such priority sectors as financial services, telecommunications, computer and related services, distribution and express delivery services, professional services, advertising, audiovisual services, education and training, tourism, construction and engineering, energy services, and environmental services.

Compared to the NAFTA, the USMCA includes commitments to keep services markets open and free from new quantitative restrictions and enhanced rules for ensuring good governance in licensing regimes. It also includes new provisions encouraging Parties to support the development of SME service suppliers and to seek to ensure that authorization requirements do not disproportionately burden SMEs. Annexes to the Cross-Border Services Chapter also provide the basis for ongoing work in professional services and transportation services, as well as improvements in Canada's broadcasting market that will create new opportunities for U.S. businesses.

The USMCA also goes farther than any previous agreement by including a new set of disciplines on a broad range of delivery services, including express delivery services. These new disciplines will help ensure fair competition for all non-monopoly delivery services, supporting not only the U.S. express delivery industry, but also exporters large and small that depend on efficient delivery services to get their products to North American customers in a timely fashion.

The Financial Services Chapter includes commitments that liberalize financial services trade, help create a level playing field for U.S. financial institutions, investors and investments in financial institutions, and facilitate cross-border trade in financial services. In addition, for the first time in any U.S. trade agreement, the USMCA includes a prohibition on local data

storage requirements in circumstances where a financial regulator has access to the data it needs to fulfill its regulatory and supervisory mandate.

The Telecommunications Chapter of the USMCA completely updates the provisions of the NAFTA with new rules that will promote effective competition in the sector, provide reasonable access to the networks of other suppliers, and ensure that regulation of the sector is independent, impartial, and transparent. The chapter applies pro-competitive principles to mobile services; recognizes the importance of value-added services to innovation, competition, and consumer welfare; and will ensure that suppliers have the freedom to select the best technologies to deliver services. The chapter also includes commitments to ensure fair access to government managed resources, such as spectrum and rights-of-way, to not discriminate in favor of state-owned enterprises, and to cooperate with regards to international mobile roaming. The USMCA also includes a commitment by Mexico to ensure that its telecommunications regulator continues to act in a manner consistent with recent reforms.

3. Trade in Agriculture

The USMCA ensures that U.S. agricultural exporters retain the duty-free access for originating goods they enjoy under the NAFTA. All tariffs that were eliminated under the NAFTA remain at zero under the USMCA. The USMCA also provides U.S. producers with valuable new access to Canada's market for certain dairy products through tariff-rate quotas not shared with other countries. In addition, the USMCA will increase access for U.S. chicken, eggs, and egg products exported to Canada through tariff-rate quotas not shared with other countries, and expand access for U.S. turkey. The United States will provide Canada reciprocal market access for Canadian dairy products, provide small tariff-rate quotas for refined sugar and sugar-containing products, and eliminate tariffs over five years for Canadian peanuts and peanut products. The USMCA establishes strong new rules for the administration of tariff rate quotas to ensure U.S. producers and exporters get the benefit of the new market access provided by Canada.

Under the USMCA, Canada will change its program that allows unfairly low priced Canadian dairy products to undersell U.S. dairy products in Canada and in third country markets. Within six months of entry into force of the USMCA, Canada will eliminate its milk classes 6 and 7. Canada will ensure that the price for non-fat solids used to manufacture skim milk powder, milk protein concentrates, and infant formula will be no lower than a level based on the USDA price for nonfat dry milk. Canada will impose charges on exports of skim milk powder, milk protein concentrates, and infant formula, if exports of those products occur above specific quantities.

In addition, the USMCA includes a modernized Agriculture Chapter that goes well beyond the NAFTA in many areas of critical importance to U.S. producers. It includes provisions to reduce the use of trade distorting policies, including prohibiting the use of export

subsidies; increasing transparency and consultation regarding the use of export restrictions for food security purposes; and minimizing the use of trade-distorting domestic support measures. Canada also will eliminate its discriminatory treatment for grading of U.S. wheat, and the United States and Mexico agreed to cooperate on agricultural grading matters.

For the first time in a U.S. trade agreement, the USMCA also specifically addresses agricultural biotechnology to support 21st century innovations in agriculture. Parties have agreed to provisions to enhance information exchange and cooperation on agricultural biotechnology trade-related matters. The Agriculture Chapter covers all biotechnologies, including new technologies such as gene editing.

The USMCA chapter on SPS measures includes elements that are stronger than provisions of the NAFTA and World Trade Organization (WTO). The Parties agree to increase the transparency of SPS measures, advance science-based decision making, and work together to enhance compatibility of SPS measures between them. Provisions also include improved processes for regionalization and equivalency determinations and improved transparency for import checks. Parties will limit information required on certificates to essential information and promote electronic certification and other technologies to facilitate trade. The chapter is subject to dispute settlement, but also creates a new mechanism for the cooperative resolution of issues by regulatory agency officials, where possible. Parties maintain their sovereign right to protect human, animal and plant life or health and to establish their individual appropriate level of protection, while also committing to avoid unnecessary barriers to trade.

In addition, Mexico confirmed that certain terms are used for cheeses marketed in Mexico and that market access of U.S. products is not restricted due to the mere use of those terms.

4. Investment

Under the USMCA, the Parties have agreed to treat investors and investments of the other Parties in accordance with the highest international standards and standards consistent with U.S. law and practice, while also safeguarding each Party's sovereignty and promoting domestic investment. With respect to both investment protection rules and investor-State dispute settlement (ISDS) procedures, the Investment Chapter of the USMCA updates and modernizes the NAFTA to better reflect U.S. priorities related to foreign investment.

Investments covered by the USMCA will include companies, real estate, intellectual property rights, concessions, permits, and certain debt instruments. With limited exceptions, the Agreement will give U.S. investors the opportunity to establish, acquire, and operate investments in Mexico and Canada on the same basis as local investors or other foreign investors. The key investment protection provisions include rules prohibiting expropriation without prompt, adequate, and effective compensation; discrimination, including national treatment

(discrimination vis-à-vis investors or investments of the other USMCA Party) and most-favored-nation treatment (discrimination vis-à-vis third country investors or investments); performance requirements (*e.g.*, technology transfer and local content requirements); nationality-based requirements on the appointment of senior management; restrictions on the transfer of investment-related capital; and denial of justice and other breaches of the customary international law minimum standard of treatment. In the event of an investment dispute, each Party can seek remedies for breach of these rules in State-to-State dispute settlement procedures.

Under the Agreement, the Parties will provide USMCA investors a high level of protection, but consistent with Trade Priorities Act negotiating objectives, USMCA investors will not be provided greater substantive rights than those U.S. companies already enjoy in the United States. In addition, the USMCA adopts a significantly different approach from previous U.S. agreements with respect to ISDS. In the reformed approach, U.S. and Mexican investors in all sectors will have more limited access to ISDS as a last resort to provide protection in the context of such egregious issues as discrimination and direct expropriation. In certain critical sectors in Mexico, such as oil and gas, telecommunications, and certain types of infrastructure, investors that enter into government contracts will have broader access to ISDS to protect the long-term, capital-intensive investments in these sectors, which are subject to heightened political risks. ISDS with Canada will be phased out, but state-to-state remedies will remain.

5. Intellectual Property

The Intellectual Property Rights Chapter of the USMCA reflects the high standards necessary to protect American innovation, creativity, and competitive advantage in the 21st century economy and contains the most comprehensive provisions on protection and enforcement of intellectual property rights of any prior trade agreement. Consistent with the standards of protection in U.S. law, the chapter builds on existing international standards for the protection and enforcement of intellectual property rights, with particular focus on addressing the challenges of new and emerging technologies and methods of distribution of intellectual property. The Agreement includes state-of-the-art protection for trademarks, geographic indications, patents, undisclosed information, industrial designs, copyrights, trade secrets, and enforcement.

The Agreement will require the USMCA Parties to provide no less favorable treatment to U.S. right holders than the Parties provide to domestic right holders, a stronger outcome in national treatment for intellectual property than in the NAFTA and many previous free trade agreements (FTAs).

The Agreement requires the USMCA Parties to provide transparent, fair and effective trademark systems. It provides protection for certification marks and sound marks. The Agreement also requires notice and meaningful opportunities to object to applications for registration of geographical indications (GIs), and establishes robust guidelines for how Parties

should determine whether a term is a common name in its market. For the first time in any FTA, the USMCA creates a mechanism for consultation between the Parties on future GIs recognized pursuant to other trade agreements.

The USMCA establishes clear copyright and related rights protections for creative works, including songs, movies, books, and software programs, including protection in the digital environment. The Agreement requires that USMCA Parties provide a copyright term of at least life plus 70 years, for works with a copyright term calculated based on the life of an author, and of at least 75 years for other works with a term based on publication (sometimes called works-for-hire, often including sound recordings and movies). This is closer to the U.S. standard of protection than most prior FTAs. The USMCA protects the ability to freely contract for these rights. Additionally, the Agreement also has provisions for preventing circumvention of technological protection measures, protecting rights management information, the establishment of a copyright safe-harbor system for internet service providers modeled after U.S. law, and other measures promoting legitimate digital trade.

Under the Agreement, each USMCA Party commits to make patent rights available for all inventions, with certain limited exceptions, as well as to allow a 12-month grace period from failing to meet certain patentability requirements for novelty or non-obviousness throughout the region. The USMCA Parties also confirm that patents are available for plant-derived inventions. The Parties will have to provide patent term adjustment to compensate for unreasonable delays in the issuance of patents for all products.

Further, on pharmaceuticals, the Agreement sets a minimum standard of at least five years of data protection for new pharmaceutical products and of at least 10 years of data protection for new agricultural chemical products. The USMCA will require adequate time and opportunity for a patent holder to seek available remedies prior to the marketing of an alleged infringing product as well as procedures for the timely resolution of disputes. The Parties will also have to adjust the patent term when the marketing approval process for pharmaceuticals unreasonably cuts into the effective term of a patent.

The USMCA has the most robust protection for trade secrets of any prior U.S. trade agreement. It includes all of the following protections against misappropriation of trade secrets, including by state-owned enterprises: civil procedures and remedies, criminal procedures and penalties, prohibitions against impeding licensing of trade secrets, judicial procedures to prevent disclosure of trade secrets during the litigation process, and penalties against government officials for the unauthorized disclosure of trade secrets.

The USMCA ensures that these strong standards of IPR protection are backed by the strongest and most comprehensive requirements for enforcement measures and remedies, including those to combat copyright piracy and trademark counterfeiting. The Agreement includes extensive administrative, civil, criminal, and border mechanisms, including procedures

in civil cases for seizure and destruction of pirated and counterfeit products, and the equipment used to produce these products. The Agreement eliminates many unnecessary burdens and obstacles to U.S. right holders effectively protecting their intellectual property, including inappropriate burdens of proof. The Agreement is clear that state-owned enterprises are not exempt from intellectual property enforcement requirements. It has meaningful criminal procedures and penalties for unauthorized camcording of movies, which is a significant source of pirated movies online. Each Party must require that its government agencies use only non-infringing computer software. Each Party must also provide measures to combat theft of encrypted satellite and cable signals. Each Party must also provide effective tools for enforcement officials to act on their own initiative against counterfeit and pirated goods, including powers to seize goods and initiate criminal cases, without receiving a formal complaint from rights holders, thus providing more effective and meaningful enforcement against these types of infringement. Furthermore, each Party must also adopt or maintain robust systems to ensure that customs officials can stop suspected counterfeit or pirated goods that are imported, destined for export, or transiting through the territory of any Party.

If they have not already done so, the Parties must accede to new international treaties governing copyright, patents, trademarks, industrial design and plant varieties, which helps to cut red tape for U.S. right holders operating in these markets, to the particular benefit of smaller businesses. The Agreement also includes an understanding regarding public health and reaffirms the commitment of the Parties to the *Doha Declaration on the TRIPS Agreement and Public Health*.

6. Digital Trade in Goods and Services and Cross-Border Data Flows

The USMCA is the most ambitious FTA ever concluded on electronic commerce, telecommunications, and the Internet – and the first ever to comprehensively address cross-border data flows with enforceable obligations. Under the USMCA, the Parties must apply the principles of national treatment and most favored nation treatment to trade in electronically transmitted digital products (*e.g.*, computer programs, video, images, and sound recordings). The Agreement includes rules prohibiting duties on electronic transmissions, including content transmitted electronically. In so doing, the Agreement will create a strong foundation for wider international efforts to bar duties on and discriminatory treatment of digital products.

Consistent with the principal negotiating objective, in recognition of the growing significance of electronic commerce and with the goal of ensuring that governments refrain from implementing trade-related measures that impede digital trade, the USMCA prohibits a Party from requiring that, with limited exceptions, businesses use or locate computing facilities in the Party's territory as a condition for conducting business in the Party's territory. Furthermore, each Party must allow service suppliers and investors to transfer information across borders by electronic means when this activity is for the conduct of the business of a "covered person," as defined in the Agreement.

The USMCA also includes provisions relating to the authentication of electronic transactions and the acceptance of electronically transmitted trade administration documents. In addition, the USMCA contains provisions designed to build consumer confidence and trust in the use of the Internet, which is critical to the growth of digital trade. For example, the USMCA requires Parties to have consumer protection laws related to fraudulent and deceptive commercial activities online; it includes commitments ensuring that privacy and other consumer protections can be enforced; and it requires Parties to have measures to stop unsolicited commercial electronic messages (spam). The USMCA also includes provisions that promote collaboration among Parties in addressing cybersecurity challenges, while seeking to promote industry best practices with respect to network security.

In addition, recognizing that consumers and businesses both benefit from competition, innovation and stability in digital commerce, the USMCA prevents Parties, with certain limitations, from requiring the divulgence or transfer of computer source code to another Party as a condition for marketing products containing software. These provisions will help companies protect a critical source of innovation and competitive advantage. It includes provisions to promote open access to government-generated public data, thereby enhancing its innovative use in commercial applications and services. For the first time in a trade agreement, the USMCA Digital Trade Chapter also includes provisions that will enhance the viability of Internet platforms that depend on interaction with users by limiting the platform's civil liability with respect to third-party content, except regarding intellectual property rights enforcement (which is addressed in the Intellectual Property Rights Chapter).

7. Transparency and Regulatory Practices

Far more than previous agreements, the USMCA will address non-tariff barriers that can place U.S. companies at a competitive disadvantage. The Agreement promotes the transparency and good regulatory practices that benefit businesses, consumers, and the public through a range of provisions based on U.S. practice under the Administrative Procedures Act and other relevant statutes. In addition, in a number of complementary and reinforcing chapters, the USMCA seeks to discipline a broad spectrum of government regulatory actions, including customs practices, sanitary and phytosanitary measures, technical barriers to trade, and regulations affecting services, including telecommunications, electronic commerce, as well as investment. At the same time, the USMCA makes clear that no provision of the Agreement prevents governments from pursuing public policy objectives, including with respect to health, safety, or the environment.

Reflecting this priority on addressing non-tariff barriers in North American trade, the USMCA includes a first-ever chapter on good regulatory practices (GRP). This new chapter focuses on the good governance procedures that promote transparency and accountability in the development and implementation of regulations. It will promote compatible regulatory

approaches among the Parties, and help reduce or eliminate unnecessarily burdensome, duplicative, or divergent regulatory requirements.

The GRP Chapter includes commitments that require each Party to promote central coordination and evidence-based analysis in rulemaking. The Parties agree to publish annual plans for expected regulations and to hold public consultations on draft regulations. For the first time, the Parties have agreed to adopt evidence-based analysis and provide explanation of the scientific or technical basis for new regulations. The chapter also promotes evidence-based decision-making through provisions setting out parameters for conducting regulatory impact assessments and conducting retrospective reviews of regulatory actions to evaluate efficacy.

The USMCA Technical Barriers to Trade (TBT) Chapter strengthens disciplines related to transparency, standards, technical regulations conformity assessment procedures, and trade facilitation matters. New provisions in this chapter enhance rights and obligations under the WTO Agreement on Technical Barriers to Trade (TBT Agreement), including an obligation to use the WTO TBT Committee Decision on International Standards as a basis in determining what standards are "international". In addition, the USMCA provides an alternative pathway for standards developed in North America to be considered in technical regulations. The TBT Chapter incorporates good regulatory practices for technical regulations, and emphasizes the Parties' commitment to reduce unnecessary barriers and to provide national treatment with respect to labeling.

The TBT Chapter also ensures notification of draft and final technical regulations, with a reasonable period of at least six months between the publication of the regulation and its entry into force. It also provides for participation of interested persons in the development of standards, technical regulations and conformity assessment procedures. In addition, the USMCA includes specific obligations on regulatory transparency, rights of appeal in administrative proceedings, and access to information that apply across all matters covered by the Agreement.

Finally, the USMCA includes specific annexes on regulatory matters with respect to specific sectors, including an annex that will promote transparency and due process with respect to listing and reimbursement procedures in relevant national healthcare programs operated by national healthcare authorities. The Agreement also includes a chapter on competition policy, which includes strong new provisions on procedural fairness in national competition law proceedings.

8. State-Owned and State-Controlled Enterprises

The USMCA includes the strongest and most comprehensive disciplines on the commercial activities of State-owned enterprises (SOEs) of any trade agreement. It builds on principles in the WTO and previous U.S. FTAs, but goes beyond them, including by applying

strong subsidies rules specifically to SOEs and applying them to services as well as goods exports.

The USMCA adopts a broad definition of what constitutes an SOE, including entities in which the government holds a majority stake, but also including entities in which the government owns a minority of the equity, but nonetheless is able to exercise control. The SOE Chapter applies fully to sovereign wealth funds. Similarly, the USMCA adopts an expansive approach to disciplining subsidies. SOE subsidy rules apply to all "specific" subsidy programs (*i.e.*, programs where access to or use of the subsidy is limited to an industry or group of enterprises). Importantly, the USMCA also prohibits three of the most egregious types of subsidies to SOEs: (1) subsidies to SOEs that are insolvent or on the brink of insolvency, if there is no credible restructuring plan; (2) loans or loan guarantees from SOEs such as state-owned banks to other, uncreditworthy SOEs; and (3) non-commercial SOE debt-to-equity swaps. These subsidies are prohibited outright; they are not subject to an "adverse effects" test. In addition to this prohibition of particularly egregious subsidies, the Parties also agree that, in providing other types of subsidies to SOEs, a Party will not cause harm to the interests of other Parties.

The Parties also agree to ensure that SOEs make commercial purchases and sales on the basis of commercial considerations and that SOEs and designated monopolies do not discriminate in their purchases or sales against the enterprises, goods, and services of other Parties. Administrative bodies regulating both SOEs and private entities also must do so in an impartial manner, without providing preferential treatment to the SOE.

Finally, the USMCA also includes extensive transparency obligations, requiring each Party to provide, upon request, information about the extent of government ownership and control, and the subsidies provided to its SOEs, as well as all government equity investments made in an SOE.

9. Labor and the Environment

Labor:

Unlike the NAFTA, the USMCA includes a high-standard and comprehensive Labor Chapter within the Agreement that will be subject to the same dispute settlement mechanisms and potential trade sanctions as the rest of the agreement. The USMCA also includes additional commitments by Mexico to undertake specific reforms that will provide for effective worker representation and collective bargaining rights.

Consistent with the objectives of the Trade Priorities Act, each USMCA Party is committed to adopt and maintain in its statutes and regulations, and practices thereunder, the fundamental labor rights as stated in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998), reflecting a key element of the Trade Priorities Act.

Additionally, the Labor Chapter includes a commitment that no Party shall fail to effectively enforce its labor laws, including its laws embodying fundamental labor rights as stated in the ILO Declaration on Rights at Work and those embodying acceptable conditions of work[, through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties. The Labor Chapter clarifies that such a course of action or inaction is in a manner affecting trade or investment if it involves a good or service traded between the Parties or that competes with a good or service from another Party].

The Labor Chapter defines "labor laws" to include laws directly related to the following internationally-recognized labor rights: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor, a prohibition on the worst forms of child labor and other labor protections for children and minors; the elimination of discrimination, including on the basis of sex, in respect of employment and occupation; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. Decisions by a Party regarding the provision of enforcement resources shall not excuse a failure to comply with the labor obligations. The USMCA will prohibit each Party from waiving or derogating from its labor laws in a manner inconsistent with the fundamental labor rights or that would weaken or reduce adherence to labor rights in export processing zones, in a manner affecting trade or investment between the Parties.

Each USMCA Party also has undertaken to prohibit, through measures [it considers appropriate], the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor. [Importantly, the USMCA also includes new provisions to address violence against workers exercising their labor rights], and to ensure that migrant workers are protected under labor laws. It provides procedural guarantees for enforcement of labor laws, including due process through independent and impartial judicial and administrative tribunals.

The USMCA also establishes institutional mechanisms to provide for intergovernmental engagement and cooperation with stakeholder input and a public submission process whereby members of the public can seek review of claims that a Party is not meeting its obligations under the Labor Chapter. Parties also commit to a labor cooperation mechanism through which they will work together to enhance opportunities to improve labor standards and to further advance common commitments regarding labor matters.

In addition to the core obligations of the Labor Chapter, the USMCA also includes an Annex on Worker Representation in Collective Bargaining in Mexico. Under the USMCA, Mexico commits to specific legislative actions as part of its constitutional labor reforms in order to provide for the effective recognition of the right to collective bargaining. Required actions include enacting legislation that requires majority worker support—through the exercise of a personal, free, and secret vote of workers—to register a new collective bargaining agreement.

In addition, the legislation shall require that all existing collective bargaining agreements must have demonstrated worker support—through a personal, free, and secret vote—within four years after Mexico's labor reform legislation goes into effect. The Government of Mexico approved such legislation on May 1, 2019. These provisions, in combination with others in the USMCA, will help promote better working conditions and protect labor rights in North America, while also ensuring that U.S. workers are able to compete on a more level playing field.

The Labor Chapter of the USMCA also an Annex on Facility-Specific, Rapid Response Labor Mechanism to ensure remediation of a denial of rights, as defined in the chapter.

Environment:

Unlike the NAFTA, the USMCA includes a high-standard and comprehensive Environment Chapter within the agreement that will be subject to the same dispute settlement mechanisms and potential trade sanctions as the rest of the agreement.

The Environment Chapter of the USMCA includes the most comprehensive set of enforceable environmental obligations of any previous U.S. trade agreement, including provisions related to the enforcement of national environmental laws, implementation of the multilateral environmental agreements (MEAs) referenced in TPA to which they are party, elimination of environmentally harmful subsidies, and other barriers to trade in environmentally beneficial products and technologies.

Consistent with the objectives of the Trade Priorities Act, the USMCA commits each Party not to fail to effectively enforce its environmental laws, which include laws, regulations, and other measures implementing MEAs to which it is a party, through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties. The Environment Chapter clarifies that such a course of action or inaction is in a manner affecting trade or investment if it involves a good or service traded between the Parties or that competes with a good or service from another Party. However, consistent with the Trade Priorities Act, the chapter provides that each Party retains the right to exercise prosecutorial discretion and to make decisions regarding the allocation of enforcement resources. The chapter also provides that a Party shall not waive or otherwise derogate from its environmental laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment between the Parties.

In addition, the USMCA includes state-of-the art provisions to combat trafficking in wildlife, timber, and fish, to enhance the effectiveness of customs inspections and strengthen law enforcement networks to stem such trafficking. The Parties also agree to prohibit some of the most harmful fisheries subsidies, such as those that benefit vessels or operators involved in illegal, unreported, and unregulated (IUU) fishing. It also includes new protections for marine species, such as prohibitions on shark-finning and the killing of great whales for commercial

purposes. The USMCA includes landmark commitments to prevent and reduce marine litter. There are also first-ever articles to improve air quality, support sustainable forest management, and ensure appropriate procedures for environmental impact assessments. Consistent with the objectives of the Trade Priorities Act, under the USMCA, no tariffs will be applied on environmental goods. In addition, the Parties agree to work together to address non-tariff barriers on these products and services to further promote trade in environmental goods and services.

The Environment Chapter also includes improved public participation provisions, including a streamlined mechanism for public submissions regarding a failure of one or more Parties to effectively enforce their environmental laws. The Parties also agree to support implementation of the USMCA commitments by continuing their longstanding and successful history of environmental cooperation under a modernized Commission on Environmental Cooperation under a new Environmental Cooperation Agreement, separate from and in parallel with the USMCA.

10. Currency Manipulation

The USMCA seeks to address unfair currency practices through a first ever chapter on macroeconomic policies and exchange rate matters, which includes policy and transparency commitments related to currency. The chapter includes high-standard commitments requiring Parties to refrain from competitive devaluations and from manipulating exchange rates, while also fostering transparency and providing mechanisms for accountability. This approach is unprecedented in the context of a trade agreement, and will help reinforce macroeconomic and exchange rate stability and discourage the use of currency policy to create an unfair advantage over trading partners.

The USMCA includes commitments, drawn from those undertaken in the International Monetary Fund and other international forums, to achieve and maintain market-driven exchange rates, and to refrain from competitive devaluations and manipulating exchange rates to gain an unfair trade advantage. It also includes new provisions related to transparency and reporting requirements on intervention and foreign exchange reserves. These obligations will reinforce accountability by requiring the rapid provision of information to assess whether commitments are being met. Parties can hold trading partners accountable through robust accountability mechanisms, including a mechanism for direct and expedited bilateral talks to challenge trading partners on exchange rate practices, and the dispute settlement mechanism used for all other obligations of the Agreement if they fail to comply with the transparency obligations.

11. Anti-Corruption

The USMCA contains the strongest disciplines on corruption in international trade of any international agreement. It builds on the commitments that have been incorporated in the most

recent U.S. trade negotiations, but were not in the original NAFTA or subsequent agreements.

With respect to matters affecting international trade and investment, the Parties must adopt or maintain measures criminalizing acts of corruption, including prohibitions on bribery of public officials. Unlike previous U.S. trade agreements, the USMCA requires the Parties to prohibit embezzlement and adopt or maintain measures requiring companies to maintain accurate books and records, in order to prevent corporate malfeasance. In addition, for the first time in a U.S. trade agreement, the Parties have also agreed not to fail to effectively enforce those measures, and requires Parties to adopt or maintain a code of conduct for their public officials, as well as measures to decrease conflicts of interest. In addition, the Parties have committed to increase training of public officials, take steps to discourage gifts, facilitate reporting of possible corruption, and provide for discipline of public officials engaging in acts of corruption. The Parties recognize the value of cooperation in international fora to prevent and combat corruption in international trade.

In addition, the USMCA includes new provisions requiring the Parties to adopt or maintain measures to protect whistleblowers from unjustified treatment as well as provisions on promoting integrity of public officials, encouraging the creation of corporate compliance programs, and discouraging the use of facilitation payments. This chapter also provides for strong cooperation among the Parties in the enforcement of anticorruption laws.

12. Trade Remedies

The USMCA Trade Remedies Chapter substantially updates the NAFTA and goes beyond other previous U.S. trade agreements. Consistent with the principal negotiating objective, the USMCA will not affect U.S. rights to take safeguard actions under section 201 of the Trade Act of 1974, which implements the WTO Safeguards Agreement and the General Agreement on Tariffs and Trade (GATT) 1994. The USMCA provides that each country will retain its rights and obligations under the WTO agreements relating to antidumping and countervailing duties (AD/CVD). In addition, the Agreement provides that nothing in it shall be construed to confer any rights or impose any obligations on the Parties with respect to antidumping and countervailing duty proceedings or measures. Thus, the Agreement will not affect U.S. rights and obligations regarding these trade remedies or the ability of the United States to enforce its trade laws.

At the same time, the Trade Remedies Chapter of the USMCA sets high new standards for transparency and due process in trade remedies proceedings and strong provisions for customs cooperation and information sharing with respect to duty evasion. The USMCA includes provisions that reflect the due process and transparency standards of the United States – including the use of electronic filing – that will enable U.S., Mexican, and Canadian businesses to effectively participate in AD/CVD proceedings.

Recognizing that North American competitiveness can be undermined by unfair trading practices by countries outside the region, Parties have agreed to strong duty evasion cooperation provisions, so that Parties work together to combat attempts to undermine existing antidumping, countervailing duty, and safeguards measures. The chapter provides for duty evasion verifications and in-country facility visits by the respective customs authorities, as well as the sharing of customs information for the specific purpose of combatting duty evasion. The Parties have also agreed to share information to more effectively address potentially injurious dumped or subsidized imports, particularly from third countries. Each Party will permit investigating authorities to consider information and data from existing AD/CVD petitions filed in another Party, as well as third-party subsidy information, in determining whether to self-initiate an AD/CVD investigation or take other relevant action.

13. Textile Negotiations

Under the USMCA, new provisions will incentivize greater U.S. and North American value-addition in textiles and apparel trade, strengthen customs enforcement, and facilitate broader consultation and cooperation among the Parties on issues related to textiles and apparel trade.

The updated rules of origin and related provisions for textiles will promote greater use of regional and made-in-the-USA fibers, yarns, and fabrics by (1) requiring the use of U.S. or regional sewing thread, pocketing fabric, narrow elastic bands, and coated fabric in most of the USMCA-qualifying apparel and other finished textile goods, and (2) restructuring and rebalancing trade under tariff preference levels, which allow for limited use of third-country inputs in qualifying textile and apparel goods. These provisions will strengthen the regional supply chain and provide new market opportunities for the U.S. textile and apparel sector.

The new Textiles Chapter establishes, for the first time in North American trade, textile-specific provisions on customs cooperation, verification, and determinations, including new tools for preventing fraud and circumvention. Provisions establishing a Committee on Textile and Apparel Matters and for monitoring and administering tariff preference levels will promote greater transparency and information sharing among the Parties.

STATEMENT OF WHY THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, THE UNITED MEXICAN STATES, AND CANADA IS IN THE INTERESTS OF U.S. COMMERCE

INTRODUCTION

In August 2017, the United States initiated negotiations with Canada and Mexico to modernize and replace the North American Free Trade Agreement (NAFTA). Negotiations were concluded on September 30, 2018, and the Agreement between the United States of America, the United Mexican States, and Canada (USMCA or Agreement) was signed on November 30, 2018 in Buenos Aires.

The USMCA is the most comprehensive, modern, and balanced trade agreement ever negotiated. The Agreement represents a complete renegotiation of the NAFTA, resulting in a landmark accord that will promote greater production and investment here in the United States, create more balanced, reciprocal trade, and support high-paying jobs for Americans. In fact, in its non-partisan April 18, 2019 report on the likely impact of the USMCA on the U.S. economy[1], the U.S. International Trade Commission (ITC) concluded that the USMCA will increase U.S. employment by 176,000 jobs and U.S. GDP by more than $68 billion.

Since the NAFTA entered into force on January 1, 1994, it has remained a contentious agreement. While the NAFTA greatly expanded duty-free trade in the region, it also contributed to higher U.S. trade deficits and the outsourcing of well-paying American jobs. In addition, contrary to expectations, poor labor conditions and wage stagnation have persisted in Mexico since the agreement entered into force, which has contributed to the outsourcing of U.S. jobs, particularly in the manufacturing and automotive sectors. The USMCA addresses these issues head on.

Throughout the USMCA negotiations, the United States was guided by the objectives outlined in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 ("Trade Priorities Act"). More specifically, the United States pursued three primary goals consistent with the Trade Priorities Act: 1) promoting fair trade and expanding market access; 2) promoting the 21st century economy; and 3) combatting unfair trade practices. The USMCA achieves all three. It rebalances our trade relationship with our North American partners by expanding market access, including new access to Canada's dairy market, resolving longstanding and persistent trade irritants, and overhauling rules of origin. It updates the 25-year-old NAFTA with innovative, high-standard provisions for the 21st century economy, including entirely new chapters on digital trade and small and medium-sized enterprises (SMEs), as well as strengthened protections for intellectual property. Finally, it solidifies a regional commitment to combat unfair trade practices – including those by non-market economies (NMEs) – through, for example, new rules on state-owned enterprises and a first-of-its-kind chapter on currency manipulation.

[1] *U.S.-Mexico-Canada Trade Agreement: Likely Impact on the U.S. Economy and on Specific Industry Sectors* (April 2019).

WHY PURSUE A NEW TRADE AGREEMENT WITH CANADA AND MEXICO?

Why renegotiate NAFTA?
The NAFTA is now 25-years-old and out-of-date.

The NAFTA contributed to higher trade deficits, especially with Mexico.

The NAFTA incentivized offshoring of U.S. manufacturing jobs.

Over 25 years ago, the NAFTA was marketed to the American public as a deal that would generate a significant net trade surplus for the country – and that this surplus would lead to hundreds of thousands of new jobs in the United States. Politicians also promised that the NAFTA would lead to leaps in productivity and wages in Mexico. In 1993, President Clinton even asserted that the NAFTA "means that there will be an even more rapid closing of the gap between" U.S. and Mexican wages.

However, the results were not so clear-cut. Benefits were not shared equally and in some sectors, thousands of well-paying American manufacturing jobs were lost. In addition, trade deficits ballooned to over $85 billion annually and Mexican wage growth stagnated, serving to only widen the existing gap with the United States to the detriment of U.S. workers.

There are many reasons for these challenges, but the NAFTA certainly played a role. In fact, many provisions in the 1994 agreement facilitated outsourcing by reducing the costs of moving American production offshore to take advantage of unfairly depressed wages and poor labor and environmental standards, which further accelerated the decline in American manufacturing, particularly in the automotive sector. Such results were encouraged by the fact that under the NAFTA, labor rights and environmental protection provisions were merely aspirational and unenforceable.

To address these issues, the Administration pursued the following core negotiating objectives in the USMCA:

1) ***Promoting Fair Trade and Expanding Market Access***
While preserving the tariff elimination achieved in the NAFTA, the USMCA goes further than the NAFTA and the Trans-Pacific Partnership (TPP) to secure significant new access for U.S. producers to Canada's market for dairy, eggs, and poultry. Moreover, the USMCA ensures that its strong and comprehensive labor and environment provisions are enforceable and – unlike the NAFTA – are included in the core text of the Agreement. Under the USMCA, Mexico is required to provide for the effective recognition of the right to collective bargaining and completely overhaul its labor justice system. Additionally, all Parties will take measures to prohibit the importation of goods produced by forced labor and address violence against workers exercising their labor rights. The USMCA also includes extensive commitments to strengthen fisheries management and combat illegal fishing, as well as the first ever commitments to address and reduce marine debris. Through strengthened rules of origin requirements and revised investment provisions, the USMCA helps ensure that companies will source a larger percentage of their inputs from the United States and North America and that investors do not have additional incentives to offshore. Moreover, the USMCA includes a reasonable mechanism through which the Parties can regularly review the performance of the Agreement.

This review will help ensure that the Agreement operates as intended and continues to serve the interests of the United States.

Importantly, the USMCA strengthens rules of origin requirements for autos and automotive parts to ensure that American workers will share in the benefits of trade. In order to qualify for duty-free treatment, the Agreement requires that 75 percent of a vehicle's content be made in North America and 40-45 percent of that same vehicle be made by workers in North American facilities that pay at least an average of $16 per hour. In addition, the USMCA eliminates the ability to "deem" certain auto parts – such as advanced batteries for hybrid and electric vehicles and other electronics – as being made in the NAFTA region when used in the production of an automobile, even if such parts are produced entirely outside of North America. This allows "free riders" outside North America to gain unwarranted benefits under the NAFTA. By requiring that parts actually be made in the region to qualify for duty-free treatment, the USMCA will help ensure that North American workers – particularly those in the United States – will produce a higher percentage of autos and auto parts. The ITC estimates that these provisions will lead to significant net increases in jobs and investment in the U.S. automotive sector.

2) ***Promoting the 21st Century Economy***
The USMCA will bring the NAFTA into the 21st century. The Agreement includes – among many other updates – modern, high-standard provisions to protect intellectual property, provisions to facilitate efficient cross-border trade, and obligations establishing information-sharing tools to help thousands of U.S. SMEs better understand the benefits of the Agreement. The renegotiated Agreement also contains new provisions to address issues that did not exist when the NAFTA was concluded. This includes the most comprehensive set of rules of any trade agreement on digital trade, far surpassing those negotiated in the TPP. In its April 2019 report, the ITC emphasizes the Agreement's positive impact on SMEs and how provisions reducing uncertainty about certain policies, such as those governing data localization requirements, provide substantial economic benefits to U.S. businesses. Furthermore, just as it does with labor, the core USMCA text includes strong and comprehensive environmental provisions, which are fully enforceable via the USMCA's dispute settlement mechanisms.

3) ***Combatting Unfair Trade Practices***
The USMCA contains a number of groundbreaking provisions to combat subsidies and the growing and pernicious challenge of non-market practices that have the potential to disadvantage U.S. workers and businesses. This includes: the first chapter in any trade agreement to address currency manipulation; pioneering rules on subsidies provided to state-owned enterprises (SOEs); new provisions to combat duty evasion; transparency obligations with respect to new trade deals with non-market economies ; and a strong new Anticorruption Chapter.

In short, the USMCA represents the beginning of a new era in U.S. trade policy. It not only brings the NAFTA relationship into the 21st century, it contains unprecedented new

requirements to ensure that American workers will fully benefit from that relationship. For the United States, as the ITC concluded in its April report, the USMCA "would likely have a positive impact on all broad industry sectors within the U.S. economy." Passage of the USMCA is a win-win outcome for American business and American workers. The Agreement is a major improvement that achieves a more balanced deal for all three countries and we urge Congress to approve it quickly.

PROMOTING FAIR TRADE AND EXPANDING MARKET ACCESS

North American Trade: the Facts

Canada and Mexico are important trading partners for the United States: year-to-date in 2019, Mexico is the United States' largest trading partner with $517.7 billion in two-way goods trade; also year-to-date in 2019, Canada is the United States' second largest trading partner, with $514.0 billion in two-way goods trade. In addition, in 2018 36 states had Canada, and seven others Mexico, as their top export market.

These statistics reflect a significant growth in North American trade since the NAFTA was implemented. In fact, U.S. goods and services exports and imports with Canada are up roughly 200 percent in 2018 from 1993. U.S. goods and services exports to Mexico are up almost 500 percent, and imports from Mexico are up nearly 700 percent since 1993. However, at the same time, the U.S. trade deficit, especially with Mexico, has grown significantly.

In 2018, the United States exported $299.8 billion worth of goods to Canada, and imported $318.8 billion worth of goods from Canada, for a bilateral trade deficit in goods of $19.1 billion. During the same year, the United States exported $265.4 billion worth of goods to Mexico, and imported $346.1 billion worth of goods from Mexico, for a bilateral trade deficit of $80.7 billion. The United States has had a trade deficit in goods with both Mexico and Canada in every year since 1994.

In 2018, U.S. exports of services to Canada were an estimated $64.1 billion and U.S. imports were $35.1 billion. Sales of services in Canada by majority U.S.-owned affiliates were $117.2 billion in 2016 (latest data available), while sales of services in the United States by majority Canada-owned firms were $108.5 billion. U.S. exports of services to Mexico were an estimated $33.8 billion in 2018 and U.S. imports were $25.3 billion. Sales of services in Mexico by majority U.S.-owned affiliates were $40.9 billion in 2016 (latest data available), while sales of services in the United States by majority Mexico-owned firms were $9.1 billion.

In its April report, the ITC estimates that the USMCA would increase U.S. exports of goods and services to Canada by nearly 6 percent, or $19.1 billion, and with Mexico by nearly 7 percent, or $14.2 billion, relative to the 2017 base year.

Ensuring that the United States Benefits from the Agreement and Promoting Production in the Region, and in the United States

One purpose of a trade agreement is to establish rules that, if complied with by the Parties, provide those Parties with preferential access to the U.S. market – a substantial benefit that is not provided to countries that have not negotiated a trade agreement with the United States. However, too often, the NAFTA incentivized companies across the United States to outsource

production, especially to Mexico, thereby hurting American workers and putting U.S. businesses at an unfair disadvantage. The USMCA changes that, and – as the ITC found – the U.S. manufacturing sector in particular "would experience the largest percentage gains in outputs, exports, wages and employment" under the new agreement.

The USMCA features new and innovative rules of origin for automobiles and automotive parts, two sets of products in which the United States has significant trade imbalances with Mexico and Canada. The USMCA strengthens the rules of origin for such products, requiring that at least 75 percent of a vehicle's content originate in North America in order to qualify for duty-free treatment. Furthermore, in order for an automobile to qualify for duty-free treatment, the Agreement also requires that certain core parts – those associated with high-wage, high-skilled labor – must be produced in North America. Taken together, these provisions will ensure that automobiles and automotive parts contain higher levels of regional and U.S. content.

The labor value content rule will support better jobs for U.S. producers and workers by requiring that a significant portion of vehicle content be made with high-wage labor.

Importantly, the new rules also eliminate a major loophole: under the NAFTA, key components, many electronics, and other high-tech parts are "deemed" to be North American content, regardless of their true origin. Such components have come to represent a larger and larger share of total auto content and, as a result, auto manufacturers have been able to meet the NAFTA rules of origin and qualify their goods for duty-free treatment using less and less regional content. The USMCA does not "deem" any part as being made in North American – to qualify, a part must actually be made in the region. At the same time, the USMCA eliminates the NAFTA's burdensome "tracing" requirement for cars and trucks, cutting bureaucratic red tape and freeing manufacturers from onerous documentation requirements.

In addition, in order to ensure that American auto workers have a better chance of competing on more equal terms with their Mexican and Canadian counterparts, the USMCA creates a new labor value content rule that requires 40-45 percent of auto content to be made in a North American plant or facility with an average hourly wage of at least $16 per hour. This labor value content

Automotive Sector Support for the USMCA

Fiat Chrysler Automobiles: "…We expect – based on discussions with the negotiators – that the new United States-Mexico-Canada Agreement will allow FCA's North American production to remain competitive at home and in export markets around the world." October 2, 2018.

Ford Motor Company: "We stand ready to be a collaborative partner to ensure this agreement is ratified in all three markets because it will support an integrated, globally competitive automotive business in North America. The benefits of scale and global reach will help to drive volume and support manufacturing jobs." October 1, 2018.

General Motors: "This agreement is vital to the success of the North American auto industry; we have long supported efforts to modernize it in a way that strengthens the industry and positions it for long-term success. We appreciate the negotiating parties for engaging the industry stakeholders and look forward to continued collaboration as the agreement is implemented." October 1, 2018.

Motor & Equipment Manufacturers Association (MEMA): "MEMA supports and urges the U.S. Congress to pass the United States-Mexico-Canada Agreement (USMCA) without delay. The USMCA will provide economic certainty and opportunity for manufacturing growth in the United States and throughout the region. This economic certainty is essential for U.S. suppliers to advance the safety and fuel efficiency technologies required to be competitive in the global mobility marketplace." May 2, 2019.

rule, along with the increased regional value content threshold and other changes to the rules of origin, will not only help to preserve existing production of vehicles and parts in the region and the United States, they will also help incentivize up to billions annually in additional production in the United States. Furthermore, these new rules also help to ensure that core parts for new energy, electric, and autonomous vehicles, including advanced batteries, are produced within the region, helping to promote production of the next generation of automobiles here in the United States.

Throughout the negotiation, the Administration worked closely with the U.S. auto industry to ensure that these new approaches will work. Fiat Chrysler Automobiles, Ford Motor Company, General Motors, the Motor & Equipment Manufacturers Association, and other firms with car production in the United States have all expressed support for the USMCA.

Periodic Reviews

Since the NAFTA entered into force more than 25 years ago, several U.S. Presidents pledged to renegotiate it without carrying through, while civil society groups charged repeatedly and consistently that the NAFTA has been an unfair deal for American workers.

To address these longstanding concerns, the Administration achieved the inclusion of a new mechanism to review the performance of the Agreement over time to ensure that the USMCA will continue to work for all Parties, and be in the best interests of the United States. The USMCA includes an initial 16-year term for the Agreement, with mandatory reviews at a minimum of every six years for Parties to determine whether to extend the Agreement for an additional 16 years. If a Party does not confirm its agreement to extend during a mandatory review, then a joint review will be required every year for the duration of the term, or until each Party confirms another 16-year extension, or until expiration of the Agreement, whichever comes first.

Periodic Reviews – At the time of the first mandatory joint review (in Year 6 of the Agreement), there will be a minimum of 10 years remaining in the term of the Agreement.

This innovative provision – a first in any trade agreement – creates positive incentives to review the entire Agreement at given intervals and to amend provisions that may not be working as intended, or that may not have been considered during the USMCA's drafting. This will ensure that the USMCA will not suffer the same fate as the NAFTA, which had become unbalanced and outdated long before this renegotiation.

Labor

The NAFTA's labor provisions, contained in the North American Agreement on Labor Cooperation, were unenforceable. This means that, under the NAFTA, the United States has been unable to challenge obvious shortcomings in Mexico's labor practices that directly affect U.S. workers, companies, and trade.

Traditionally, Mexico has lacked independent unions to represent workers. In fact, labor experts estimate that nine out of ten collective bargaining agreements signed in Mexico are without the consent, and sometimes without the knowledge, of the covered workers. These so-called "protection contracts" have been favored by the export manufacturing sector in Mexico because

they allow companies to keep wages unfairly low and profit margins high, while avoiding costly strikes.

New Market Access – Canada will provide new access for U.S. dairy products, including fluid milk, cream, butter, skim milk powder, cheese, and other dairy products. It will also eliminate its tariffs on whey and margarine over a number of years. Canada will expand access for U.S. chicken, eggs, and turkey.

The NAFTA has given Mexico no incentives to improve these conditions, to eliminate "protection contracts" or to address stagnating wages. In fact, the Organization of Economic Cooperation and Development (OECD) reports that the average annual wage in Mexico has fallen since the NAFTA went into effect – from $16,008 in 1994 to $15,314 in 2017. These low wages have incentivized – intentionally or not – companies across America to outsource their production to Mexico.

The USMCA directly addresses these issues, by bringing labor obligations into the core text of the Agreement and making them fully enforceable. The USMCA's labor provisions are the strongest, most advanced, and most comprehensive of any U.S. trade agreement. They set a high standard, including especially strong new rules on collective bargaining in Mexico. Specifically, the USMCA Labor Chapter includes an Annex on Worker Representation in Collective Bargaining in Mexico, under which Mexico committed to specific legislative actions to overhaul its system of labor justice and provide for the effective recognition of the right to collective bargaining. On May 1, 2019, Mexican president Andres Manuel Lopez Obrador signed into law comprehensive and historic labor reform legislation that does just that, taking an important step forward to further the rights of workers in Mexico.

In addition, 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 requiring Parties 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.

As many have stressed, the Labor Chapter will only be effective if its provisions are enforceable. In addition to subjecting the labor disciplines to dispute settlement, the USMCA text addresses several underlying problems with the NAFTA – as well as prior U.S. free trade agreements – including by explicitly clarifying the meaning of the terms "manner affecting trade" and "sustained or recurring," which were key issues in a trade dispute between the United States and Guatemala under the Labor Chapter of the United States-Central America-Dominican Republic Free Trade Agreement. The Administration worked closely with key U.S. labor stakeholders through the Labor Advisory Committee for Trade Negotiations and Trade Policy, as well as Members of Congress from across the political spectrum to craft these new labor provisions, in order to ensure the USMCA remedies the NAFTA's shortcomings and provides a more level playing field for American workers and businesses.

Improved Opportunities for American Agriculture, Including New Dairy Access into Canada
The USMCA preserves the tariff elimination achieved in the NAFTA and will expand U.S. agricultural exports. As the ITC notes in its April report, the combined effect of all the USMCA

provisions will increase annual U.S. agricultural and food exports to the world by $2.2 billion. The USMCA will create new market access opportunities for U.S. exports to Canada of dairy, poultry, and eggs. The ITC estimates that the USMCA will drive $314.5 million in additional U.S. dairy exports and $183.5 million in additional U.S. poultry meat exports to Canada.

In addition to the new market access into Canada, the USMCA will result in the elimination of Canada's milk classes 6 and 7 – a Canadian program that allows low-priced dairy products to undersell U.S. dairy exports to Canada and third-country markets. To prevent Canadian exports of skim milk powder, milk protein concentrates, and infant formula from gaining an unfair advantage in global markets as a result of domestic milk pricing policy, Canada will apply export charges to its exports of those dairy products over thresholds specified in the Agreement.

U.S. Agriculture Supports the USMCA

National Cattlemen's Beef Association: "This new agreement is great news for American cattle producers, and another sign that President Trump's overall trade strategy is working...Hopefully Congress will approve this new deal." October 1, 2018

National Grain and Feed Association: The USMCA announcement "represents a significant, positive step in modernizing and further enhancing North American food and agricultural commerce." October 1, 2018

U.S. Dairy Export Council: "The National Milk Producers Federation, the U.S. Dairy Export Council and the International Dairy Foods Association thanked Trump Administration negotiators for fighting hard against Canada's trade-distorting practices." October 1, 2018

Mexican Energy Commitments

Over 25 years ago, the NAFTA carved out Mexico's energy sector from its obligations related to market access for goods, cross border trade in services, and investment. Under the USMCA, Mexico has agreed to provide the United States at least the same level of treatment in market access, cross border trade and services, and investment as it provides under its other trade agreements, including the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, effectively ensuring that Mexico's 2013 energy reforms will remain intact for U.S. companies.

Resolving Longstanding Trade Issues with Canada

The USMCA achieves favorable results with regard to removing longstanding Canadian trade barriers. U.S. wheat exporters will now be able to capture the value of the quality of their wheat shipments to Canada. Canadian law prevents U.S. wheat from receiving a grade above the lowest grade. In the USMCA, Canada has agreed to grade U.S. wheat in a manner no less favorable than it would grade Canadian wheat, ensuring fair treatment for U.S. exporters.

A side letter related to the Agreement addresses British Columbia's discriminatory measures on imported wine in grocery stores. In January 2017, the United States initiated World Trade Organization (WTO) dispute settlement consultations with Canada regarding these measures that allow only British Columbian wine to be sold on regular grocery store shelves. Canada committed to ensure that British Columbia eliminates these measures no later than November 1, 2019.

Finally, the USMCA contains improved access to Canada's broadcasting market. Under the Agreement, Canada agreed to eliminate its prohibition on simultaneous substitution of advertising for the Super Bowl. This rule made it difficult for U.S. stakeholders to monetize the full value of the broadcast event. The Agreement also provides that Canada will authorize the distribution of U.S. programming services specializing in home shopping for the Canadian market.

PROMOTING THE 21st CENTURY ECONOMY

The Digital Economy and Telecommunications

When the NAFTA was negotiated, digital trade was in its infancy. Today, digital trade, the Internet, and the digital economy play a critical role in fostering economic growth and innovation. The USMCA includes a new Digital Trade Chapter that contains the strongest commitments of any international agreement, providing a solid foundation for the expansion of trade and investment in innovative products and services in North America. As evidence of this, in its April report, the ITC highlighted the digital trade provisions in particular as "likely to have a significant, positive impact on the many U.S. industries that rely on cross-border data flows and digitally enabled trade, including e-commerce."

Improving on both the NAFTA and the TPP, the USMCA's digital trade commitments include prohibiting customs duties on digital products (e.g., e-books, videos, music, software, games, etc.), ensuring that data can be transferred cross-border with minimal limitations; protecting proprietary computer source code and algorithms by limiting requirements to disclose them; and limiting the civil liability of Internet platforms for third-party content that such platforms host or process, except regarding intellectual property enforcement. Together, these provisions will encourage a robust market in digital trade between the United States, Canada, and Mexico. In addition to providing immediate benefits to U.S. businesses that rely on digital platforms, the USMCA also promotes regional collaboration in tackling cybersecurity challenges.

American Innovators Applaud the USMCA

The Business Software Alliance: "We are pleased to see the agreement includes digital trade provisions similar to BSA's digital trade agenda and we look forward to working with Congress on the implementation." October 1, 2018

CompTIA: "We are pleased to see that the new agreement addresses key pieces of digital trade that are crucial to ensuring our trade pacts going forward reflect the modern realities of moving data across borders and protecting an open internet." October 1, 2018

IBM: "The USMCA will prevent the establishment of new trade barriers in cyberspace, and will protect intellectual property that is vital to an innovative data economy. This deal provides a strong template on digital trade for future agreements." October 1, 2018

In telecommunications, the USMCA creates a strong framework that will promote effective competition in the sector, provide reasonable access to the networks of other suppliers, and ensure that regulation of the sector is independent, impartial, and transparent. The Agreement ensures that suppliers have the freedom to select the best technologies to deliver services, applies pro-competitive principles to mobile services (by far the fastest-growing sector of telecommunications), and recognizes the importance of value-added services to innovation, competition, and consumer welfare. Importantly, the USMCA includes specific commitments for Mexico regarding the reform of its telecommunications sector.

Intellectual Property

The USMCA sets a new standard for protection and enforcement of intellectual property rights. First, it is important to note that while the USMCA's provisions are a significant upgrade from the NAFTA, nothing in this Agreement concerning intellectual property requires changes to existing U.S. law. This includes the USMCA's data protection provisions, enhanced patent protections, including patent term extensions for unreasonable patent office and regulatory delays, and extended copyright term protection. The U.S. Congress will retain its discretion to legislate on these issues and the USMCA reaffirms the Doha Declaration on Trade Related Aspects of Intellectual Property Rights and Public Health.

Second, the Agreement includes the most comprehensive enforcement provisions of any trade agreement, committing our closest trading partners to enable border enforcement authorities to stop goods that are suspected of being pirated or counterfeited, and to provide meaningful criminal procedures and penalties for camcording of movies.

The USMCA Sets Stronger IP Standards than the NAFTA and the TPP, Including:

Minimum term of protection of copyright for works of authorship is life plus 70 years and is 75 years from publication for works for hire, aligning more closely with U.S. law than either the NAFTA or the TPP.

Deterrent civil and criminal penalties for camcording, which greatly damages the market for new-release movies in particular.

Authority for border enforcement officials to stop goods that are suspected of being pirated or counterfeited at all points of entry and exit of the country.

Highest standards for procedural safeguards regarding recognition of geographical indications of any prior FTA.

Strongest standards in any U.S. trade agreement for protection of trade secrets against misappropriation, including civil and criminal causes of action, litigation protection, and misappropriation by state-owned enterprises.

Both criminal and civil remedies for cable and satellite signal theft.

Full national treatment standard, to prevent discrimination against U.S. creators.

Minimum term of protection for industrial designs of 15 years.

Strong protection against circumvention of the technological protection measures necessary to protect digital content.

Third, the USMCA provides the strongest standards of any U.S. trade agreement for protection against the misappropriation of trade secrets, and strong patent protection for innovators.

Finally, as part of modernizing the agreement and promoting the 21st century economy, the USMCA looks ahead by protecting copyright holders that operate in a digital economy. The USMCA provides protections against the circumvention of technological protections measures (TPMs) used to protect digital products and brings these protections more in line with U.S. law. In addition, in contrast to the NAFTA, the USMCA includes the explicit requirement to apply all of the USMCA's enforcement mechanisms to the digital environment.

Customs and Trade Enforcement
The USMCA's customs and trade facilitation disciplines are stronger and more comprehensive than any previous trade agreement. These include new provisions that will help reduce costs and bring greater predictability to the border, while at the same time ensuring that customs administrations have the necessary information to meet customs requirements. Also included are commitments that go beyond the TPP to reduce red tape, establish border inspection rules to reduce delays, require a "Single Window" for imports into each Party, and new standards of conduct to support anti-corruption efforts among customs officers.

The USMCA also includes customs provisions ensuring the online publication of laws, regulations, and procedures for customs and other trade matters; committing Parties to begin customs processing of goods prior to arrival, to promptly release goods, and disciplines on setting bonds and surety instruments; and advanced rulings commitments with expanded scope to give traders greater certainty.

Crosscutting Benefits for SMEs
Changes to *de minimis* levels: Canada will increase its levels from $C20 to $C40 and provide duty free express shipments up to $C150. Mexico will provide duty free express shipments up to US$117.

Shipments under these values will be subject to minimal formal entry procedures, making it easier, faster, and cheaper for all business, including SMEs, to export their products.

The USMCA sets a new informal shipment level of $2,500, so that express shipments under this threshold will benefit from reduced paperwork.

The USMCA's Cross-Border Trade in Services Chapter explicitly seeks to make it easier for SMEs to become more involved the trade of services.

*2016 Data (latest available)

Small and Medium-Sized Enterprises
Mexico and Canada rank as the top two export destinations for U.S. SMEs. The USMCA recognizes the fundamental role that SMEs play as an engine of growth in the U.S. economy and the importance of the Mexican and Canadian markets to the companies. For the first time in any U.S. trade agreement, there is a dedicated chapter on SMEs, as well as provisions throughout the Agreement designed to support them.

The SME Chapter promotes cooperation to increase trade and investment opportunities for SMEs through information exchange, market research, best practices, and promoting cooperation between the Parties' small business support infrastructure. The USMCA also establishes information sharing tools on the provisions of the Agreement, as well as other information useful for SMEs doing business in North American markets.

U.S. SME Exports
82,000 U.S. SMEs export over $51.2 billion in goods to Canada*

53,000 U.S. SMEs export $76.2 billion to Mexico in goods*

*2016 Data (latest available)

Moreover, the SME Chapter includes a new framework for a SME Dialogue, which will be open to participation by SMEs, including those owned by diverse and under-represented groups. The Dialogue will enable participants to provide views and information to government officials on the implementation and further modernization of the Agreement.

Environment
The USMCA includes the most comprehensive set of enforceable environmental obligations of any previous U.S. trade agreement, which will help establish a level playing field for U.S. businesses to compete in North America. As with labor, the NAFTA did not include an Environment Chapter. Instead, the environmental provisions were negotiated in a separate side-agreement, the North American Agreement on Environmental Cooperation (NAAEC). As with the labor side-agreement, the NAAEC was not subject to the dispute settlement mechanisms of the NAFTA, meaning they could not be adequately enforced. The USMCA brings environment provisions into the core text of the Agreement and makes them subject to the same enforcement mechanisms as other provisions.

The USMCA's environment obligations go well beyond the NAAEC and the TPP to include first-ever commitments to prevent and reduce marine litter, to prohibit shark finning and commercial whaling, and to enhance commitments to combat trafficking in wildlife, timber, and fish. The USMCA also prohibits harmful fisheries subsidies, such as those that benefit operators involved in illegal, unreported, and unregulated (IUU) fishing, and includes additional commitments to combat illegal fishing through increased monitoring and surveillance, as well as implementing port state measures. This means that, under the Agreement, the U.S. fishing industry will compete on a more level playing field with Canada and Mexico by not facing unfair downward price pressures on fish caught illegally. The USMCA also includes the first-ever commitments to improve air quality and ensure appropriate procedures for environmental impact assessments.

Financial Services
U.S. financial services firms provide services critical to companies of all sizes in every sector of the economy. The United States exported roughly $115 billion in financial services in 2016, generating a $41 billion surplus in trade in financial services. The USMCA's financial services commitments support this important sector, going beyond both the NAFTA and the TPP by facilitating a level playing field for U.S. financial institutions, investors, and businesses.

Importantly, the USMCA prohibits data localization requirements as long as a financial regulator has access to the data it requires – a first for any U.S. trade agreement. This will reduce costs and burdens for U.S. companies that may have been previously required to store their financial data in Canada or Mexico. The USMCA also includes provisions to allow for the cross-border transfer of data, the most robust transparency obligations of any U.S. trade agreement, and the application of national treatment and market access obligations to an expanded list of cross-border services, including portfolio management, investment advice, and electronic payment services. The USMCA effectively brings commitments related to financial services into the 21st Century.

COMBATTING UNFAIR TRADE PRACTICES
Unfair trade practices can have a pernicious, trade distorting impact on global trade, creating challenges for market economies adhering to international commitments. The USMCA includes a number of groundbreaking provisions to combat subsidies and non-market practices that have the potential to disadvantage U.S. workers and businesses.

Currency Manipulation
The USMCA includes the first-ever commitments on currency issues in a trade agreement. The USMCA will address unfair currency practices by requiring Parties to refrain from competitive devaluations and manipulating exchange rates, while promoting transparency through enforceable obligations and providing mechanisms for accountability. This approach is unprecedented in the context of a trade agreement, and will help reinforce macroeconomic and exchange rate stability.

State-Owned Enterprises
SOEs are increasingly competing with U.S. businesses and workers around the world, often distorting global markets and undermining the competitiveness of U.S. exports. The USMCA includes a series of robust disciplines to check the activities of SOEs in the region that go beyond the NAFTA and the TPP. For example, the definition of state-owned enterprise has been broadened to include entities in which the government holds a majority stake, *in addition to* entities in which the government owns a minority of the equity, but nonetheless is able to exercise control. This ensures that any government ownership of an entity that confers control is captured by the obligations, even minority stakes or "golden shares." Additionally, three types of subsidies are prohibited *outright without any requirement to show "adverse affects"*: (1) subsidies to insolvent SOEs or SOEs on the brink of insolvency, if there is no credible restructuring plan; (2) SOE bank loans to uncreditworthy SOEs; and (3) non-commercial SOE debt-to-equity swaps by the government or a government entity.

Tough New SOE Disciplines – The USMCA's new subsidy rules are "WTO Plus" and go beyond and subsidy disciplines negotiated in any previous trade agreement.

Data Localization and Technology Transfer
U.S. innovators often face barriers when selling overseas, including unnecessary requirements to store data within a particular jurisdiction or to locate computing facilities locally. These same companies also are often forced to transfer their technology and intellectual property to foreign enterprises as a condition of doing business. The USMCA addresses these requirements in the Investment, Digital Trade, Cross-Border Trade in Services, and Financial Services Chapters. In its April report, the ITC describes how industry representatives consider these data localization and cross-border data flow commitments "to be a crucial aspect ... in terms of changing certain rules of trade across industry sectors, especially given the lack of similar provisions in the . . .NAFTA."

New Agreements with Non-Market Economies
The USMCA includes important transparency obligations to ensure that any Party entering into a new agreement with a NME provides its USMCA partners with an opportunity to review that agreement. This will enable the United States to consider any potential impact on our economy and better protect our interests.

Preserving the Right to Regulate, while Reducing Trade Barriers
The USMCA includes a robust set of commitments on good regulatory practices that provide a foundation for producing high-quality regulations that can support compatible regulatory approaches between the Parties. These commitments include strong transparency rules and a

focus on accountability, ensuring stakeholder input, internal coordination, and evidence-based decision-making in regulatory processes.

The USMCA also includes enhanced disciplines on standards and conformity assessment procedures, including requirements to accord non-discriminatory treatment to conformity assessment bodies and to seek to ensure that conformity assessment procedures do not unduly burden trade.

With regard to sanitary and phytosanitary (SPS) measures, the USMCA confirms that Parties must base SPS measures on international standards or an assessment of risk. The USMCA further includes obligations that go well beyond the NAFTA or the TPP, requiring that Parties publish proposed regulations, provide the relevant scientific evidence, and provide for the opportunity to comment on proposed regulations and risk assessments. Provisions also include improved processes for regionalization and equivalency determinations and improved transparency for import checks. Parties will limit information required on certificates to essential information and promote electronic certification and other technologies to facilitate trade.

Anticorruption

The USMCA's anticorruption disciplines are the strongest relating to international trade of any international agreement. These include requiring Parties to criminalize acts of corruption, both with respect to their own government officials, and to their own nationals' interactions with foreign government officials, concerning bribery and embezzlement; to provide appropriate sanctions for violations of anticorruption laws; to establish codes of conduct and develop other tools to promote high ethical standards for government officials; to provide protection for whistleblowers; and provide for strong cooperation among the Parties in the enforcement of anticorruption laws.

CONCLUSION

As the ITC clearly found in its April 2019 report, approving and implementing the USMCA is in the best interest of United States commerce, and is a clear "win-win-win" for all three countries. The USMCA is a solidly bipartisan agreement, borne of months of broad consultation with U.S. industry, and thousands of hours of consultations with Congress to meet and exceed every requirement of the 2015 Trade Priorities Act. This comprehensive Agreement will promote free and fair trade and expand U.S. market access in the region, promote the 21st century economy, and strengthen the North American region's commitment to combat unfair trade practices. Once the USMCA enters into effect, doing business with Canada and Mexico will be easier, faster, and more transparent for American companies.

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, THE UNITED MEXICAN STATES, AND CANADA

Summary of the Agreement

This summary briefly describes key provisions for each chapter of the Agreement between the United States of America, the United Mexican States, and Canada (USMCA or Agreement).

Preamble

The Preamble to the Agreement provides the Parties' underlying objectives in entering into the USMCA and provides context for the provisions that follow.

Chapter One: Initial Provisions and General Definitions

This chapter states that the Agreement establishes a free trade area consistent with Article XXIV of the GATT 1994 and Article V of the GATS. It also confirms that each Party retains its existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which they are party. Finally, the chapter provides for definitions that apply Agreement-wide.

Chapter Two: National Treatment and Market Access for Goods

Chapter Two and its relevant annexes and appendices set out the Agreement's principal rules governing trade in goods. Each Party must treat products from the other Parties in a non-discriminatory manner and eliminate a wide variety of non-tariff trade barriers that restrict or distort trade flows. Chapter Two maintains duty-free treatment under the North American Free Trade Agreement (NAFTA) for originating goods under the USMCA.

Chapter Two maintains the NAFTA prohibition on export duties, taxes, and other charges, and the waiver of specific customs processing fees for originating goods; adds new provisions for transparency in import licensing and export licensing procedures; prohibits Parties from applying requirements to use local distributors for importation; prohibits restrictions on the importation of commercial goods that contain cryptography; prohibits restrictions on imports of remanufactured goods; prohibits consular transactions and their associated fees and charges.

Agriculture Market Access: The Parties agree to maintain existing duty-free market access for originating agricultural goods. The Agreement grants U.S. exporters unprecedented access to the Canadian dairy, poultry, and egg markets.

Dairy: Canada agreed to provide new access through new tariff-rate quotas (TRQs) for U.S. dairy exports, including fluid milk, cream, butter, skim milk powder, cheese, and other dairy products. Canada will also eliminate its tariffs on U.S. whey and margarine over a number of years. The United States will provide Canada reciprocal market access for Canadian dairy products.

Poultry. Canada will provide new access for U.S. exports of chicken and eggs through TRQs and expand access for U.S. exports of turkey.

Sugar: The United States will provide Canada small tariff-rate quotas for refined sugar and sugar-containing products.

Peanuts: The United States will eliminate tariffs over five years for Canadian peanuts and peanut products made from peanuts grown in one of the USMCA countries.

Chapter Three: Agriculture

Chapter Three and its annexes contain commitments related to trade in agricultural products.

General Provisions. Chapter Three includes provisions to prohibit the use of export subsidies; increase transparency and consultation regarding the use of export restrictions for food security purposes; and minimize the use of trade-distorting domestic support measures. The Parties also commit to work together at the WTO on agriculture matters to promote increased transparency, and to improve and further develop multilateral disciplines.

Biotechnology. This chapter also includes provisions to enhance information exchange and cooperation on agricultural biotechnology trade-related matters to support 21st century innovations in agriculture. The chapter covers all biotechnologies, including new technologies such as gene editing, in addition to traditional rDNA technology.

TRQ Administration. The chapter also includes strong rules for administration of TRQs to ensure that TRQs are administered fairly and transparently, including an obligation not to allocate TRQs to producer groups or limit an allocation to processors, unless otherwise agreed.

Dairy. Canada commits to the elimination of its milk classes 6 and 7 within six months of entry into force of the Agreement. Canada will ensure that the price for non-fat solids used to manufacture skim milk powder, milk protein concentrates, and infant formula will be no lower than a level based on the USDA price for nonfat dry milk. In addition, Canada will apply export charges to its exports of skim milk powder, milk protein concentrates, and infant formula at volumes over thresholds specified in the Agreement.

Wheat. Addressing longstanding Canadian barriers to U.S. wheat, the United States and Canada agree to non-discriminatory treatment in the grading of originating wheat imported from the territory of the other Party and to not require a country of origin statement on a quality grade certificate for such wheat.

Distinctive Products. The Parties agree to continue recognition of Bourbon Whiskey, Tennessee Whiskey, Tequila, Mezcal, and Canadian Whisky as distinctive products.

Distilled Spirits, Wine, Beer, and Other Alcohol Beverages Annex. This annex contains nondiscrimination, transparency, and due process commitments regarding the internal sale and distribution of alcohol beverages, including beer. The Parties agree to labeling and certification provisions that will help the Parties avoid barriers to trade in wine and distilled spirits.

Proprietary Food Formulas Annex. This annex requires each Party to protect the confidentiality of information relating to companies' proprietary formulas in the same manner for domestic and imported products, and to limit such information requirements to what is necessary to achieve legitimate objectives.

Chapter Four and Five: Rules of Origin and Origin Procedures

Chapters Four, Five, and their respective annexes and appendices establish the rules of origin that a good must meet to qualify as "originating" and the procedures that each Party and its importers and exporters must adhere to in order to ensure that preferential tariff rates of the

USMCA can be applied to their respective goods. These rules ensure that the benefits of the USMCA accrue primarily to Parties to the Agreement.

Chapter Four contains product-specific rules (PSRs) of origin for goods. This chapter also outlines new provisions such as the labor value content and higher regional value content requirements for vehicles and parts, as well as steel and aluminum purchasing requirements for vehicle producers.

Labor Value Content (LVC). In addition to the PSRs outlined in Chapter Four, Appendix 4-B Article 7 establishes that a vehicle producer of a Party must certify it has met an LVC in order for its vehicle to qualify as "originating" and therefore receive the preferential tariff treatment established in the USMCA. The LVC requires that 40 percent of a passenger vehicle's value and 45 percent of a light truck or heavy truck's value must be produced in a North American plant or facility with an average hourly wage of at least $US16 per hour. Parties agree that this provision will be implemented fully by January 1, 2023, or three years after the date of entry into force of the Agreement, whichever is later, unless there is an alternative staging period for a vehicle producer.

Automobiles and Automotive Parts. In Appendix 4-B Articles 2 through 4, Parties establish the PSRs and Regional Value Content (RVC) required for vehicles, passenger vehicles, light trucks, heavy trucks, and parts to receive preferential tariff treatment under USMCA. Parties agreed to raise the minimum RVC of passenger vehicles, light trucks, and associated parts to 75 percent and to 70 percent for heavy trucks and associated parts. Further, Parties established higher thresholds for the RVC of core, principal, and complimentary parts for passenger vehicles, light trucks, and heavy trucks in order to qualify as "originating."

The following are the RVC breakdowns for the respective parts categories for passenger vehicles and light trucks under the net cost method: 75 percent for core parts, 70 percent for principal parts, and 65 percent for complimentary parts. For parts categories for heavy trucks under the net cost method the RVC is 70 percent for principal parts and 60 percent for complimentary parts. These commitments will be fully implemented by January 1, 2023, or three years after the date of entry into force of the Agreement, whichever is later, unless there is an alternative staging period for individual producers.

Steel and Aluminum. In addition to the PSRs outlined in Chapter Four, Appendix 4-B Article 6 commits Parties to consider a passenger vehicle, light truck, or heavy truck as "originating" only if 70 percent of the vehicle producer's steel and aluminum purchases, by value, originate from within one or more of the Parties of the Agreement.

Remanufactured Goods. Chapter Four provides for recovered materials to be treated as an originating good when these materials are used in the production of or incorporated into a remanufactured good.

Chapter Five includes specific rules on how to claim preferential tariff treatment and verify products are originating, as well as provisions on cooperation between customs authorities and enforcement of these new rules.

Certificates of Origin (COO). In this chapter, the Parties establish data fields in order to complete a valid COO. Minor errors or discrepancies in a COO shall not be grounds for rejection. Parties also agree to allow for the electronic submission of COOs and allow them to

be signed electronically or digitally. USMCA also establishes that COOs are not required if the value of the goods being imported does not exceed $US1, 000, except in certain circumstances.

Origin Verification. To ensure imported goods are originating, the USMCA allows a Party's customs administration to conduct verifications through both written requests for information and site visits of the producers or exporters. If an importer, exporter, or producer is found to be making a pattern of false or unsupported claims that a product is originating, their access to preferential tariff treatment may be withheld.

Committee on Rules of Origin and Origin Procedures. Chapter Five establishes both the Committee on Rules of Origin and Origin Procedures (Committee) and the Sub-Committee of Origin Verification (Sub-Committee). The Committee is to be composed of government representatives from each Party and its primary objective is to ensure that Chapter Four and Five commitments are administered effectively. The Sub-Committee's primary objectives are to develop and improve the processes, materials, and guidance associated with origin verifications.

Chapter Six: Textiles and Apparel

Chapter Six and its annexes contain provisions covering trade in textiles and apparel among the Parties.

The chapter establishes textile-specific provisions related to rules of origin, customs cooperation, verification, and determinations, including tools for preventing fraud and circumvention. It also includes provisions establishing a Committee on Textile and Apparel Matters and for monitoring tariff preference levels (TPLs) and will promote greater transparency and the sharing of information among the Parties. Appendices to the chapter set forth rebalanced TPLs for certain non-originating products, allowing for limited use of third-country inputs.

The PSRs for textile and apparel articles, included in Chapter Four, incentivize the use of fibers, yarns, and fabrics produced within the territory of the Parties. The updated rules of origin require the use of U.S. or regional sewing thread, pocketing fabric, narrow elastic bands, and coated fabric in most USMCA-qualifying apparel and other finished textile goods.

Chapter Seven: Customs Administration and Trade Facilitation

Chapter Seven establishes rules designed to encourage transparency, predictability, and efficiency in the operation of each Party's customs procedures and to provide for cooperation between the Parties on customs matters.

Trade Facilitation. In Chapter Seven, each Party commits to observe transparency obligations, including commitments on online publication of laws, regulations, and procedures for customs and other trade matters. Provisions also require customs administrations to be responsive to importers and exporters. Additional provisions relating to appeals, penalties, and standards of conduct require customs administrations to follow rules to ensure fairness and integrity in customs work. This chapter requires that the Parties, through respective customs administration, issue a written advance ruling prior to arrival, promptly release goods, and maintain disciplines on setting bonds and surety instruments. The chapter also requires the Parties to create a "single window" system for imports into each Party and commitments on Authorized Economic Operator programs, with cooperation to promote best practices and identify benefits for traders. The chapter also provides new cost-cutting and efficiencies for traders by allowing for reducing

reliance on customs brokers and creating more competition among customs brokers in addition to promoting coordinated inspections of merchandise. Additional provisions require standards of conduct to support anti-corruption efforts among customs officers.

Cooperation and Enforcement. The chapter also contains provisions aimed at strengthening and expanding customs and trade enforcement efforts and cooperation between the Parties. This chapter contains provisions on customs compliance verification requests, and the exchange of specific confidential information.

Express Shipments. Under provisions in this chapter, the Parties agree to create a new informal shipment level of $US2,500, including procedures to reduce paperwork and formalities required for entry, and to set a *de minimis* shipment value level for each Party. The *de minimis* level for Canada is set at C$40 for taxes, and provides for duty free shipments up to C$150. Canada will also allow a period of 90 days after entry for the importer to make payment of taxes. Mexico will provide a $US50 tax-free *de minimis* and also provide duty-free shipments up to the equivalent level of $US117. Shipment values up to these levels will enter with minimal formal entry procedures.

Chapter Eight: Recognition of the United Mexican States' Direct, Inalienable, and Imprescriptible Ownership of Hydrocarbons

In Chapter Eight, the United States and Canada recognize that Mexico has ownership of all hydrocarbons in the subsoil of its national territory.

Chapter Nine: Sanitary and Phytosanitary Measures

Chapter Nine sets out the Parties' obligations regarding sanitary and phytosanitary (SPS) measures under the Agreement. It reflects the Parties' understanding that implementation of existing obligations under the WTO *Agreement on the Application of Sanitary and Phytosanitary* (SPS Agreement) is a shared objective. Nothing in the Agreement imposes limitations on any Party establishing its appropriate level of protection for human, animal, and plant life and health.

Under Chapter Nine, the Parties agree to strengthen disciplines for science-based SPS measures. Parties are obligated to base SPS measures on international standards or an assessment of risk. Provisions include increasing transparency in the development and implementation of SPS measures; advancing science-based decision making; improving processes for certification, regionalization and equivalency determinations; conducting systems-based audits; improving transparency for import checks; and working together to enhance compatibility of measures. Under chapter obligations, Parties must publish proposed regulations, provide the relevant scientific evidence, and provide for the opportunity to comment on proposed regulations and risk assessments. The Parties are obligated to limit information required on certificates to essential information. In addition, Parties shall promote electronic certification and other technologies to facilitate trade. Parties may not stop importation of goods solely because an SPS measure is being reviewed.

Cooperation. The chapter establishes a Committee on Sanitary and Phytosanitary Measures to implement the chapter, consisting of relevant trade and regulatory officials, and allows for technical working groups on SPS issues. The SPS chapter establishes a mechanism for technical consultations to resolve issues between two Parties, prior to moving a matter to dispute settlement.

Chapter Ten: Trade Remedies

Chapter Ten includes provisions covering safeguards, global safeguards, and antidumping (AD) and countervailing duties (CVD). Provisions will ensure due process and transparency standards, including the use of electronic filing, to enable businesses of a Party to effectively participate in AD/CVD proceedings. Parties also agree to strong duty evasion cooperation provisions to combat attempts to undermine existing antidumping, countervailing duty, and safeguards measures. The chapter provides for duty evasion verifications and in-country facility visits by respective customs authorities, as well as the sharing of customs information for the specific purpose of combatting duty evasion.

The Parties have also agreed to share information to more effectively address potentially injurious dumped or subsidized imports, particularly from third countries. Each Party will permit investigating authorities to consider information and data from existing AD/CVD petitions filed in another Party, as well as third-party subsidy information, in determining whether to self-initiate an AD/CVD investigation or take other relevant action.

Section D of Chapter Ten replicates without substantive changes the NAFTA mechanism for review and dispute settlement in AD and CVD matters.

Chapter Eleven: Technical Barriers to Trade

The USMCA chapter on technical barriers to trade (TBT) strengthens disciplines related to transparency, standards, technical regulations conformity assessment procedures and trade facilitation matters. The chapter maintains each government's sovereign right to regulate products and manufacturing processes that ensure the protection of human, animal, or environmental health and safety.

Key Concepts. TBTs refer to barriers that may arise in preparing, adopting, or applying voluntary product standards, mandatory product standards ("technical regulations"), and procedures used to determine whether a particular good meets such standards, *i.e.*, "conformity assessment" procedures.

Provisions in this chapter enhance rights and obligations under the WTO *Agreement on Technical Barriers to Trade* (WTO TBT Agreement), and build on WTO rules to promote transparency, accountability, and cooperation between the Parties on regulatory issues. This includes using the WTO TBT Committee Decision on International Standards as a basis in determining what standards are "international." In cases where there is no international standard, the chapter provides an alternative pathway for standards developed in North America to be considered in technical regulations. The chapter also prevents discriminatory treatment of the conformity assessment bodies that are located in one Party's territory and seeks to prevent testing procedures from becoming unnecessary obstacles to trade. The chapter incorporates good regulatory practices for technical regulations, and emphasizes the Parties' commitment to reduce unnecessary barriers and to provide national treatment with respect to labeling.

The chapter ensures notification of the entirety of the text of draft and final regulations, with a reasonable period of at least six months between the publication of the regulation and its entry into force. It also provides for participation of interested persons in the development of standards, technical regulations, and conformity assessment procedures.

The chapter includes three articles to prevent other practices from creating barriers, including that no preference may be accorded to standards that have been developed in a manner inconsistent with the WTO TBT Committee Decision, or where the standard setting body does not allow equal opportunity to participate in the standards development; that technical assistance should not promote the use of standards developed in a manner inconsistent with the WTO TBT Agreement; and that no Party can be party to an agreement with another country which would require it to withdraw or limit the use of a standard developed according to the WTO TBT Committee Decision.

Finally, the chapter lays out specific time lines and information requirements to discuss a specific trade concern that is under consideration for dispute settlement.

Committee on Technical Barriers to Trade. The chapter establishes a committee to strengthen collaboration and facilitate trade between the Parties, including a commitment to engage the public in work of the TBT Committee.

Chapter Twelve: Sectoral Annexes

Chapter Twelve is comprised of six sectoral annexes containing provisions covering chemical substances, cosmetic products, information and communication technology, energy performance standards, medical devices, and pharmaceuticals.

Chemical Substances Annex. This annex contains provisions to enhance regulatory compatibility and data and information exchange between the three Parties, while recognizing the regulatory authority of each Party. This annex commits the Parties to make efforts to align risk assessment methodologies and risk management measures for chemical substances. Moreover, the annex recognizes the importance of minimizing unnecessary economic barriers or impediments to technological innovation and Parties have agreed to define and, where appropriate, use a risk-based approach to the assessment of chemicals. In a risk-based approach, the evaluation of a chemical substance or chemical mixture includes the consideration of both the hazard and exposure as well as the protection of health and the environment.

Cosmetic Products Annex. This annex contains provisions to enhance regulatory compatibility in the cosmetics sector. In this annex, the Parties commit to a risk-based approach for cosmetics and further agreed to not require marketing authorization for a cosmetic product unless there is a human health or safety concern. The Parties also agree to not require cosmetic products be tested on animals unless no validated alterative test method exists to assess a product's safety. The annex also encourages the Parties to consider internationally developed science and technical guidance documents when implementing regulations to promote greater compatibility among the Parties, including for good manufacturing practice guidelines. The annex also requires the Parties to share post-market surveillance information of cosmetics products, where appropriate.

Information and Communication Technology (ICT) Annex. This annex contains provisions on regional cooperation activities on telecommunication equipment. These provisions capture the emerging regulatory practice of electronic labeling for devices with a screen, and require the Parties to allow for certain regulatory information to be displayed electronically rather than being physically-etched on the device. The annex also includes obligations to protect innovation of encryption products to meet consumer and business demand for product features that protect

privacy and security, while also allowing law enforcement access to communications consistent with applicable law.

Energy Efficiency Performance Standards (EPS) Annex. This annex contains provisions to enhance regulatory compatibility on EPS. Provisions in this annex aim to harmonize federally mandated energy performance standards across a wide range of product categories (household appliances, HVAC, lighting, industrial equipment, and others) within a nine-year timeframe, and establish a mechanism for continued regulatory cooperation on EPS.

Medical Devices Annex. This annex contains provisions to enhance regulatory compatibility for medical devices. Provisions commit the Parties to follow a risk-based approach for the classification of medical devices, specifically to administer marketing authorization procedures to ensure timely, transparent, impartial, and science-based decision making for medical device approvals. This annex contains commitments that each Party will base its respective marketing authorization decision only on safety and efficacy of the product and not on unrelated factors, such as sales, pricing, or financial data, and to maintain an appeal process. The annex includes obligations to recognize each Party's audits of medical device manufacturers conducted under the International Medical Device Regulator's Forum Single Audit Program.

Pharmaceuticals Annex. This annex contains provisions to enhance regulatory compatibility for the pharmaceutical sector. Provisions commit the Parties to administer marketing authorization procedures to ensure timely, transparent, impartial, and science-based decision making for pharmaceutical approvals. This annex also contains commitments that each Party will base its respective marketing authorization decision only on safety and efficacy of the product and not on unrelated factors, such as sales, pricing, or financial data, and to maintain an appeal process. This annex encourages cooperation on inspections of pharmaceutical manufacturers by permitting the Parties to participate in each other's inspections, as well as to share data on the outcome of those inspections. Furthermore, the Parties agreed to take necessary steps to permit the exchange of confidential information for such inspections.

Chapter Thirteen: Government Procurement

Chapter Thirteen and its annexes contain government procurement provisions applicable to the United States and Mexico only. The chapter specifies covered procurement measures as well as activities not covered under the Agreement. Under this chapter, the United States and Mexico must apply fair and transparent procurement procedures and rules. This chapter also contains provisions clarifying that technical specifications and conditions for participation in tenders can be used to promote the conservation of natural resources, protection of the environment, or can be designed to promote compliance with laws regarding international labor rights, as long as they are otherwise consistent with the Agreement and provided the conditions do not constitute a disguised barrier to trade.

General Principles. Chapter Thirteen establishes a basic rule of "national treatment" meaning that the United States and Mexico must treat goods, services, and suppliers of such goods and services from the other Party in a manner that is "no less favorable" than their domestic counterparts. The chapter provides incentives for putting information about procurement systems online; for electronic publishing of notices; and for permissible reductions in time periods when using electronic procurement methods.

Support for Small Businesses. The chapter contains provisions to facilitate small business participation in procurement, including by encouraging that, to the extent possible and appropriate, Mexico and the United States make tender documentation free of charge and consider how to better structure procurements to help small businesses compete, among other things.

Transparency. Mexico and the United States must make procurement statistics publicly available online.

Ensuring Integrity. Mexico and the United States must have measures in place to address corruption, fraud, or abuse in government procurement, both by businesses and by tendering agencies. The chapter also mandates transparency requirements for any debarment procedures.

Chapter Fourteen: Investment

Chapter Fourteen establishes rules to protect investors from one Party against wrongful or discriminatory government actions when they invest or attempt to invest in another Party's territory.

Key Concepts. Under this chapter, the term "investment" covers all forms of investment, including enterprises, securities, certain forms of debt, intellectual property rights, licenses, and certain contracts. The chapter covers both investments existing when the Agreement enters into force, and future investments. The term "investor of a Party" encompasses U.S., Canadian, and Mexican nationals as well as firms (including branches) established in one of the Parties.

General Principles. The key investment protection provisions include rules prohibiting expropriation without prompt, adequate, and effective compensation; discrimination; performance requirements (e.g., technology transfer and local content requirements); nationality-based requirements on the appointment of senior management; restrictions on the transfer of investment-related capital; and denial of justice and other breaches of the customary international law minimum standard of treatment. In the event of an investment dispute, each Party can seek remedies for breach of these rules in State-to-State dispute settlement procedures.

Sectoral Coverage and Non-Conforming Measures. With the exception of investments in or by regulated financial institutions, Chapter Fourteen generally applies to all sectors, including service sectors. However, each Party negotiated a limited list of exemptions from the chapter's obligations relating to national treatment, most-favored nation (MFN) treatment, performance requirements, or senior management and boards and directors as "non-conforming measures." Annex I contains each Party's list of existing non-conforming measures at the central and regional levels of government. The United States has scheduled an exemption from all of the aforementioned obligations for all existing state measures. All existing local measures are exempt from those obligations for all Parties without the need to be listed. In Annex II, each Party has listed sectors or activities in which it reserves the right to adopt or maintain future non-conforming measures. Annexes I and II also include exemptions from Chapter Fifteen (Cross-Border Trade in Services).

Investor-State Dispute Settlement (ISDS). Under the reformed approach to ISDS in the Investment chapter, U.S. and Mexican investors in all sectors will have limited access to ISDS as a last resort to provide protection in the context of such egregious issues as discrimination and direct expropriation. In certain sectors—such as oil and gas, telecommunications, and certain

infrastructure—investors that enter into government contracts will have broader access to ISDS to protect the long-term, capital-intensive investments in these sectors, which are subject to heightened political risks. ISDS with Canada will be phased out over three years, but State-to-State remedies will remain between the United States and Canada.

Chapter Fifteen: Cross-Border Trade in Services

Chapter Fifteen governs measures affecting cross-border trade in services between the Parties. Certain provisions also apply to measures affecting investments to supply services.

The chapter includes the core obligations of national treatment and most-favored nation (MFN) treatment, ensuring nondiscrimination in the supply of services. The chapter also includes a local presence rule that helps ensure that U.S. suppliers will not be required to establish an office in Mexico or Canada as a condition for supplying cross-border services. This chapter also includes commitments to keep services markets open and free from new quantitative restrictions, enhanced rules for ensuring good governance in licensing regimes, and a new article to enhance commercial opportunities for small and medium-sized businesses.

Except where the Parties have negotiated specific exceptions, the obligations in the chapter apply to all services and are subject to enforcement through dispute settlement. National treatment, MFN treatment, market access, and local presence obligations do not apply to non-conforming measures as set out by the Parties in their respective Schedules to Annexes I and II.

Chapter Fifteen also contains an annex requiring that Canada eliminate its rule prohibiting simultaneous substitution of advertising for the Super Bowl, and will increase access for teleshopping broadcasters. Additional annexes provide the basis for ongoing work in professional services and transportation services, and a new set of disciplines for delivery services.

Chapter Sixteen: Temporary Entry

Chapter Sixteen permits temporary entry for professionals and businesspeople seeking to engage in certain activities in the territory of another Party. These commitments, included in the NAFTA, provide predictability for companies and qualified professionals in serving clients, moving senior managers, initiating new investments, and other business activities conducted on a temporary basis in another USMCA country. Annexes to this chapter include provisions on Parties' measures applicable to temporary entry and define business activities and professionals eligible for temporary entry into a Party. This chapter maintains the same treatment provided under the NAFTA.

Chapter Seventeen: Financial Services

Chapter Seventeen and its annexes include commitments to liberalize financial services markets and create a level playing field for financial institutions, investors and investments in financial institutions, and cross-border trade in financial services.

The chapter includes core obligations, such as national treatment, to ensure that a Party does not discriminate against financial service suppliers of another Party. It also contains market access provisions that prohibit a Party from imposing certain quantitative or numerical restrictions on financial services. A separate annex contains commitments of the Parties relating to cross-border trade, including an expanded list of cross-border services, such as portfolio management.

investment advice, and electronic payment services. Additionally, provisions in this chapter create enhanced transparency obligations for regulatory licensing and other market access authorizations.

Notably, this chapter includes a key prohibition on local data storage requirements where the financial regulator has immediate and ongoing access to data that it needs to fulfill its regulatory and supervisory mandate.

Chapter Seventeen also contains specific procedures related to ISDS claims with Mexico, including provisions regarding the level of expertise required for arbitrators and a special procedural mechanism to facilitate the application of the prudential and other exceptions.

Chapter Eighteen: Telecommunications

Chapter Eighteen and its annexes include disciplines on regulatory measures affecting telecommunications trade and investment between the Parties. It includes rules to promote effective competition in the telecommunications sector, provide access to the networks of other suppliers, and ensure that regulation of the sector is independent, impartial, and transparent.

This chapter includes provisions to address competition in the supply of fixed and mobile telecommunications services. For Internet of Things devices, this chapter includes new rules to ensure that countries will not prohibit roaming arrangements that are often used to support advanced functionality of such devices. The chapter also includes commitments to make publicly available information on measures relating to public telecommunications services, to resolve disputes and provide effective enforcement, to ensure fair access to government managed resources, such as spectrum and rights-of-way, to not discriminate in favor of state-owned enterprises, and to cooperate with regard to international mobile roaming.

Transparency. In this chapter, the Parties commit to ensure that their respective telecommunications regulatory body is independent from and impartial to their suppliers of public telecommunications services, and to ensure that telecommunications regulations are set by independent regulators applying transparent procedures, designed to encourage adherence to principles of deregulation and technological neutrality. The chapter also includes transparency commitments for licensing processes.

Chapter Nineteen: Digital Trade

Chapter Nineteen contains robust disciplines on digital trade, providing a firm foundation for the expansion of trade and investment in innovative products and services. This chapter includes provisions that prohibit the application of customs duties and other discriminatory measures to digital products distributed electronically (e-books, videos, music, software, games, etc.). It also ensures that data can be transferred cross-border, and that limits on where data can be stored and processed are minimized.

Additional provisions in the chapter ensure that suppliers are not restricted in their use of electronic authentication or electronic signatures, and guarantee that enforceable consumer protections, including for privacy and unsolicited communications, apply to the digital marketplace. The chapter also limits Internet platform's civil liability with respect to third-party content that such platforms host or process, except regarding intellectual property enforcement.

Chapter Nineteen also promotes open access to government-generated public data, and collaboration in addressing cybersecurity challenges, while seeking to promote industry best practices with respect to network security. Additional provisions limit governments' ability to require disclosure of proprietary computer source code and algorithms, to better protect the competitiveness of digital suppliers.

Chapter Twenty: Intellectual Property Rights

Chapter Twenty complements and enhances existing international standards for the protection of intellectual property and the enforcement of intellectual property rights, consistent with U.S. law. This chapter requires the Parties to extend full national treatment for copyright and related rights, ensuring the same protections for creators of another Party that its domestic creators receive. It also contains provisions to ensure transparency with respect to a Party's laws, regulations, procedures, and administrative rulings concerning the protection and enforcement of intellectual property rights, including requirements to publish information online. The chapter also contains strong standards for industrial design protection, requiring a minimum term of protection for industrial designs of at least 15 years.

Public Health. This chapter includes provisions permitting a Party to adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their development, provided that those measures are consistent with the provisions of this chapter.

Trademarks and Geographical Indicators (GIs). Chapter Twenty contains provisions for protecting trademarks, including well-known marks. In addition, it includes rules relating to electronic trademarks systems, a classification system that is consistent with international standards, and systems to protect against "trademark squatting" with respect to a country-code top-level domain name. Chapter Twenty also provides important procedural safeguards for recognition of new GIs, including strong standards for protection against issuances of GIs that would prevent producers from using common names, and establishes a mechanism for consultation between the Parties on future GIs pursuant to international agreements.

Patents and Pharmaceuticals. This chapter provides robust patent protection for innovators, enshrining patentability standards and patent office best practices to ensure that innovators, including small- and medium-sized businesses, are able to protect their inventions with patents. The chapter also includes strong minimum standards for pharmaceutical and agricultural innovators, including with respect to data protection. For the pharmaceutical sector, this chapter contains provisions requiring compensation of applicants for unreasonable marketing approval delays and requires the Parties to provide an effective mechanism for the early resolution of potential patent disputes.

Copyright and Related Rights. The chapter requires a minimum copyright term of life of the author plus 70 years, and for those works with a copyright term that is not based on the life of a person, a minimum of 75 years after first authorized publication. Provisions also establish appropriate copyright safe harbors to provide protection for IP and predictability for legitimate enterprises that do not directly benefit from the infringement.

Trade Secrets. The chapter includes all of the following protections against misappropriation of trade secrets, including by state-owned enterprises: civil procedures and remedies, criminal

procedures and penalties, prohibitions against impeding licensing of trade secrets, judicial procedures to prevent disclosure of trade secrets during the litigation process, and penalties for government officials for the unauthorized disclosure of trade secrets. It also establishes strong standards of protection of trade secrets against misappropriation.

Enforcement Provisions. Chapter Twenty contains robust intellectual property rights enforcement mechanisms, including provisions that require *ex officio* authority for border enforcement officials to stop suspected counterfeit or pirated goods at every phase of entering, exiting, and transiting through the territory of any Party; express recognition that IP enforcement procedures must be available for the digital environment for trademark and copyright or related rights infringement; meaningful criminal procedures and penalties for unauthorized camcording of movies; civil and criminal penalties for satellite and cable signal theft; and broad protection against trade secret theft, including by state-owned enterprises.

Chapter Twenty-One: Competition Policy

Chapter Twenty-One includes provisions on national competition laws to promote competition. The Parties recognize the importance of consumer protection policy and enforcement to creating efficient and competitive markets, and enhancing consumer welfare. In this regard, each Party must adopt or maintain national consumer protection laws that address fraudulent and deceptive commercial activities.

The Parties agree to obligations providing increased procedural fairness and competition law enforcement. This provides Parties with a reasonable opportunity to defend their interests and ensure that Parties have certain rights and transparency under each Party's competition laws. The chapter also limits remedies imposed by a national competition authority relating to conduct or assets outside of the Party's territory to situations in which there is an appropriate nexus to harm affecting the Party's territory or commerce.

The chapter includes cooperation and transparency provisions related to competition policies and the enforcement of national competition laws, including coordination of investigations between national authorities, when warranted.

Chapter Twenty-Two: State-Owned Enterprises and Designated Monopolies

Chapter Twenty-Two and its annexes apply to the activities of state-owned enterprises (SOEs), state enterprises, and designated monopolies of a Party that affect or could affect trade or investment between Parties of the USMCA. The chapter contains a broad definition of what constitutes an SOE to ensure that any government ownership of an entity that confers control is captured.

The chapter prohibits certain subsidies to SOEs that are particularly trade-distorting. Specifically, it prohibits three types of subsidies: (1) subsidies to SOEs that are insolvent or on the brink of insolvency, if there is no credible restructuring plan; (2) loans or loan guarantees from SOEs such as state-owned banks to other, uncreditworthy SOEs; and (3) noncommercial SOE debt-to-equity swaps by the government or government entities. Further, the SOE Chapter requires the Parties to share, upon request, information about the extent of government ownership and control, and the subsidies provided to their SOEs, as well as all government equity investments made in an SOE. Lastly, the SOE Chapter includes commitments by the

Parties to ensure that SOEs and designated monopolies make commercial purchases and sales on the basis of commercial considerations and do not discriminate against the enterprises, goods, or services of the other Parties.

Non-Conforming Activities. In Annex IV, each Party negotiated a limited list of exemptions from the Chapter's obligations relating to non-commercial assistance and non-discriminatory treatment and commercial considerations as "non-conforming activities."

Application to Sub-Central Entities. In Annex 22.D, each Party indicates the extent to which the obligations in the chapter do not apply to enterprises owned or controlled by sub-central governments. In Annex 22.C, Parties agree to commence negotiations on coverage of sub-central entities within six months of entry into force of the Agreement.

Chapter Twenty-Three: Labor

Chapter Twenty-Three sets out the Parties' commitments and undertakings regarding trade-related labor rights. USMCA's labor provisions are in the core of the Agreement and subject to the same dispute settlement mechanism as other chapters.

The chapter requires the Parties to adopt and maintain labor rights in law and practice as recognized by the International Labor Organization, to effectively enforce their labor laws, and not to waive or derogate from their labor laws.

The chapter includes provisions requiring Parties 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. It provides procedural guarantees for the enforcement of labor laws, including due process through independent and impartial judicial and administrative tribunals. It establishes institutional mechanisms to provide for intergovernmental engagement and cooperation with stakeholder input and a public submission process whereby members of the public can seek review of claims that a Party is not meeting its obligations under the labor chapter.

Annex on Worker Representation in Collective Bargaining in Mexico. This annex commits Mexico to specific legislative actions as part of its constitutional labor reforms in order to provide for the effective recognition of the right to collective bargaining. Required actions include legislation that requires majority worker support—through the exercise of a personal, free, and secret vote of workers—to elect union leadership, challenge existing bargaining representatives, and register a new collective bargaining agreement. On May 1, 2019, Mexico approved comprehensive labor reform legislation to implement the requirements of this Annex.

Chapter Twenty-Four: Environment

Chapter Twenty-Four and its annexes set out the Parties' commitments and undertakings regarding environmental protections. These provisions are subject to the same dispute settlement mechanism as other chapters.

The chapter includes obligations to combat trafficking in wildlife, timber, and fish, including by enhancing the effectiveness of customs inspections and strengthening law enforcement networks to stem such trafficking. The Parties agreed to affirm their existing and future commitments under listed Multilateral Environmental Agreements. The Parties also agree to prohibit some of the most harmful fisheries subsidies, such as those that benefit vessels or operators involved in

illegal, unreported, and unregulated (IUU) fishing. The chapter also includes new protections for marine species, such as prohibitions on shark-finning and the killing of great whales for commercial purposes. There are also first-ever articles to improve air quality, prevent and reduce marine litter, support sustainable forest management, and ensure appropriate procedures for environmental impact assessments. The chapter also includes public participation provisions, including a streamlined mechanism for public submissions asserting a failure by one or more Parties to effectively enforce their environmental laws.

Agreement on Environmental Cooperation. The Parties also agree to support implementation of the chapter's commitments by continuing their longstanding history of environmental cooperation under a modernized Commission for Environmental Cooperation, as outlined in the new Agreement on Environmental Cooperation (ECA) among the Governments of the United States of America, the United Mexican States, and Canada. The ECA will take effect upon entry into force of the USMCA and provide a platform for environmental cooperation in such areas as environmental governance, pollution, conservation of biological diversity, and sustainable management of natural resources.

Chapter Twenty-Five: Small and Medium-Sized Enterprises

Chapter Twenty-Five includes provisions to promote cooperation between the Parties to enhance commercial opportunities for Small and Medium-Sized Enterprises (SMEs). This new chapter recognizes the fundamental role of SMEs in maintaining dynamism and competitiveness in the economies of each Party. It aims to promote SME trade and investment opportunities among the Parties and establishes information sharing tools on the provisions of the Agreement as well as other information useful for SMEs doing business in North American markets. The chapter also creates a Committee on SME Issues comprised of government officials from each Party.

SME Dialogue. In addition, the SME Chapter launches a new framework for an ongoing SME Dialogue, which will be open to participation by SMEs, including those owned by diverse and under-represented groups. The goal of the SME Dialogue is to have participants provide views and information to government officials on the implementation and further modernization of the Agreement, in order to help SMEs benefit from the Agreement and to further enhance cooperation between the Parties. The chapter also highlights provisions across the Agreement that benefit SMEs.

Chapter Twenty-Six: Competitiveness

Chapter Twenty-Six establishes a Committee on Competitiveness that will discuss and develop cooperative activities to promote regional economic growth in North America and facilitate regional trade and investment.

Chapter Twenty-Seven: Anticorruption

Chapter Twenty-Seven contains disciplines to prevent and combat bribery and corruption in international trade. It requires Parties to criminalize acts of corruption, both with respect to their own government officials, and to their own nationals' interactions with foreign government officials. Provisions in the chapter require Parties to provide appropriate sanctions for violations of anticorruption laws; disallow the tax deductibility of bribes; require companies to maintain accurate books and records; and to establish codes of conduct and develop other tools to promote

high ethical standards among government officials. The chapter also provides notable whistleblower protections.

The chapter also includes provisions that promote honesty and integrity among public officials and encourage Parties to take appropriate measures to engage civil society and the private sector. Finally, the chapter provides for strong cooperation among the Parties in the enforcement of anticorruption laws.

Chapter Twenty-Eight: Good Regulatory Practices

Chapter Twenty-Eight sets out specific obligations with respect to good regulatory practices, that is, good governance procedures that governments apply to promote transparency and accountability when developing and implementing regulations. The chapter makes clear that no provision prevents governments from pursuing public policy objectives with respect to health, safety, or the environment. Provisions in this chapter relate to the planning, design, issuance, implementation, and review of the Parties' respective regulations concerning trade in goods, services, and investment.

This chapter includes commitments relating to central coordination; publication of annual plans of expected regulations; public consultations on draft texts of regulations; evidence-based analysis and explanations of the scientific or technical basis for new regulations; other provisions concerning evidence-based decision-making (such as parameters for conducting regulatory impact assessments and retrospective reviews); and techniques for encouraging regulatory compatibility and regulatory cooperation.

This chapter also includes extensive transparency requirements to publish key information online, including draft regulations (notice and comment) and final regulations, annual regulatory agendas, and descriptions of regulatory agencies' functions and legal authorities; applicable forms used by regulatory agencies; fees associated with licensing, inspection, audits, etc.; and judicial or administrative procedures available to challenge regulations.

Finally, the chapter includes provisions on expert advisory groups, information quality, and public suggestions for improvements to regulations, consideration of effects on small businesses, and other elements of evidence-based decision making in the development and implementation of regulations. The chapter also contains a non-comprehensive list of useful alignment practices that support regulatory compatibility and cooperation.

Chapter Twenty-Nine: Publication and Administration

Chapter Twenty-Nine requires each Party to ensure that its laws, regulations, procedures, and administrative rulings of general application are publicly available. To the extent possible, proposed measures are required to be published in advance for public comment, and be available online. It also provides for due process rights for stakeholders regarding administrative proceedings, including prompt review of any administrative action through independent and impartial judicial or administrative tribunals or procedures.

The chapter also includes a new commitment to compile laws and regulations of general application at the central level of government on those freely accessible websites that are identified in an annex to the chapter. This new element strengthens the commitments of the

Parties to ensure that any exporter, service supplier, investor, or other interested person in each country has access to the relevant laws and regulations.

Chapter Thirty: Administrative and Institutional Provisions

Chapter Thirty establishes a Free Trade Commission ("Commission") to oversee the implementation of the Agreement. The Commission is composed of government representatives of each Party at the level of Ministers or their designees. The Commission will operate by consensus. In addition, the chapter provides for Agreement Coordinators to facilitate communications between the Parties. Finally, the chapter provides for a Secretariat, comprised of National Sections. The Secretariat's main function is to provide administrative assistance to dispute settlement panels.

Chapter Thirty-One: Dispute Settlement

Chapter Thirty-One sets out detailed procedures for the resolution of disputes between the Parties for any matter arising under the Agreement (with only a few exceptions). The chapter provides for a two-step process comprising consultations and review by a panel. The disputing Parties shall file all documents relating to the dispute electronically. Chapter procedures emphasize amicable settlements, relying wherever possible on bilateral cooperation and consultations. When disputes arise under provisions common to the Agreement and other agreements (e.g., the WTO agreements), the complaining government may choose a forum for resolving the matter that is set forth in any valid agreement between the Parties. The selected forum will be the exclusive venue for resolving the dispute.

Consultations. A Party may request consultations with another Party on an actual or proposed measure that it believes to be inconsistent with obligations of the Agreement. If the Parties fail to resolve the issue within a certain time period, the complaining Party may request establishment of a panel.

Panel Procedures. Parties agree to maintain a roster of panelists to objectively assess the dispute. The panel report is due no later than 150 days from the date of the appointment of the last panelist. If the panel finds that the responding Party has failed to comply with its obligations or caused nullification or impairment, the Parties shall attempt to agree on a resolution of the dispute.

Suspension of Benefits. If the disputing Parties are unable to agree on resolution of the dispute, the complaining Party may suspend the application to the responding Party of benefits of equivalent effect to the non-conformity or the nullification or impairment until such time as the dispute is resolved. The panel may be convened again to determine if the suspension is excessive or if the responding Party has eliminated the non-conformity or nullification or impairment.

The chapter also provides for the maintenance of the Advisory Committee on Private Commercial Disputes, to encourage, facilitate, and promote the use of arbitration, mediation, online dispute resolution and other procedures for the prevention and resolution of international commercial disputes between private parties.

The chapter also provides for a Facility-Specific, Rapid Response Labor Mechanism to ensure remediation of a denial of rights, as defined in the chapter.

Chapter Thirty-Two: Exceptions and General Provisions

Chapter Thirty-Two provides for the following exceptions and provisions that apply Agreement-wide or to various chapters.

General Exceptions. Chapter Thirty-Two incorporates the GATT Article XX exceptions with respect to goods-related obligations and GATS Article XIV exceptions with respect to services-related obligations.

Essential Security. This chapter provides for a self-judging Agreement-wide exception for actions a Party considers to be in its essential security interest.

Taxation Measures. This chapter circumscribes the obligations that apply with respect to a Party's taxation measures.

Temporary Safeguard Measures. Chapter Thirty-Two provides for an exception allowing a Party to adopt or maintain restrictive measures with regard to payments or transfers relating to the movements of capital in the event or threat of serious balance of payments and external financial difficulties. Among other things, any such measure must not be inconsistent with national treatment and Most Favored Nation obligations of the Investment, Services, and Financial Services chapters; be consistent with the Articles of Agreement of the International Monetary Fund; avoid unnecessary damage to the commercial, economic and financial interests of another Party; not be inconsistent with the Expropriation obligation of the Investment Chapter; and be temporary and be phased out progressively.

Indigenous Peoples Rights. This chapter provides that nothing in the Agreement precludes a Party from adopting or maintaining measures it deems necessary to fulfill legal obligations to indigenous peoples, as long as those measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Parties or as disguised restrictions on trade or investment.

Cultural Industries. This chapter provides that the Agreement does not apply to a measure adopted or maintained by Canada with respect to a cultural industry, and provides reciprocal flexibility for the United States and Mexico with respect to Canada. Should a Party take a measure that would be inconsistent with the Agreement but for this exception, other Parties may take a measure of equivalent commercial effect.

Disclosure of Information. This chapter provides that nothing in the Agreement requires a Party to furnish or allow access to information, the disclosure of which would be contrary to its law or would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

Personal Information Protection and Access to Information. This chapter requires each Party to have a legal framework to provide for the protection of personal information. The Parties shall endeavor to adopt non-discriminatory practices in protecting natural persons from personal information protection violations and to foster cooperation in this area. In addition, this chapter requires each Party to maintain a legal framework that allows natural persons to obtain access to records held by the central level of government, subject to reasonable terms and limitations.

Non-market country Free Trade Agreement (FTA). This chapter requires that any Party intending to negotiate an FTA with a non-market country must inform the other Parties and

provide information and an opportunity to review the text. It provides that entry into such an agreement by one Party allows for the other Parties to terminate the USMCA and replace the USMCA with an agreement as between them. A non-market economy country is defined as a country that at least one Party has determined to be a non-market economy for purposes of its trade remedy laws and is a country with which no Party has a signed free trade agreement.

Specific Provision for Mexico. This provision provides that, with respect to the obligations in the Cross-Border Trade in Services, Investment, State-Owned Enterprises and Designated Monopolies, and Market Access for Goods Chapters, Mexico may only adopt measures consistent with the least restrictive measures it may adopt under its other trade and investment agreements.

Chapter Thirty-Three: Macroeconomic Policies and Exchange Rate Matters

Chapter Thirty-Three includes policy commitments to achieve and maintain market-driven exchange rates and refrain from competitive devaluations to gain an unfair trade advantage. The chapter also contains transparency and reporting requirements on intervention and foreign exchange reserves, which reinforce accountability by providing rapid information to assess whether commitments are being met. Key obligations in the chapter are subject to dispute settlement. The chapter also creates a Macroeconomic Committee to monitor implementation.

Chapter Thirty-Four: Final Provisions

Chapter Thirty-Four contains provisions regarding the transition from NAFTA 1994, amendments to the Agreement, the languages in which the Agreement is authentic, withdrawal, and entry into force.

Review and Term Extension. Chapter Thirty-Four sets the term of the USMCA at 16 years, with the possibility of extensions. The Commission is required to review the operation of the Agreement every six years. At the end of each such review, each Party, through its head of government, must confirm whether it wishes to extend the term of the Agreement for another 16 years (that is, if this is done at the 6th anniversary, the Agreement term will then be 22 years). If this does not occur, the Commission will meet to review the Agreement every year until agreement to extend is reached, or the term expires. At any point when the Parties decide to extend the Agreement for another 16-year period, the Commission will continue conducting reviews every six years.

December 10, 2019

The Honorable Marcelo Ebrard Casaubon
Secretary of Foreign Affairs of Mexico
Mexico City, Mexico

Dear Secretary Ebrard:

I have the honor to confirm the following understanding reached between the Government of the United States ("the United States") and the Government of the United Mexican States ("Mexico"). Article 24.8.4 (Multilateral Environmental Agreements) of the Environment Chapter of the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) requires the United States and Mexico (collectively referred to as the "Parties") to "adopt, maintain, and implement laws, regulations, and all other measures necessary to fulfill its respective obligations under the following multilateral environmental agreements ('covered agreements')," including the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat, done at Ramsar, February 2, 1971, as amended.

In response to Mexico's questions regarding whether this obligation would affect planned national development projects in Mexico, the Parties note that the Ramsar Convention explicitly provides for certain changes to wetlands within its territory that have been listed as Ramsar Wetlands of International Importance. Specifically, Article 2.5 of the Ramsar Convention states that "Each Contracting Party shall have the right to add to the List further wetlands situated within its territory, to extend the boundaries of those wetlands already included by it in the List, or, because of its urgent national interests, to delete or restrict the boundaries of wetlands already included by it in the List and shall, at the earliest possible time, inform the organization or government responsible for the continuing bureau duties specified in Article 8 of any such changes." Furthermore, Article 4.2 of the Ramsar Convention states that "Where a Contracting Party in its urgent national interest, deletes or restricts the boundaries of a wetland included in the List, it should as far as possible compensate for any loss of wetland resources, and in particular it should create additional nature reserves for waterfowl and for the protection, either in the same are or elsewhere, of an adequate portion of the original habitat."

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between the United States and Mexico, which shall enter into force upon conclusion by the United States and Mexico of the necessary internal procedures for such effect.

Sincerely,

Robert E. Lighthizer
United States Trade Representative

December 10, 2019

The Honorable Chrystia Freeland
Deputy Prime Minister and Minister of
Intergovernmental Affairs
Ottawa, Canada

The Honorable Marcelo Ebrard Casaubon
Secretary of Foreign Affairs of Mexico
Mexico City, Mexico

Dear Deputy Prime Minister Freeland and Secretary Ebrard:

I have the honor to confirm the following understanding reached between the Government of the United States ("the United States"), the Government of the United Mexican States ("Mexico"), and the Government of Canada ("Canada") with respect to the deletion of footnote 10 to USMCA Article 23.6 as published on May 30, 2019.

Under Article 1.2 of the USMCA, each Party affirms its existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which it and another Party are party. Furthermore, the Parties agree they can comply with both their obligations under the WTO Agreement and Article 23.6. Footnote 10 to Article 23.6 merely reconfirmed this premise. Therefore, nothing should be read into the deletion of footnote 10 other than the fact that the footnote is unnecessary.

I would be grateful if you would confirm that your Governments share this understanding.

Sincerely,

Robert E. Lighthizer
United States Trade Representative

Environment Cooperation and Customs Verification Agreement between the United States and Mexico

Section I – Strengthening Cooperation and Enforcement of Environmental Laws

1. The United States of America and the United Mexican States (collectively "the Parties") recognize that compliance with and effective enforcement of environmental laws related to the environmental obligations in Chapter 24 (Environment) are integral to trade between Parties.

2. The Parties recognize the goal of trading only in goods and services produced in compliance with Chapter 24.

3. Each Party shall, subject to its laws and regulations, share information with the other Party to further cooperate on environmental law enforcement. If the Party involved requests that the information be treated as confidential, the other Party shall maintain the confidentiality of the information.

4. The Parties are committed to working cooperatively to implement the actions required to effectively enforce their environmental laws, including through capacity-building and other joint initiatives to promote the enforcement of environmental laws. The Parties shall develop and implement appropriate capacity-building activities to support that work.

Section II – Customs Verifications related to Trade in Illegally Taken Wild Flora and Fauna, including Transshipment

1. Further to Article 24.22 (Conservation and Trade), a Party may request another Party to provide relevant information with respect to the legality of a particular shipment to assist the requesting Party to determine whether an importer has provided adequate and accurate information, including documents and other records. The requesting Party shall make the request in writing.

2. The requested Party shall respond to the request promptly as to whether it will provide information and in no case later than 20 days after the date it receives the request. If the Party does not intend to share relevant information, the response will indicate the basis for refusal. If the Party will share requested information, the response will indicate the intended timing and other relevant details.

3. If the requested Party agrees to share the information requested under paragraph 1, it shall provide the requesting Party relevant documentation no later than 90 days after the date of the request or as otherwise agreed by the Parties.

4. The requesting Party may, as appropriate, request additional steps to verify information provided or related to the particular shipment identified under paragraph 1. Should the requested Party deny this request, the requested Party shall provide a written response indicating the basis for refusal.

5. In the case of a site visit by the requested Party, the requesting Party may, through officials it designates, seek to accompany the requested party. The requested Party may decline such a request, but shall provide a written response indicating the basis for refusal.

Section III – Verifications related to Fishing Practices

1. Further to Article 24.17 (Marine Wild Capture Fisheries), Article 24.19 (Conservation of Marine Species), and Article 24.21 (Illegal, Unreported, and Unregulated (IUU) Fishing), a Party may request the other Party to provide relevant information with respect to the legality of a particular shipment to assist the requesting Party to determine whether an importer has provided adequate and accurate information, including documents and other records. The requesting Party shall make the request in writing.

2. The requested Party shall respond to the request promptly as to whether it will provide information and in no case later than 20 days after the date it receives the request. If the Party does not intend to share relevant information, the response will indicate the basis for refusal. If the Party will share requested information, the response will indicate the intended timing and other relevant details.

3. If the requested Party agrees to share the information requested under paragraph 1, it shall provide the requesting Party relevant documentation no later than 90 days after the date of the request or as otherwise agreed by the Parties.

4. The requesting Party may, as appropriate, request additional steps to verify information provided or related to the particular shipment identified under paragraph 1. Should the requested Party deny this request, the requested Party shall provide a written response indicating the basis for refusal.

5. In the case of a site visit by the requested Party, the requesting Party may, through officials it designates, seek to accompany the requested party. The requested Party may decline such a request, but shall provide a written response indicating the basis for refusal.

Section IV – Verifications related to Harvesting Forest Products

1. Further to Article 24.23 (Sustainable Forest Management and Trade), a Party may request the other Party to provide relevant information with respect to the legality of a particular shipment to assist the requesting Party to determine whether an importer has provided adequate and accurate information, including documents and other records. The requesting Party shall make the request in writing.

2. The requested Party shall respond to the request promptly as to whether it will provide information and in no case later than 20 days after the date it receives the request. If the Party does not intend to share relevant information, the response will indicate the basis for refusal. If a Party will share requested information, the response will indicate the intended timing and other relevant details.

3. If the requested Party agrees to share the information requested under paragraph 1, it shall provide the requesting Party relevant documentation no later than 90 days after the date of the request or as otherwise agreed by the Parties.

4. The requesting Party may, as appropriate, request additional steps to verify information provided or related to the particular shipment identified under paragraph 1. Should the requested Party deny this request, the requested Party shall provide a written response indicating the basis for refusal.

5. In the case of a site visit by the requested Party, the requesting Party may, through officials it designates, seek to accompany the requested Party. The requested Party may decline such a request, but shall provide a written response indicating the basis for refusal.

Section V - Public Comments

Each Party shall establish a procedure for the public to submit comments regarding any matter under this Agreement, including a request for verification. Each Party shall take these comments into account and transmit them to the other Party if they are not publicly available.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Mexico City, Mexico, this 10th day of December 2019.

For the Government of the United States of America:

For the Government of the United Mexican States:

November 30, 2018

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

Dear Secretary Guajardo:

I have the honor to acknowledge your letter of this date, which in English reads as follows:

> I have the honor to refer to the agreement between the Government of the United Mexican States ("Mexico") and the Government of the United States of America ("the United States") reached on this date through exchange of letters regarding the commitment by the United States to exclude from a measure pursuant to section 232 of the Trade Expansion Act of 1962, as amended, passenger vehicles classified under subheadings 8703.21 through 8703.90, light trucks classified under subheadings 8704.21 and 8704.31, and any auto parts within the scope of any such measure, as set out in those letters ("the Automotive Letter Exchange").
>
> I have further the honor to confirm the following understanding between Mexico and the United States:
>
> > Mexico may have recourse to the dispute settlement procedures in Chapter Twenty (Institutional Arrangements and Dispute Settlement Procedures) of the North American Free Trade Agreement or Chapter 31 (Dispute Settlement) of the Agreement Between the United States of America, the United Mexican States, and Canada, whichever is in effect at the time a dispute arises, only with respect to whether the United States has excluded light trucks, the number of passenger vehicles, or the value of auto parts as set out in the Automotive Letter Exchange, from a measure taken pursuant to section 232 of the Trade Expansion Act of 1962, as amended. Those procedures are incorporated and made part of the Automotive Letter Exchange *mutatis mutandis.*
>
> I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between Mexico and the United States. I have the further honor to propose that Mexico and the United States notify each other of the completion of their

respective legal procedures required for the entry into force of this agreement and that the agreement shall enter into force on the next day following the date of the last notification.

I have the further honor to confirm that the United States shares this understanding, and that your letter and this letter in reply constitutes an agreement between the United States and Mexico. I have the further honor to inform you that the United States accepts your proposal that Mexico and the United States notify each other of the completion of their respective legal procedures required for the entry into force of this agreement and that the agreement shall enter into force on the next day following the date of the last notification.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

November 30, 2018

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

Dear Secretary Guajardo:

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"):

The United States shall not adopt or maintain a measure imposing tariffs or import restrictions on goods or services of Mexico under section 232 of the *Trade Expansion Act of 1962*, as amended (section 232), for at least 60 days after imposition of a measure.

During that 60-day period, the United States and Mexico shall seek to negotiate an appropriate outcome based on industry dynamics and historical trading patterns.

Notwithstanding 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 North American Free Trade Agreement; and the Marrakesh Agreement Establishing the World Trade Organization, if the United States takes a measure under section 232 that is inconsistent with one of those agreements, Mexico may take a measure of equivalent commercial effect in response.

For greater certainty, Mexico also retains its rights under the World Trade Organization to challenge a section 232 measure.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between the United States and Mexico. I have the further honor to propose that Mexico and the United States shall notify each other of the completion of their respective legal procedures required for the entry into force of this agreement and that the agreement shall enter into force on the next day following the date of the last notification.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

November 30, 2018

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

Dear Secretary Guajardo:

I have the honor to confirm the following agreement reached between the Government of the United States ("the United States") and the Government of the United Mexican States ("Mexico"):

Recognizing that in the negotiations for the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) the United States and Mexico (collectively referred to as the "Parties") have made changes to the automotive rules of origin compared to the North American Free Trade Agreement (NAFTA 1994), and in order to support and enhance the existing manufacturing capacity and mutually beneficial trade of the Parties, if the United States imposes a measure pursuant to section 232 of the Trade Expansion Act of 1962, as amended, with respect to passenger vehicles classified under subheadings 8703.21 through 8703.90, light trucks classified under subheadings 8704.21 and 8704.31, or any auto parts within the scope of any such measure, the United States shall not adopt or maintain a measure imposing tariffs or import restrictions on those goods of Mexico, for at least 60 days after the imposition of a measure.

After the 60-day period, the United States shall exclude from the measure:

(1) 2,600,000 passenger vehicles imported from Mexico on an annual basis;
(2) light trucks imported from Mexico; and
(3) such quantity of auto parts amounting to 108 billion U.S. dollars in declared customs value on an annual basis.

Goods covered by the exclusion described in (1), (2), and (3) above will be eligible for the preferential tariff treatment applicable pursuant to NAFTA 1994, or the preferential tariff treatment pursuant to the USMCA, as applicable, when they qualify as originating goods. If the goods do not qualify as originating, the customs duty applied by the United States shall not exceed the United States' MFN applied rate in effect on August 1, 2018.

Mexico shall monitor and otherwise administer the quantities of passenger vehicles and auto parts eligible for exclusion under subparagraph (1) or (3), set out above. Mexico shall develop

methodologies to allocate the quantities of passenger vehicles and auto parts eligible for this treatment.

In determining the allocation of quantities of passenger vehicles under the passenger vehicles allocation methodology, Mexico shall consult with each auto producer exporting passenger vehicles from Mexico to the United States and take into consideration information on auto producers' existing production capacity as of the signature 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, export volume to the United States and production plans current at the time of the consultation, and producers' specific actions undertaken to produce vehicles that qualify for preferential tariff treatment. In determining the allocation procedures for goods under subparagraph (3), Mexico shall consult with auto parts producers in Mexico.

Mexico shall notify the United States of its allocation methodologies and consult with the United States on the methodologies for goods under subparagraph (1) and (3) at least 30 days prior to publication or implementation of such allocations, whichever comes first.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between the United States and Mexico, which shall enter into force on the date of your letter in reply.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

November 30, 2018

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

Dear Secretary Guajardo:

I have the honor to acknowledge the receipt of you letter of this date, which in English reads as follows:

> 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"), the Government of United Mexican States ("Mexico") and the Government of the United States of America ("the United States") reaffirm their commitment to strengthen the North American automotive sector, and to actively promote and facilitate fair and reciprocal trade between both countries. To that effect, I have the honor to confirm the following agreement reached between both Governments:
>
> > Mexico affirms that its measure, NOM-194-SCFI-2015, incorporates Federal Motor Vehicle Safety Standards (FMVSS). Mexico shall continue to recognize and accept FMVSS maintained by the United States as satisfying the relevant specifications for essential safety devices set forth under NOM-194-SCFI-2015, or any amendment or successor instrument to NOM-194-SCFI-2015, unless, due to unforeseen developments, Mexico determines through a regulatory process consistent with relevant provisions in the Agreement Between the United States of America, the United Mexican States, and Canada, including those in Chapter 11 (Technical Barriers to Trade), that a Federal Motor Vehicle Safety Standard achieves a lower level of safety than another standard Mexico intends to adopt for a particular specification[1] or would be inconsistent with Mexico's legitimate objective.

[1] For greater certainty, nothing in this letter limits Mexico's ability to incorporate, recognize, or accept other automotive safety standards, in addition to FMVSS, in NOM-194-SCFI-2015 or any amendment or successor instrument thereto.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between the United States and Mexico and an integral part of the Agreement Between the United States of America, the United Mexican States, and Canada, subject to Chapter 31 (Dispute Settlement), to enter into force on the date of entry into force of the Protocol.

I have the further honor to confirm that the United States shares this understanding, and that your letter and this letter in reply constitutes an agreement between the United States and Mexico and an integral part of the Agreement Between the United States of America, the United Mexican States, and Canada, which shall enter into force on the date of entry into force of the Protocol.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

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

- Emmentaler
- Emmenthal
- Gouda
- Grana
- Havarti
- Mascarpone
- Monterey Jack
- Mozzarella
- Pecorino
- Pepper Jack
- Provolone
- Ricotta
- Saint-Paulin
- Samsø
- Swiss
- Tomme
- Tome
- Toma
- Tilsiter

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between the United States and Mexico, to enter into force on the date of entry into force of the Protocol.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

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 consideration of American Rye Whiskey, Bacanora, Charanda, and Sotol as distinctive products:

1. Mexico shall initiate, subject to its applicable laws and regulations, the process to consider prohibiting the sale of any product in Mexico as American Rye Whiskey, if it has not been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of American Rye Whiskey.

2. The United States shall initiate, subject to its applicable laws and regulations, the process to consider prohibiting the sale of any product in the United States as Bacanora, Charanda, or Sotol, if it has not been manufactured in Mexico in accordance with the laws and regulations of Mexico governing the manufacture of Bacanora, Charanda, or Sotol.

3. For greater certainty, nothing in this letter shall be construed to create or confer any right relating to a trademark or geographical indication.

4. This agreement is without prejudice to the outcome of the processes initiated by the United States and Mexico pursuant to this letter.

Mexico and the United States shall discuss preserving the integrity of Mezcal marketed in the territories of each Party and ensuring that the laws and regulations of each Party operate effectively to preserve the status of Mezcal as a distinctive product of Mexico, and, if appropriate, consider a bilateral agreement.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between the United States and Mexico, to enter into force on the date of entry into force of the Protocol.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

November 30, 2018

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

Dear Secretary Guajardo:

I have the honor to acknowledge your letter of this date, which in English reads as follows:

> 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 understanding of the United Mexican States ("Mexico") regarding the term "prior users", when referred to in the Sub-Section of Geographical Indications of the Intellectual Property Rights Chapter of the Modernized Trade Pillar of the Mexico-European Union Global Agreement:
>
> > Mexico confirms that it understands the term "prior users" to include any natural or legal person, including their successors and assignees, who have used the corresponding term in good faith, in the territory of Mexico, in any of the following activities: production, distribution, marketing, importation, and exportation to Mexico of cheeses. Mexico also confirms that with respect to some terms, "prior users" only refers to persons having used the term in a continuous manner, prior to the agreement in principle between Mexico and the European Union.
>
> I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between Mexico and the United States and be treated as an integral part of the Agreement Between the United States of America, the United Mexican States, and Canada, to enter into force on the date of entry into force of the Protocol.

I have the further honor of confirm that the United States shares this understanding, and that your letter and this letter in reply constitutes an agreement between the United States and Mexico and is treated as an integral part of the Agreement Between the United States of

America, the United Mexican States, and Canada, to enter into force on the date of entry into force of the Protocol.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

November 30, 2018

The Honorable Chrystia Freeland
Minister of Foreign Affairs
Canada

Dear Minister Freeland:

I have the honor to confirm the following agreement reached between the Government of Canada (Canada) and the Government of the United States (United States):

The United States shall not adopt or maintain a measure imposing tariffs or import restrictions on goods or services of Canada under Section 232 of the Trade Expansion Act of 1962, as amended (Section 232), for at least 60 days after imposition of a measure.

During that 60-day period, the United States and Canada shall seek to negotiate an appropriate outcome based on industry dynamics and historical trading patterns.

Notwithstanding the NAFTA 1994, the Protocol Replacing the North American Free Trade Agreement with the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA), and the WTO Agreement, if the United States takes a measure under Section 232 that is inconsistent with one of those Agreements, Canada may take a measure of equivalent commercial effect in response.

For greater certainty, Canada also retains its WTO rights to challenge a Section 232 measure.
I have the honor to propose that this letter and your letter in reply shall constitute an agreement between the United States and Canada, to enter into force on the date of your letter in reply.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

November 30, 2018

The Honorable Chrystia Freeland
Minister of Foreign Affairs
Canada

Dear Minister Freeland:

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 Canada (Canada) regarding measures maintained by the Canadian province of British Columbia (BC) governing the sale of wine in grocery stores.

In recognition of the shared commitment of the United States and Canada to resolve this ongoing trade concern, Canada shall ensure that BC modifies the measures identified in the U.S. panel request WT/DS531/7 (May 29, 2018) and implements any changes no later than November 1, 2019. Specifically, BC shall eliminate the measures which allow only BC wine to be sold on regular grocery store shelves while allowing imported wine only to be sold in grocery stores through a so-called "store within a store," and those contested measures shall not be replicated.

The United States shall take no further action at the World Trade Organization (WTO) in relation to the BC measures, including in relation to WTO disputes WT/DS520 and WT/DS531, prior to November 1, 2019.

If BC revises the wine measures described above so as to ensure the treatment of United States goods is consistent with Article III:4 of the GATT 1994, the United States shall join Canada to notify the WTO Dispute Settlement Body (DSB) that the United States and Canada have reached a mutually agreed solution in WTO disputes WT/DS520 and WT/DS531. To the extent that the United States agrees that BC has fulfilled the commitments set out above, Canada and the United States shall provide that notification to the DSB no later than 15 days after the changes to the BC wine measures have entered into force. If BC fails to revise the BC wine measures as described, the United States may resume the panel selection process.

I have the honor to propose that this letter and your letter in reply shall constitute an agreement between the United States and Canada, to enter into force on the date of your reply.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

November 30, 2018

The Honorable Chrystia Freeland
Minister of Foreign Affairs
Canada

Dear Minister Freeland:

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 understanding reached between the Government of Canada (Canada) and the Government of the United States (United States), taking note of the 1993 Canada-United States-Mexico Declaration on Water Resources and the NAFTA:

The Agreement Between the United States of America, the United Mexican States, and Canada (the Agreement) creates no rights to the natural water resources of a Party to the Agreement. Unless water, in any form, has entered into commerce and become a good or product, it is not covered by the provisions of the Agreement. Nothing in the Agreement would oblige a Party to exploit its water for commercial use, including its withdrawal, extraction, or diversion for export in bulk.

International rights and obligations respecting natural water resources are addressed in separate treaties and agreements. An example is the *Treaty between the United States and Great Britain Relating to the Boundary Waters and Questions Arising between the United States and Canada*, done at Washington on January 11, 1909.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding, shall constitute an agreement between the United States and Canada, which shall enter into force on the date of entry into force of the Agreement, and shall constitute an integral part of the Agreement when it enters into force.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

November 30, 2018

The Honorable Chrystia Freeland
Minister of Foreign Affairs
Canada

Dear Minister Freeland:

I have the honor to confirm that, 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), the Government of the United States (United States) and the Government of Canada (Canada) have agreed on disciplines related to energy regulatory measures and energy regulatory transparency, contained in the Annex to this letter.

I have the honor to propose that this letter and your letter in reply confirming your Government shares this understanding, shall constitute an agreement between the United States and Canada, which shall enter into force on the date of entry into force of the United States – Mexico – Canada Agreement (the Agreement) and shall constitute an integral part of the Agreement when it enters into force.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

ANNEX

ENERGY REGULATORY MEASURES AND REGULATORY TRANSPARENCY

Article 1: Definitions

For the purposes of this Annex:

authorization means a permission, license or similar administrative or contractual instrument by which a competent regulatory authority of a Party entitles a person to exercise a certain economic activity in its territory;

electric transmission facility means a transmission element that is operated at 100kV or higher, or real power and reactive power resources connected at 100kV or higher, that are subject to an energy regulatory authority of a Party's central level of government with respect to tolls, rates, or charges for services provided over those elements. These transmission elements do not include facilities used in the local distribution of electric energy;

energy regulatory measure means a measure adopted or maintained by a Party's central level of government that directly affects the exploration for, or production, storage, [1] transportation, transmission or distribution, purchase or sale, import or export of oil, [2] natural gas, hydrocarbon gas liquids, coal, electricity, refined petroleum products, biofuels, and uranium, but does not include measures related to energy efficiency;

monetary payment means a payment, in cash or its equivalent in kind, required by law or regulation to be made by a person to a Party's central level of government in connection with an application for or authorization to participate in energy-related activities in its territory;

Party refers to the United States or Canada;

pipeline network means a line transporting oil, natural gas, refined petroleum products or hydrocarbon gas liquids in a Party's territory, or across sub-national or international boundaries, and includes associated facilities such as pumps and other compressor stations and storage tanks regulated by an energy regulatory authority of the Party;

renewable energy means energy derived from natural processes that are replenished at a higher rate than they are consumed. They are virtually inexhaustible. Renewable energy resources include

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[1] For greater certainty, storage does not include reservoir water levels for hydro-electric dams.

[2] For greater certainty, oil includes crude oil, bitumen, condensates, and other oil-derived fuels.

biomass, waste carbon streams, hydro, geothermal, solar, wind, ocean thermal, wave action, and tidal action. Renewable energy also includes renewable fuels and renewable fuel blending components in petroleum-based fuels, such as renewable diesel fuel, fuel ethanol, and advanced and cellulosic biofuels, produced from renewable biomass; and

unduly discriminatory or unduly preferential means differential treatment of like products, or differential treatment of service suppliers, investors, or investments in like circumstances, that constitute arbitrary or unjustifiable discrimination within the meaning of Article XX of the GATT 1994 and its interpretive notes or Article XIV of GATS, as applicable.

Article 2: Scope

This Annex applies to energy regulatory measures proposed, maintained, or adopted by a Party's central level of government.

Article 3: Cooperation

The Parties recognize the importance of enhancing the integration of North American energy markets based on market principles, including open trade and investment among the Parties, to support North American energy competitiveness, security, and independence. The Parties shall endeavor to promote North American energy cooperation, including with respect to energy security and efficiency, standards, joint analysis, and the development of common approaches.

Article 4: Energy Regulatory Measures and Regulatory Transparency

1. Each Party shall maintain or establish regulatory authorities that are separate from, and not accountable to, persons subject to energy regulatory measures.

2. Each Party shall endeavor to ensure that in the application of a energy regulatory measure, a energy regulatory authority within its territory avoids disruption of contractual relationships to the maximum extent practicable, supports North American energy market integration, and provides for orderly and equitable implementation appropriate to those measures.[3]

3. A Party may require an authorization to participate in energy-related activities in its territory.

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[3] This paragraph does not apply to a measure related exclusively to the protection of human health or the environment.

4. If a Party requires an authorization referred to in paragraph 3, it shall ensure that information prescribed in its law relevant to the authorization process is published, including:

(a) the process for applying;

(b) any monetary payment associated with the application;

(c) the regulatory authority to which an application or other relevant documentation must be submitted;

(d) criteria an applicant must meet to obtain an authorization;

(e) criteria to be considered in determining if an authorization should be granted;

(f) applicable timelines; and

(g) a contact point from which applicants can obtain further information on their application for an authorization.

5. Each Party shall endeavor to administer its process for obtaining an authorization referred to in paragraph 3 in accordance with the information published pursuant to paragraph 4.

6. Each Party shall endeavor to ensure that energy-related activities that do not result in a facility exceeding its previously authorized capacity and that are limited to performing maintenance work on, or ensuring the safety of, existing cross-border infrastructure may be undertaken under the initial authorization and shall not require a new authorization.

7. A Party may require a person that has been granted an authorization referred to in paragraph 3 to make a reasonable monetary payment. Each Party shall ensure that the monetary payment and any changes to it are determined in a transparent manner with reasonable advance notice so as to provide legal certainty for the person which has been granted that authorization, in accordance with the applicable law of the authorizing Party. If recovery of administrative costs is provided for in the Party's law, these costs do not have to be determined in advance.

8. Each Party shall provide that the applicant for an authorization referred to in paragraph 3 has a right of appeal or judicial review of the decision concerning the authorization by an authority independent from the authority that issued the decision, in accordance with its law. [4]

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[4] This paragraph does not apply to authorizations for the construction, connection, operation, or maintenance of cross-border infrastructure, including electric transmission facilities and pipeline networks, at international boundaries.

Article 5: Access to Electric Transmission Facilities and Pipeline Networks

1. Each Party shall ensure that a measure governing access to or use of electric transmission facilities and pipeline networks:

(a) accords access to those facilities and pipeline networks for the purposes of importation from another Party, that is neither unduly discriminatory nor unduly preferential; and

(b) to the extent that tolls, rates, or charges are set, assessed, approved, or subject to oversight by a Party, establish that any tolls, rates, or charges payable for that access are just, reasonable, and neither unduly discriminatory nor unduly preferential.

2. The United States shall ensure that the Intertie Access Policy of the Bonneville Power Administration affords British Columbia Hydro treatment no less favorable than the most favorable treatment afforded to utilities located outside the Pacific Northwest.

Article 6: Relation to other Chapters

For greater certainty, Article 4 (Energy Regulatory Measures and Regulatory Transparency) and Article 5 (Access to Electric Transmission Facilities and Pipeline Networks) are:

(a) subject to the relevant provisions, exceptions and non-conforming measures of Chapter 14 (Investment), Chapter 15 (Cross-Border Trade in Services) and Chapter 2 (National Treatment and Market Access for Goods), and Article 32.1 (General Exceptions) of the Agreement; and

(b) to be read in conjunction with any other relevant provisions in the Agreement.

November 30, 2018

The Honorable Chrystia Freeland
Minister of Foreign Affairs
Canada

Dear Minister Freeland:

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 that the Government of Canada (Canada) and the Government of the United States (United States) have agreed as follows:

> The *Guidelines for Research and Development Expenditures, 2004*, would not be listed as a non-conforming measure in Canada's reservation I-C-14. The United States confirms that Canada's maintenance of the *Guidelines for Research and Development Expenditures, 2004*, will not serve as an impediment to the United States' certification of the Agreement Between the United States of America, the United Mexican States, and Canada (the Agreement) under the Bipartisan Congressional Trade Priorities and Accountability Act of 2015. This confirmation is without prejudice to the United States' or Canada's position as to whether the *Guidelines for Research and Development Expenditures, 2004*, are consistent with the Agreement.

I have the honor to propose that this letter and your letter in reply confirming that your Government shares this understanding, shall constitute an agreement between the United States and Canada, which shall enter into force today, and shall constitute an integral part of the Agreement when it enters into force.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

November 30, 2018

The Honorable Chrystia Freeland
Minister of Foreign Affairs
Canada

Dear Minister Freeland:

I have the honor to confirm the following agreement reached between the Government of Canada (Canada) and the Government of the United States (United States):

Recognizing that in the negotiations for the United – States-Mexico – Canada – Agreement (USMCA) the United States and Canada (the Parties) have made changes to the automotive rules of origin compared to NAFTA 1994, and in order to support and enhance the existing manufacturing capacity and mutually beneficial trade of the Parties, if the United States imposes a measure pursuant to section 232 of the Trade Expansion Act of 1962, as amended, with respect to passenger vehicles classified under subheadings 8703.21 through 8703.90, light trucks classified under subheadings 8704.21 and 8704.31, or any auto parts within the scope of any such measure, the United States shall exclude from the measure:

(1) 2,600,000 passenger vehicles imported from Canada on an annual basis;
(2) light trucks imported from Canada; and
(3) such quantity of auto parts amounting to 32.4 billion U.S. dollars in declared customs value on an annual basis.

Goods covered by the exclusion described in (1), (2), and (3) above will be eligible for the preferential tariff treatment applicable pursuant to NAFTA 1994, or the preferential tariff treatment pursuant to the USMCA, as applicable, when they qualify as originating goods. If the goods do not qualify as originating, the customs duty applied by the United States shall not exceed the United States' MFN applied rate in effect on August 1, 2018.

Canada shall monitor and otherwise administer the quantities of passenger vehicles and auto parts eligible for exclusion under subparagraph (1) or (3), set out above. Canada shall develop methodologies to allocate the quantities of passenger vehicles and auto parts eligible for this treatment.

In determining the allocation of quantities of passenger vehicles under the passenger vehicles allocation methodology, Canada shall consult with each auto producer exporting passenger vehicles from Canada to the United States and take into consideration information on auto producers' existing production capacity as of the signature of the USMCA, as well as export volume to the United States and production plans current at the time of the consultation. Priority shall be provided to auto producers that are producing vehicles that qualify for preferential tariff treatment under the NAFTA 1994 or that have committed to produce or are producing vehicle models qualifying for preferential tariff treatment under the USMCA, as applicable. In determining the allocation procedures for auto parts under subparagraph (3), Canada shall consult with auto parts producers in Canada.

Canada shall notify the United States of its allocation methodologies and consult with the United States on the methodologies for goods under subparagraph (1) and (3) at least 30 days prior to publication or implementation of such allocations, whichever comes first.

Canada may have recourse to the dispute settlement procedures in Chapter Twenty (Institutional Arrangements and Dispute Settlement Procedures) of the NAFTA 1994 or Chapter 31 (Dispute Settlement) of the USMCA, whichever is in effect at the time a dispute arises, only with respect to whether the United States has excluded light trucks, the number of passenger vehicles, and the value of auto parts as set out in the above-mentioned agreement, from a measure taken pursuant to section 232 of the Trade Expansion Act of 1962, as amended. Those procedures are incorporated and made part of that agreement *mutatis mutandis*.

I have the honor to propose that this letter and your letter in reply shall constitute an agreement between the United States and Canada, to enter into force on the date of your letter in reply.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative

UNITED STATES – MEXICO – CANADA AGREEMENT (USMCA)

SUPPORTING DOCUMENTATION

Report on the U.S. Employment Impact of the United States-Mexico-Canada Agreement

December 11, 2019

About this Report

This report was prepared pursuant to section 105(d)(2) of the *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* (Pub. L. 114-26, title I), 19 USC 4204(d)(5), which mandates that:

> The President shall—
>
> (A) review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order No.13141 (64 Fed. Reg. 63169) to the extent appropriate in establishing procedures and criteria; and
>
> (B) submit a report on such reviews to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at the time the President submits to Congress a copy of the final legal text of an agreement pursuant to section 106(a)(1)(E).

The President, by Executive Order 13701 (80 Fed. Reg. 43903 (July 23, 2015)), assigned the responsibility for conducting reviews under section 105(d)(2)(A) to the Secretary of Labor, who, in coordination with the U.S. Trade Representative, shall conduct the employment impact review through the interagency Trade Policy Staff Committee, and shall prepare the report. The President assigned the responsibility of performing the reporting function under section 105(d)(2)(B) to the U.S. Trade Representative.

Contents

I. Introduction and Executive Summary

The *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* requires that the President submit a report to Congress detailing a prospective review of the likely effects of new trade agreements on employment and labor markets in the United States. This report discusses the findings of that review for the United States-Mexico-Canada Agreement (USMCA).

Section II details why the scope for the USMCA to affect U.S. employment and labor markets at an aggregate level is narrow. Among the factors discussed are:

- the USMCA will be a successor to the 1994 North American Free Trade Agreement (NAFTA). Most of the changes in U.S. employment attributable to a free trade agreement with Canada and Mexico have already occurred under the NAFTA. Any incremental changes to U.S. employment from the implementation of the USMCA are likely to be small relative to total employment in the United States.
- the dominant size of the United States in terms of its population and economy compared to Canada and Mexico;
- that any average wage advantage apparent for one of the three economies appears to be mostly offset by average labor productivity advantages in the other economies;
- the small share of U.S. imports from Mexico and Canada in all U.S. expenditure, and of U.S. exports to these partners compared to the value of all the United States produces;
- the fact that the USMCA, and its predecessor the NAFTA are factors among many that explain U.S. trade with Canada and Mexico, with the fact that they are geographic neighbors explaining why these countries have been, even before the NAFTA, and will continue to be, among the United States' top trading partners; and
- findings of limited aggregate effects on U.S. employment and wages of previous consequential trade policy changes, and the distributional nature of the changes that did occur, with job creation and wage growth for some workers tending to offset the effects of job destruction for others.

Section III discusses available quantitative simulations of the USMCA. These show very modest employment and wage impacts at the level of the U.S. economy. For example, the U.S. International Trade Commission (USITC, 2019) simulates three scenarios that vary assumptions used to quantify effects of commitments by each party to refrain from changing regulations covering international data transfer, cross-border services, and investment. Across scenarios, results range from small negative impacts (if commitments have no effect) to small positive impacts ("moderate" or "high effects") of the USMCA on employment, wage, and other outcomes. The middle-scenario analysis, which USITC designates as "main," suggests that a U.S. economy with the USMCA will contain around 176,000 more jobs, or equivalent to about a 0.12 percent increase in full-time equivalent employment compared to a U.S economy without the USMCA. The same scenario gives an average U.S. real wages increase of 0.27 percent on average, or around $150 per worker each year compared to a U.S. economy without the USMCA.

Section IV discusses two sets of provisions of the USMCA negotiated with employment or labor as explicit motivations. The first set of provisions relate to strengthening rules of origin for automobiles. A review of available literature assessing these provisions suggest an effect on U.S. employment that ranges from something small and negative to an increase of about 76,000 jobs. For the second set of provisions, pertaining to labor rights compliance and enforcement, the expected U.S. employment effects may be positive or negative on net, but are likely negligible in any case.

Section V recaps the findings of the review and report.

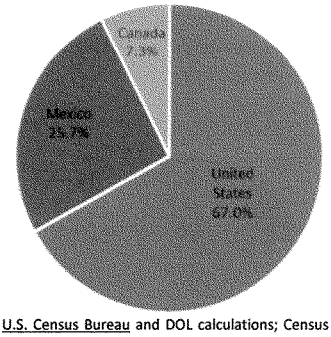
II. The Scope for the USMCA to Affect U.S. Output and Employment

This section examines economic context important for assessing the possible U.S. employment and labor market impact of the USMCA. First, it examines macroeconomic indicators to show the size of the partner economies and to get a sense of their productive capacity. Second, it assesses trade indicators to establish the importance of trade to the U.S. economy and, in turn, the importance of trade with Mexico and Canada to U.S. trade. Third, it discusses lessons from the literature about labor market impacts of past policy changes to illustrate the limited magnitude and offsetting effects that trade policy changes may be expected to have. Finally, it brings together information from the economic and trade contexts to illustrate the narrow scope for changes in trade with Mexico and Canada due to the USMCA to affect U.S. output and employment in the United States.

A. Macroeconomic Context

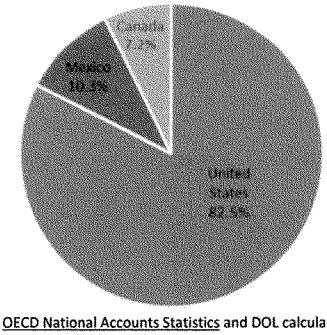
The U.S. Census Bureau estimates the population of the USMCA area to be 495 million people. Figure 1 shows that the United States is by far the most populous of the USMCA countries accounting for more than two-thirds of the USMCA area population. The U.S. population is 2.6 times that of Mexico and 9.2 times of that of Canada.

Figure 1
Population of the USMCA Countries, 2019
Total = 495 million



Source: U.S. Census Bureau and DOL calculations; Census data are projections for mid-year 2018, last updated in September 2018

Figure 2
GDP in the USMCA Area, 2017
Total = $23.6 trillion (current $)

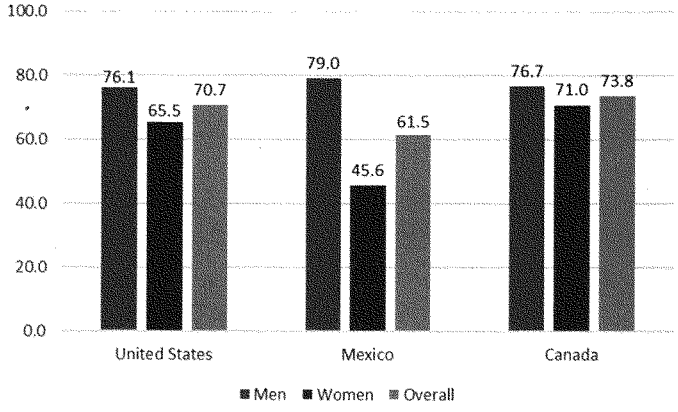


Source: OECD National Accounts Statistics and DOL calculations.

The United States is even more dominant in terms of its share of output produced (as measured by Gross Domestic Product or GDP) in the USMCA area. Figure 2 shows that the United States accounts for more than four-fifths of the USMCA area GDP.

The percentage of the working age population employed is an indicator of the utilization of human resources.[1] Figure 3 shows employment-to-population ratios for each of the USMCA countries in 2018. Overall or total rates are highest in Canada and lowest in Mexico. The overall Mexican rate masks the most striking difference by gender. Indeed, Mexico's rate for men is slightly higher than rates in the United States or Canada, but its rate for women is 20 percentage points or more lower than female rates in each country.

Figure 3
Employment-to-Population Ratios in the USMCA Countries, 2018



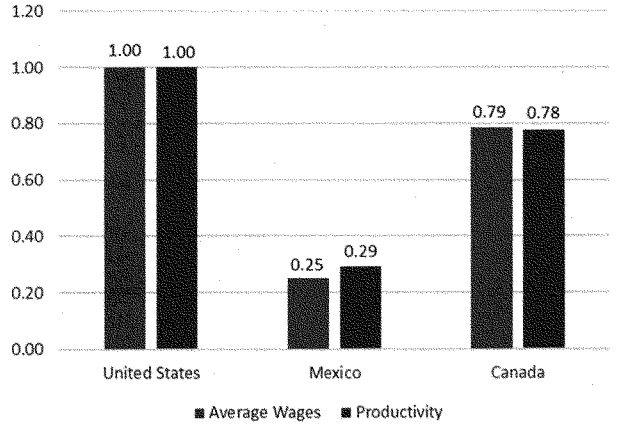
Source: OECD Labor Market Statistics
Note: Employment-to-Population Ratios are the ratio of the employed to the working-age population (ages 15-64).

Figure 4 shows average wages[2] and average labor productivity[3] in each of the USMCA countries as a ratio of average wages and average labor productivity in the United States in 2017. It shows clearly that between countries, average wage differences largely reflect average productivity differences. Among the three countries, both average wages and average productivity are highest in the United States, with Canada second (about 80 percent of the United States), and Mexico the last (less than 30 percent of the United States). On average, or at an economy-wide level, this suggests that any perceived advantage, say Mexico, may enjoy because of low average wages appears mostly offset by

[1] This statistic is constructed based on the international definition of employment established under the auspices of the International Labor Organization. According to their International Training Compendium on Labor Statistics, it includes people in paid employment, including apprentices and members of the armed forces; the self-employed; unpaid family members working for family enterprises; members of cooperatives or others paid in kind either by claiming the output of their work for barter; or by consuming the output of their own work.
[2] Average total compensation per full-time equivalent employee. See figure note.
[3] GDP per hour worked.

the average productivity advantages enjoyed by the other countries. However, individual sectors may show different results.

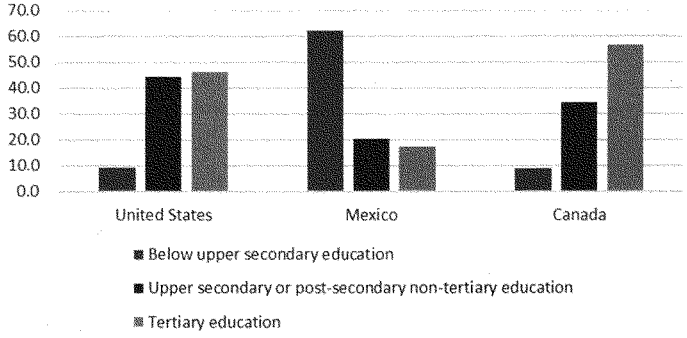
Figure 4
Average Wages and Productivity in the USMCA Countries, 2017
USMCA Partners Relative to the United States



Source: OECD Employment and Labor Market Statistics: Average Annual Wages, OECD Productivity Statistics, and DOL calculations.
Note: In the OECD database, average wages are obtained by dividing the national-account-based total compensation to employees by the average number of employees in the total economy, which is then multiplied by the ratio of the average usual weekly hours per full-time employee to the average usually weekly hours for all employees. This indicator is measured in USD constant prices using 2016 base year and Purchasing Power Parities (PPPs) for private consumption of the same year. Productivity is measured as GDP per hour worked. 2017 is the most recent year with data for all three countries. Productivity data for the United States and Mexico are OECD estimates. The chart presents ratios to U.S. figures.

A main driver of productivity and wage difference is skill levels, which can be proxied by education. Figure 5 shows highest-levels of educational attainment among the population aged 25 to 64 of each of the USMCA partners. More than 60 percent of Mexicans in this age group have completed less than an upper secondary education (i.e., less than a high school diploma). In comparison, more than 90 percent of Americans and Canadians have completed at least an upper secondary education.

Figure 5
Educational Attainment of Population, Aged 25-64

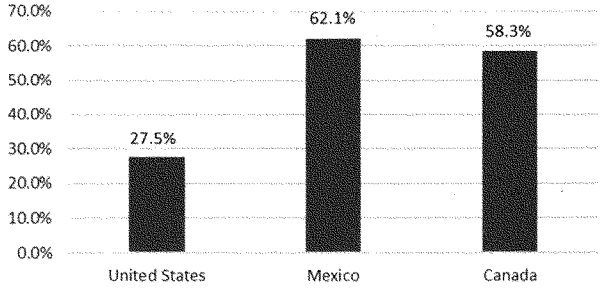


Source: OECD Education Statistics.
Note: Data show the share of the population aged 25 to 64 in each category for the most recent year available.

B. Trade Context

Trade with the world as a percent equivalent of GDP, or the trade-to-GDP ratio, shows the relative importance of trade to each of the USMCA economies. Figure 6 shows that trade is least important to the United States in terms of the value of trade relative to all it produces, accounting for only 27.5 percent-equivalent of GDP in 2017. Trade is more than twice as important to Mexico and Canada, accounting respectively for 62.1 and 58.3 percent-equivalent of their GDP.

Figure 6
Trade with the World as a Percent-Equivalent of GDP, 2017

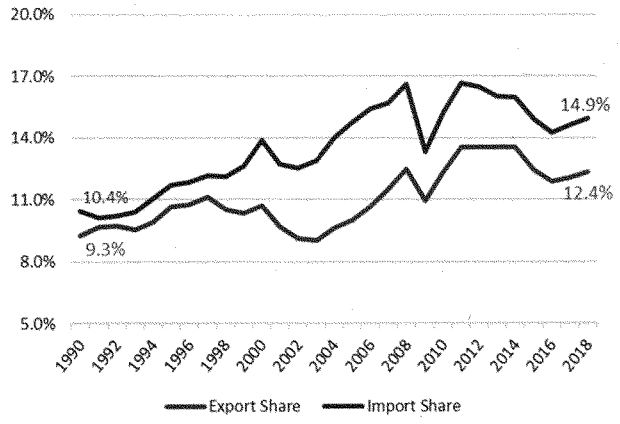


Source: OECD National Accounts Statistics: National Accounts at a Glance and DOL calculations.
Note: Trade is the sum of exports and imports of goods and services. Trade and GDP data for Mexico are labeled as provisional in the OECD database.

Figure 7 shows that trade accounts for a small, but growing, share of the U.S. economy. In 1990, exports generated a little less than 10 percent of U.S. GDP and imports represented just over 10 percent of domestic expenditures. By 2018, exports had grown to account for 12.4 percent of U.S.

GDP and imports as a share of domestic expenditures had grown to 14.9 percent.[4] Still, well over four-fifths of U.S. economic output and income are produced and consumed domestically.

Figure 7
U.S. Exports as a Share of GDP and
U.S. Imports as a Share of Domestic Expenditures



Source: BEA and DOL calculations. Exports of goods and services are shown as a percentage of GDP. Imports of goods and services are shown as a percentage of domestic expenditure (i.e., GDP minus net exports).

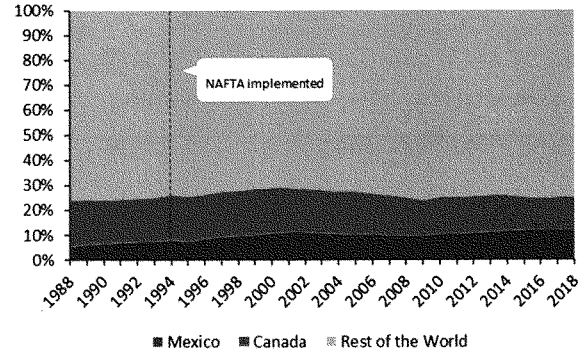
The United States has a long history of preferential trade arrangements with both Mexico and Canada. Most recently, the NAFTA entered into force on January 1, 1994.[5] Under the NAFTA, tariffs were eliminated progressively and all duties and quantitative restrictions on goods that meet the NAFTA's rules of origin requirements, with the exception of those on a limited number of agricultural products traded with Canada, were eliminated by 2008. As such, most U.S. trade with Mexico and Canada is duty-free. In spite of the NAFTA, trade with Mexico and Canada has accounted for a relatively steady share of U.S. trade over the past thirty years. Figure 8 shows that in 2017, the share of goods and services from Mexico and Canada in total U.S. trade (exports plus imports) was 25 percent, just one percentage point above their share in 1988. The share of trade with these partners peaked from 1999 to 2002 at 29 percent. Although the total trade share with Mexico and Canada together has not changed much, the share has shifted away from Canada and toward Mexico. In 1988, Mexico

[4] The larger spread between imports as a share of domestic expenditure and exports as a share of GDP in 2017 compared to 1990 reflects a larger trade deficit. However, the spread has not grown continuously. Imports as a share of domestic expenditure were nearly 50 percent higher than exports as share of GDP in 2004, the year of the peak in differences between the two ratios. In 2018, the import share was about one-fifth higher than the export share, the same as in 1999.

[5] Prior to the NAFTA, the United States – Canada Free Trade Agreement entered into force on January 1, 1989. Prior to the NAFTA, Mexico benefited from unilateral duty-free access or reduced rates of duty as a beneficiary developing country under the U.S. Generalized System of Preferences (GSP) program.

accounted for about one-third of U.S. trade with Mexico and Canada. In 2017, Mexico accounted for just under half of U.S. trade with Mexico and Canada.

Figure 8
Share of U.S Total Trade in Goods and Services with Mexico, Canada, and the Rest of the World, 1988 to 2017



Source: BEA and DOL calculations

Mexico and Canada are among the leading destinations for U.S. exports and sources for U.S. imports. This is consistent with economic theory (i.e., the gravity model of trade) which predicts that bilateral trade flows between two countries are determined both by size and proximity. Mexico and Canada are the two countries that share a border with the United States, so it is unsurprising that they are among our leading trading partners.

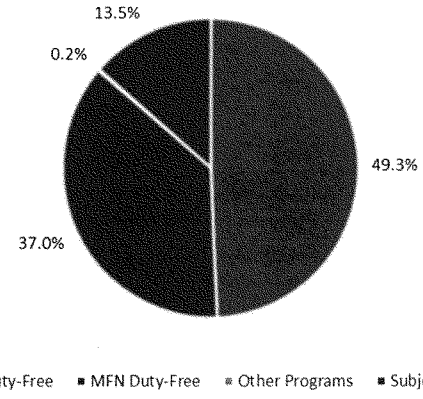
In 2018, 86.5 percent of U.S goods imports from Mexico and Canada entered the United States duty-free. Figure 9 shows U.S. goods imports from Mexico and Canada in 2018 by the import program that was claimed when they entered the United States.[6] It shows that nearly half of goods imports from Mexico and Canada entered duty-free under the provisions of the NAFTA. A further 37.0 percent entered duty-free without claiming a program (MFN duty-free).[7] Only 10.7 percent of imports were subject to duties, and these imports faced an average duty of just 2.3 percent. The total duties paid amounted to $2.1 billion. Nearly two-thirds of the goods subject to duties were mineral fuels and mineral oils that are eligible for NAFTA duty-free treatment and faced an average ad-valorem equivalent MFN duty of just 0.2 percent. It is possible that these items may have qualified for duty-free treatment under the NAFTA but it was not worth the administrative effort for the exporter to claim it since the tariffs were so low. Seventy percent of all duties for imports from Mexico and

[6] Trade in services are not subject to duties.

[7] Almost all nations are eligible for MFN ("most favored nation" or normal trade relations) duty treatment. MFN duty-free U.S. imports are calculated as the difference between the customs value of imports entered with "no program claimed" and the dutiable value of the imports entered with "no program claimed." A further 0.2 percent of goods imports from Mexico and Canada entered duty-free under other programs like the Agreement on Civil Aircraft ($1.1 billion) and the Agreement on Pharmaceuticals ($42.0 million).

Canada in 2018 ($1.5 billion) were on aluminum and steel products. These items were subject to duties due to Presidential Proclamations under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862) effective March 15, 2018. On May 19, 2019, the President adjusted the Proclamations to remove the Section 232 tariffs for steel and aluminum imports from Mexico and Canada.[8]

Figure 9
U.S. Goods Imports from Mexico and Canada by Import Program, 2018



Source: USITC Dataweb and DOL calculations

The volume of trade between the United States, Mexico, and Canada has resulted in deeply integrated North American supply chains. Raw materials, intermediate goods, and services are traded across the region as they are transformed into final goods. The proliferation of global supply chains makes it difficult to measure accurately global trade patterns. Traditional trade statistics, like those presented in this paper, incorporate the value of trade intermediate inputs in the value of traded final goods. This likely overstates the true value produced by the country that exported the final good. There have been several recent efforts to decompose the value of traded goods into the contributions made by each country during the production process.

In 2018, the OECD released new data that allow for the analysis of bilateral trade for 2005 to 2015 by country source of value-added. These data show that U.S. value-added accounts for a substantial share of Mexican and Canadian exports. In 2015, U.S. value added accounted for 14.3 percent of Mexican exports to the world and 10.0 percent of Canadian exports to the world. U.S. value-added accounts for an even larger share of Mexican and Canadian exports to the United States. For example, using Mexican customs data, de Gortari (2019) finds that the U.S. value-added in U.S. imports of manufactured goods is 30 percent. Earlier research (Koopman, Powers, Wang, and Wei, 2011)

[8] For further information, see https://www.cbp.gov/trade/remedies/232-tariffs-aluminum-and-steel.

suggests that U.S. value added accounted for 39.8 percent of U.S. imports of final goods from Mexico and 24.8 percent of those from Canada.

C. Lessons from Previous Trade Policy Changes

In the years directly after the implementation of the NAFTA, there were many attempts to quantify its effects on U.S. employment and wages. Papers by Burfisher, Robinson, and Thierfelder (2001), and Thorbecke and Eigen-Zucchi (2002) surveyed these attempts. A more up-to-date survey is a paper by De La Cruz and Riker (2014). All of these surveys reach the same general conclusion. At the level of the United States as a whole, the NAFTA had a negligible impact on U.S. employment and wage levels. Burfisher, Robinson, and Thierfelder note that NAFTA impacts are not of sufficient strength to be important among all the other trends affecting the U.S. labor market. Thorbecke and Eigen-Zucchi attribute the lack of impact to the large size of the United States relative to the partner economies; and the comparatively low tariff rates the United States had been imposing on goods from these partner economies, even before the NAFTA lowered them further and typically to zero.[9]

But because the NAFTA did not have a measurable effect in the aggregate or on average across the United States, it does not rule out the possibility that it had measurable effects on some places and workers within the United States.[10] Hakobyan and McClaren (HM, 2010 working paper, 2016 published version) constructed a measure of changes in certain terms of U.S. trade with Mexico brought about by the NAFTA. It incorporates: (a) tariff changes on Mexican goods imports made by the United States; (b) exposure of specific locations based on the local prevalence of employment in the production of goods affected by those tariff changes; and, (c) the likelihood of an effect on trade patterns with Mexico, based on historical patterns that account for trade with other parts of the world. Succinctly, HM create a rigorous measure of NAFTA-created import competition from Mexico faced by U.S. producers in localities in the United States.[11] They then used this measure in an econometric model that allowed them to assess causal local-level impacts on employment and wages. In the 2010 version of their paper, they reported effects on employment levels that are not

[9] A number of studies with NAFTA in their title or otherwise presented as measuring the effects of the NAFTA actually, at best, measure the overall effects of trade between the NAFTA countries. The NAFTA is only one among many reasons why the United States, Canada, and Mexico trade. The fact that they are bordering neighbors is the overwhelming reason why Canada and Mexico are, and long have been, among the top U.S. trading partners. Studies that purported to be about the NAFTA agreement but that failed to control appropriately for other factors that generate trade between the United States, Mexico, and Canada are methodologically flawed and therefore misleading. See Krueger (2000) for a more fulsome discussion of some of the other factors that require control.

[10] Trade agreements also affect trade with countries other than the partners to the agreement. For example, Section III-A discusses how the main USITC simulation of the USMCA projects increased trade with the rest of the world beyond Mexico and Canada and a recent paper by Russ and Swenson (2019) discusses how trade among the partners to an agreement can increase by diverting trade that otherwise would have occurred with other countries. These effects are sometimes of interest in their own right. With regard to aggregate net impacts on U.S. labor markets, there is no need to account for them separately if they are incorporated appropriately in the modeling methods used. This is the case for the literature discussed in the rest of this section, and for the models discussed in the next section.

[11] In addition to the effects on geographic location discussed in this paragraph, HM also look at effects at a disaggregated industrial level. Lack of employment effects and identification of the type of workers who suffer from lower wage growth are similar to those discussed in the paragraph.

statistically distinguishable from zero, i.e., no measurable employment effects.[12] In the 2010 and 2016 versions, they reported statistically significant effects on wages. In particular, their 2016 paper reported that a larger value of their NAFTA-caused import competition measure in a locality is associated with lower wage growth for workers with some college, high school, or less education in that place; and no statistically significant effect on workers who completed college. Based on their measure of import competition, HM's data suggested that the largest suppression effects on wage growth were in localities in Georgia, North and South Carolina, and Indiana. Washington, D.C, Washington state, Virginia, Maryland, Montana, South Dakota, and Iowa experienced little or no suppression effect on wage growth.

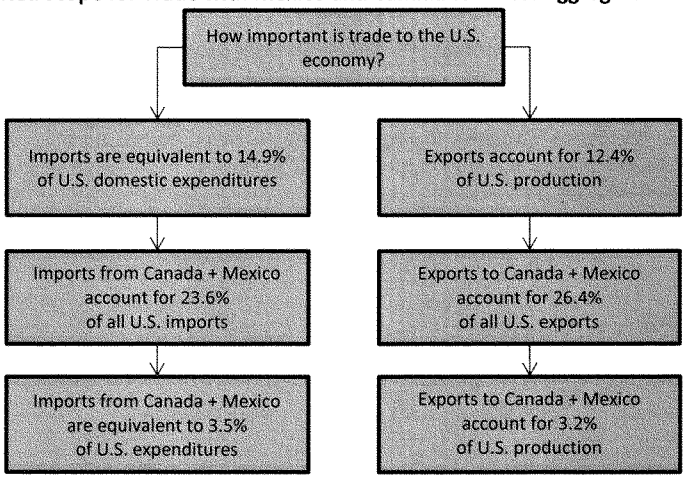
An important point to note about the HM results is that they reflected data up to the year 2000. Whether the effects they measure would continue to be apparent in later data is unknown. Additionally, the HM methods and results accounted only for the effects of NAFTA-induced import competition faced by U.S. producers. They did not account for the effects of the NAFTA on opportunities for U.S. exporters, nor for the possibility that imports, through other channels, contributed to positive U.S. employment and wage effects. Until recently, empirical methods to measure effects of these other channels of impact were not available. Currently, methods and data are being refined in an academic literature debating the effects of China on U.S. employment and wages. These effects trace to consequential and one-time-only late-20th-century policy decisions by China and the WTO that moved China from an economy closed to trade with the rest of the world to one heavily engaged with the rest of the world.[13] To date, this literature shows that import competition with China led to job losses or suppression of job growth and wages for some workers in some locations in the United States. At the same time, new U.S. export opportunities had the opposite, but not fully offsetting, effects. Meanwhile, lower prices for Chinese goods used as inputs in the production of some U.S. goods and services lowered producer costs, incentivizing more U.S. production, and associated U.S. employment growth. In short, this literature demonstrates that changes in trade policy tend to, at the same time, reduce employment opportunities or lower wages for some workers and create employment opportunities or increase wages for others.[14] Whether methods developed in the literature about China will be applicable to similarly assess impacts of other policy changes is uncertain and an area for future research. Nevertheless, the literature about China demonstrates empirically the complexity and offsetting nature of the types of impacts that might be expected of trade policy changes.

D. The Limited Scope for Trade with Mexico and Canada to Affect U.S. Output and Aggregate Employment

To summarize much of the information presented so far, Graphic 1 illustrates the potential for trade with Mexico and Canada to impact U.S. aggregate output.

[12] The published (2016) version of their paper does not discuss effects on employment.
[13] For discussion, see, e.g., Naughton (1996) and Pierce and Schott (2016) and Council of Economic Advisers (2015).
[14] See, Autor, Dorn, and Hanson (2013); Pierce and Schott (2016); Acemoglu, Autor, Dorn, Hanson, and Price (2016); and, Wang, Wei, Yu, and Zhu (2018).

Graphic 1
The Limited Scope for Trade with Mexico and Canada to Affect Aggregate U.S. Output



Source: U.S. Bureau of Economic Analysis and DOL calculations. Data are for 2018. Exports of goods and services are shown as a percentage of GDP. Imports of goods and services are shown as a percentage of domestic expenditure (i.e., GDP minus net exports).

Trade accounts for a small share of the U.S. economy. U.S. imports of goods and services from all countries totaled $3.2 trillion in 2018. This is equivalent to 14.9 percent of all U.S. domestic expenditures. U.S. exports of goods and services to all countries $2.5 trillion in 2018. This is equivalent to 12.4 percent of all U.S. production.

Trade with Canada and Mexico account for around one-quarter of all U.S. trade. In 2018, U.S. imports of goods and services from Mexico and Canada totaled $738.1 billion and accounted for 23.6 percent of all U.S. imports. U.S. exports of goods and services to Mexico and Canada totaled $660.9 billion and accounted for 26.4 percent of all U.S. exports. These shares of U.S. trade translate to a share of U.S. GDP that is of an order of magnitude even smaller (3.5 and 3.2 percent, respectively).

The scope for any changes in trade due to the USMCA has a significantly smaller scope to affect U.S. output or employment. As noted earlier, currently nearly all goods trade already enters (or could enter) the United States duty-free under the provisions of the NAFTA or MFN duty-free. Services trade is also highly liberalized. Therefore, it is unlikely that the provisions in the USMCA will result in substantial changes in U.S. trade patterns with Mexico and Canada. Moreover, the research literature on the employment impacts of the NAFTA suggest some isolated effects on wage growth. While research on the most consequential trade policy changes in the last 25-years (the NAFTA and changes tracing to China) demonstrates that trade policy changes tend to have modest and offsetting effects (some positive, others negative) on U.S. employment and wages.

III. Insights from Quantitative Simulations of the USMCA

The standard workhorse for analysts wishing to simulate quantitative effects induced by prospective trade policy changes is a Computable General Equilibrium (CGE) model. This section reviews in some detail the two CGE simulation studies, United States International Trade Commission (USITC, 2019) and Burfisher, Lambert, and Matheson (BLM, 2019), conducted since the USMCA Agreement was concluded. Box 1 explains generally the CGE methodology and how to interpret its results.

Box 1

What are Computable General Equilibrium Models?

A large body and long history of economic theory and empirical evidence shows how new incentives to trade lead an economy to produce what it can most efficiently, and to trade some of the goods and services produced (that is, to export) in exchange for other goods and services (that is, to import) that its citizens wish to consume but produce relatively less efficiently. Multi-country computable general equilibrium (CGE) models are of entire economies and simulate the workings and inter-relationships that implement this process across all modeled producing, consuming, investing, saving, and trading market sectors.

To model the effects of a policy change (for example, the effects of tariff and non-tariff-barrier reductions from an expected FTA), the CGE model is used to establish a baseline assuming no policy change. The baseline scenario is based on some combination of historical data, trends and certain assumptions about the future. A second scenario, adding *just* the policy change of interest, is then run. The effects of the policy change are measured as the differences between the second scenario and the baseline scenario. Results of simulations vary, even among studies done with the same model. Among other factors, these variations arise from policy assumptions, differences in construction of baseline scenario estimates, the age of the data used, the level of aggregation employed, and various technical assumptions specified in the model.

A policy change may, as a first tendency, increase demand relative to supply in some market sectors and decrease demand relative to supply in others; in the policy-change-induced equilibrium, prices change to re-establish a balance of supply and demand required for equilibrium of the overall model and across all markets in the CGE economy. Therefore, CGE models produce a menu of price differences for the policy-change-induced equilibrium compared to the baseline equilibrium.

Among the markets where equilibrium establishes equality in supply and demand is the labor market, and this outcome is often termed "full employment." Traditionally, the assumption built into CGE models has been that the overall size of the labor force is fixed, so that the aggregate adjustment in the labor market to a shift in labor demand must occur only in the form of its price, i.e., "wages." Figure A illustrates one such adjustment and is emblematic of the aggregate labor market as in the BLM study discussed in the text of this report. The USITC study allows for the possibility that wage changes may be associated with decisions of some workers to enter or exit the labor force. In particular, the "labor supply" curve is upward sloping so that an increase (decrease) in wages brings forth more (fewer) workers willing to work. Figure B illustrates an adjustment to a shift in labor demand in such an instance.

Figure A
Equilibrium Changes in Employment and Wages with No Labor Supply Adjustment

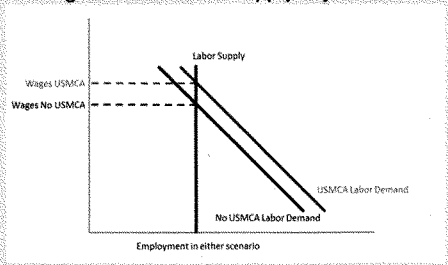
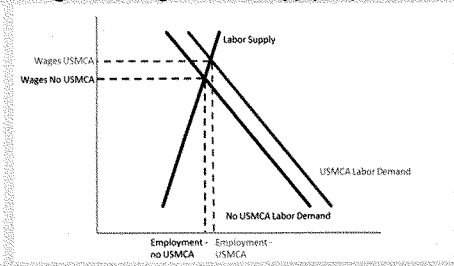


Figure B
Equilibrium Changes in Employment and Wages Allowing for Labor Supply Adjustment



The full-employment assumption should be interpreted only as saying that trade policy changes are assumed not to be a source of unemployment in equilibrium. However, there is no denying that trade policy changes can be the source of someone's unemployment during a period of transition from one equilibrium to the next.

Assumptions (judgements) can be consequential in determining specific quantitative estimates produced, and there can be considerable plausible variation in assumptions. For this reason, a simulation study that runs and explains various scenarios to assess how changes in assumptions (judgements) affects quantitative results provides the reader with a more rigorous treatment than one that is more perfunctory in either the number of scenarios run or in the transparency in discussion of those scenarios. Nevertheless, within one study all scenarios reflect assumptions (judgements) made by the same authors. For this reason, rather than making too much of individual scenarios or studies, it is useful to look across all available scenarios and studies to assess the common sense of the *order of magnitude* of change to be expected.

Some trade policy changes, like the elimination of tariffs under a free trade agreement, are straightforward to input into a CGE model. Other trade policy changes, like those due to the USMCA where nearly all trade between the parties is already duty-free, require modelers to make judgements about how the provisions will affect the economy and how to approximate these changes in the model. Neither of the CGE studies is able to fully and precisely model the terms of the USMCA. Each study identifies and analyzes a subset of the USMCA provisions that the authors believe will have the largest economic impact. There is some overlap in the provisions covered by the two studies. However, even for the provisions covered by both studies, the authors use different approaches and make different assumptions that shape their results. In each of these studies, the assumptions made to model a single provision of the agreement largely drives the modeled results. The authors conduct sensitivity analysis to present a range of figures that suggest that the impact of the USMCA will be small and could be either positive or negative.

A. USITC (2019)

The *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* requires the USITC to conduct a detailed analysis of the likely effects of new trade agreements on the U.S. economy as a whole and in detailed industries. Their report on the USMCA contains a quantitative assessment from a CGE model simulation of the Agreement to estimate the likely impact of the USMCA on the U.S. economy and industry sectors, including estimated changes in GDP, exports and imports, employment, and wages. The CGE simulation incorporates analyses of eight categories of the USMCA provisions (see text box). The USITC groups the provisions into two categories: provisions that alter current policies or set new standards, and provisions that represent commitments that would reduce policy uncertainty by committing the partners to refrain from changing certain regulatory practices. The USITC uses several approaches to estimate the impact of provisions in these eight categories and then integrates these impacts into their economy-wide CGE model to provide estimates of the combined impact of the USMCA on the U.S. economy.

Categories of the USMCA Provisions Considered:

Provisions that alter current policies or set new standards:

- Agriculture
- Automotive
- Intellectual Property Rights (IPRs)
- E-commerce
- Labor

Provisions that represent commitments that would reduce policy uncertainty:

- International data transfer
- Cross-border services
- Investments

The USITC analysis includes innovations in two areas that are relevant to this report.

First, the USITC modified the way labor is treated in the standard model. Using detailed data, they were able to split U.S. workers into five types based on educational attainment. This allows for more detailed analysis of the impact of the Agreement on different types of workers.[15] The USITC also introduces friction into the movement of workers between industries. As trade shifts production priorities within a country, economic theory tells us that wages will adjust drawing workers away from contracting (import-competing) sectors and towards expanding (exporting) sectors. Typically, CGE models allow for the free movement of workers between industries. However, in this model, the USITC assumes workers have limited ability to move across industries. This is more consistent with the literature on this topic, which suggests that workers have industry-specific skills that may restrict their mobility between industries.

Second, the USITC analysis uses a new approach to estimate the impact of the USMCA provisions that seek to reduce policy uncertainty by committing the parties to maintain current regulatory practices affecting international data transfer, cross-border services, and investment. These provisions do not require actual policy changes, but the commitments are valuable inasmuch as they deter future trade barriers. There is a growing body of literature that suggests that certain reductions in trade policy

[15] The USITC groupings are workers with 0-9 years of education, 10-12 years of education, 13-15 years of education, a bachelor's or equivalent degree, and graduate or professional degree.

uncertainty can have sizeable trade-facilitating effects.[16] To incorporate these commitments in international data transfer, cross-border services, and investment in their CGE model, the USITC first estimated the potential impact of the barriers that the USMCA commitments prohibit. The reduction in trade barriers attributable to each commitment is then calculated by applying a weight to capture the portion of the potential impact that represents the value of reducing the policy uncertainty that the (currently non-existent) barrier could be erected in the future.[17] Since the model's results are highly sensitive to the choice of weight, the USITC presents some of their results using three different weights that reflect high (0.5), moderate (0.25), and nonexistent benefits (0.0). The main results presented in USITC (2019) (and in this report) are based on the moderate case.

The USITC main (moderate case) simulation estimates the following economy-wide effects of the USMCA:[18]

- U.S. real GDP will increase by $68.2 billion (or 0.35 percent) over the baseline.
- U.S. exports to the world would increase by $58.2 billion (or 2.4 percent) over the baseline.[19] U.S. exports to Canada and Mexico would increase by $19.1 billion and $14.2 billion (or 5.9 and 6.7 percent), respectively, over the baseline.
- U.S. imports from the world would increase by $58.2 billion (or 2.0 percent) over the baseline. U.S. imports from Canada and Mexico would increase by $19.1 billion and $12.4 billion (or 4.8 and 3.8 percent), respectively, over the baseline.
- U.S. employment will expand by 175,700 full-time equivalents (FTEs) (or 0.12 percent) over the baseline. The USITC does not estimate the number of job transitions that will occur in the short-term as a result of the USMCA nor does it capture the costs associated with employment transition.
- U.S. real wages will increase by 0.27 percent on average, or around $150 per worker and year, over the baseline.

At a broad sector level, Figure 10 shows that, global exports, global imports, output, employment, and wages increase relative to the baseline across the three broad sectors of the economy. In dollar terms, increases in U.S. exports to all countries due to the USMCA are led by the Manufacturing and

[16] See, for example, Handley and Limão (2017), Handley and Limão (2015), and Pierce and Schott (2016). Handley and Limão (2017) find that the reduction of uncertainty about tariff preferences is about half of the effect of tariffs themselves. Ciuriak and Lysenko (2016) find a similar value when considering the effects of the reduction of policy uncertainty on trade in services, but stress that their work is provisional. The USITC caveats its use of this literature by noting that the literature does not specifically address the appropriate weights for the types of policy uncertainty addressed by the USMCA and also that some USMCA commitments may concern domestic policies that are considered longstanding or stable.

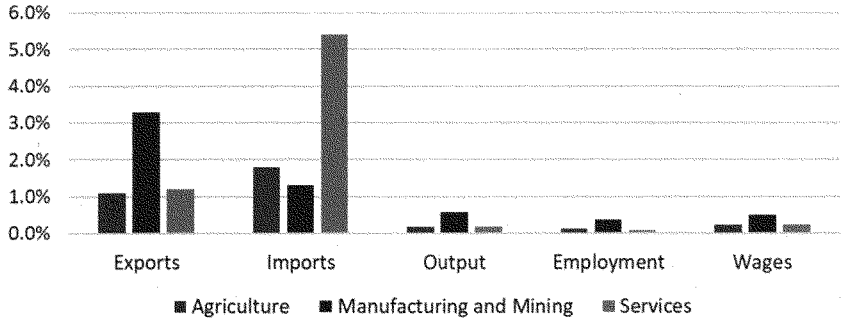
[17] As an illustrative example, USITC explains that if a data flow restriction is estimated to increase trade costs by 10 percent, commitments to not to introduce measures that restrict the data flows would have an effect of a reduction in costs equal to 10 percent multiplied by the weight. So in the case of a weight of 0.25, this example would reduce costs by 2.5 percent (or 0.25 x 10 percent).

[18] All results are in 2017 dollars. As noted previously, the main results reported in USITC (2019) are based on the moderate weight for trade policy uncertainty.

[19] In the USITC model, by assumption, the change in total exports to the world is held equal to the change in total imports from the world. As a result, the model does not allow for a change in the U.S. trade balance with the world.

Mining sector ($47.1 billion or 3.3 percent above the baseline), followed by the Services sector ($8.9 billion or 1.2 percent) and the Agriculture sector ($2.2 billion or 1.1 percent). Increases in U.S. imports from all countries are also led by the Manufacturing and Mining sector ($30.1 billion or 1.3 percent above the baseline), followed by the Services sector ($25.3 billion or 5.4 percent) and the Agriculture sector ($2.7 billion or 1.8 percent).

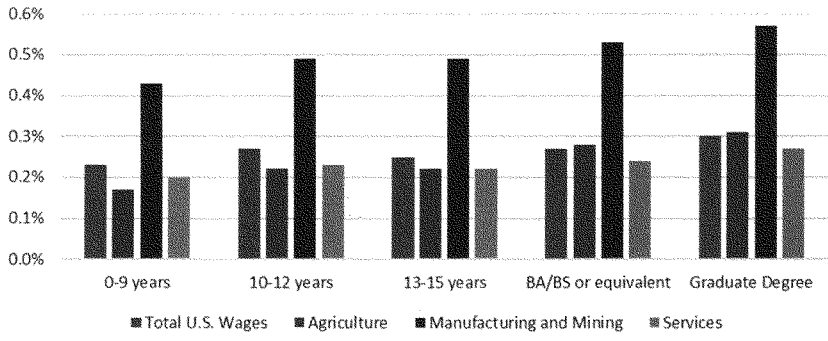
Figure 10
USITC Estimated Effects of the USMCA
Percentage Change Relative to Baseline Scenario



Source: USITC (2019), Tables 2.2 and 2.4
Note: Exports and Imports refer to U.S. trade with all countries.

On average, U.S. real wages will increase by 0.27 percent, or around $150 per worker each year compared to a U.S. economy without the USMCA. Figure 11 shows that workers of all skill levels will see wages increase, with sectors with more highly educated workers having the largest increases. All three broad sectors will see wages increase, while the Manufacturing and Mining sector will have the largest increase.

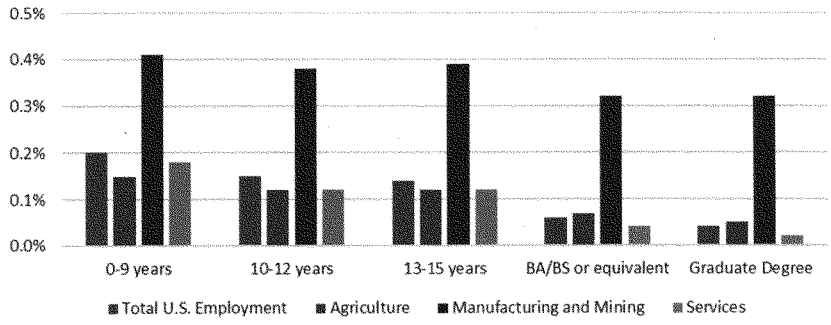
Figure 11
USITC Estimated Effects of the USMCA on U.S. Wages
Percentage Change Relative to Baseline Scenario



Source: USITC (2019), Figure 2.2

U.S. employment will expand by 175,700 full-time equivalent jobs (FTEs) (or 0.12 percent) over the baseline. Figure 12 shows that employment will increase for workers of all skill levels. The changes vary by skill level for several reasons. One reason is that the skill make-up of industries varies, so growth in a given industry could favor the skill-level most highly represented in that industry. Another reason is that the USITC specified that workers with lower education attainment are more responsive to wage changes than workers with higher education. The highest rates of employment growth will occur for workers with the lowest levels of education. In absolute figures, employment will increase the most for workers with 10-12 years of education (about 75,000 FTEs), followed by workers with 13-15 years of education (about 63,000 FTEs), workers with a BA/BS or equivalent (about 19,000 FTEs), workers with 0-9 years of education (about 13,000 jobs), and workers with graduate degrees (about 6,000 FTEs). All three broad sectors will see employment increases, while the Manufacturing and Mining sector will have the largest percentage increase. In absolute figures, employment will increase the most in Services (124,300 FTEs), followed by Manufacturing and Mining (49,700 FTEs), and Agriculture (1,700 FTEs). The USITC does not estimate the number of job transitions that will occur in the short-term as a result of the USMCA nor does it capture the costs associated with employment transition.

Figure 12
USITC Estimated Effects of the USMCA on U.S. Employment
Percentage Change Relative to Baseline Scenario



Source: USITC (2019), Figure 2.4

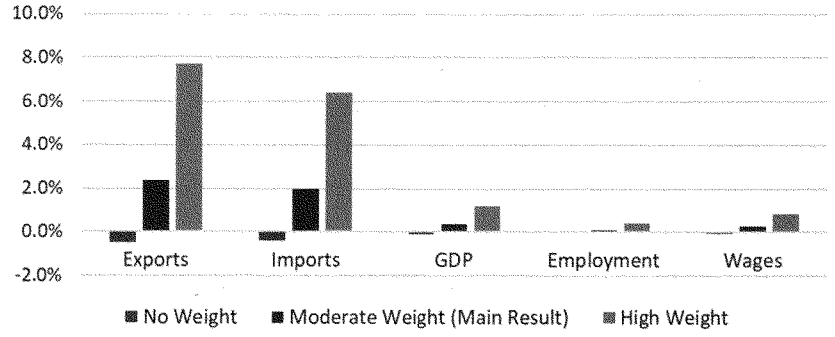
Since, as discussed previously, the USITC introduced restricted labor mobility as a modeling innovation, the USITC presents their findings using a variety of assumptions about labor mobility to show the impact of this change. The results show that the labor mobility assumption has a small effect on the model's estimated impacts for the overall economy, but more substantial impacts at the sector level. When labor is perfectly mobile between sectors, workers would move to the sectors with higher than average wage growth. In this case, workers would move to the Manufacturing and Mining sector, away from Agriculture and Services, until wages equalized. As a result, employment growth in Manufacturing and Mining sector would be slightly higher under the scenario with free labor mobility (0.45 percent change relative to baseline versus 0.37 percent change relative to baseline), and employment growth in the Agriculture and Services sectors would be slightly lower (0.09 and 0.08 percent versus 0.12 and 0.09 percent, respectively).

Up to this point, the discussion of USITC (2019) has focused on the main results, which use the "moderate weight" of 0.25 to assess the affect the reduction of trade policy uncertainty due to certain provisions of the USMCA. Figure 13 shows that the USITC's innovative modeling of the reduction in policy uncertainty due to commitments to maintain policies affecting international data transfer, cross-border services and investment and the selection of this "weight" has a strong influence on their results. As mentioned previously, the USITC ran their simulation assigning three weights to capture the value of reducing policy uncertainty. Their main results include a weight of 0.25 (the orange bar in Figure 13). They also run their simulation with a weight of zero (providing no modeling of the reduction in trade policy uncertainty due to the USMCA commitments in international data transfer, cross-border services, and investment) and with a high weight of 0.5.[20] When the reduction in trade policy uncertainty due to these provisions is not included (the blue bars) and therefore excluding the measurement of these provisions, the main findings of the effects of the USMCA on

[20] The 0.5 weight is informed by a small literature on trade policy uncertainty that is not directly related to the USMCA case. See footnote 14 for further discussion.

exports, imports, GDP, employment, and wages, all become negative compared to the baseline. This means, that according to the USITC's analysis, the positive impact of the USMCA is due largely to the provisions that reduce policy uncertainty. This is not surprising given that there are limited tariff reductions—traditionally the most important factor in the USITC's economic modeling—to consider as the NAFTA already eliminated the vast majority of tariffs between the United States, Mexico, and Canada.

Figure 13
USITC Estimated Impact of the USMCA
by Weight Assigned to Modeled Provisions that Reduce Policy Uncertainty
Percentage Change Relative to Baseline Scenario



Source: USITC (2019), Tables 2.6 and 2.8
Note: Exports and Imports refer to U.S. trade with all countries.

Of the other provisions considered by the USITC (those that alter current policies or set new standards), the changes in the automotive rules of origin have the most influence on the results. The USITC finds that the auto-related provisions of the USMCA will increase employment in the automotive sector (specifically, certain auto parts). The provisions are expected to result in a greater number of auto parts being produced in the United States and raise the production costs of automobiles. In the economy-wide model, the increase in U.S. auto part production draws resources away from other manufacturing sectors and the rest of the economy, driving up costs for other sectors. These changes result in reduced exports, reduced real incomes (due to increased prices), and reduced wages and employment in the overall economy.[21] In their main results, the positive impact of the reduction of trade policy uncertainty due to commitments in international data transfers, cross-border services and investment offsets these negative effects.

[21] USITC (2019) does not specify the estimates.

B. Burfisher, Lambert, and Matheson (2019)

Burfisher, Lambert, and Matheson (BLM, 2019) use the same type of CGE model as USITC, but their analysis of its U.S. impacts is less comprehensive than that of the USITC.[22] A key difference between assumptions is that BLM hold the size of the labor force and employment constant, while the USITC allows for the possibility that the labor force and employment may expand or contract (see Box 1 for further discussion). In addition, the USITC conducts and discusses detailed qualitative and quantitative sensitivity analyses of the impact of the provisions they consider to determine how the results of the changes and which results they designate as "main". BLM generally make their modeling choices based on their reading of available literature. The data used in the BLM model is also less detailed than that used by the USITC.[23] Finally, BLM study only the five USMCA provisions listed in the accompanying text box, while the USITC considered eight categories of provisions.

Five USMCA Provisions Considered:

- Higher regional value content requirements for vehicles and auto parts
- New labor value content requirements for vehicles
- Stricter rules of origin for textiles and apparel
- Agricultural trade liberalization for dairy, sugar, and peanuts
- Customs and trade facilitation measures

The BLM simulation estimates the following U.S. economy-wide effects of the five USMCA provisions combined:

- U.S. real GDP will have no change (0.0 percent) compared to the baseline.
- U.S. exports to the world would decrease by $1.7 billion (or -0.1 percent) over the baseline. U.S. exports to Canada and Mexico would decrease by $302.0 million and $2.4 billion (or -0.1 and -1.1 percent), respectively, over the baseline.
- U.S. imports from the world would decrease by $1.4 billion (or -0.1 percent) over the baseline. U.S. imports from Canada and Mexico would decrease by $58.0 million and $1.7 billion (or -.02 and -0.5 percent), respectively, over the baseline.
- U.S. employment remains fixed by assumption.
- U.S. real wages will have no change (0.0 percent) compared to the baseline for either skilled or unskilled labor.

The changes in trade flows brought on by the five USMCA provisions included in their model would lead to changes in output. The largest declines in U.S. production would be in vehicle parts (-0.44 percent) and textiles (-0.23 percent). Other sectors would experience much smaller gains or losses (that mostly round to 0.0 percent).

[22] The BLM study also analyzes the impact of these provisions on the Canadian and Mexican economies, but those results are not summarized here. The focus of this report is on the impact of the USMCA in the United States.
[23] For example, the USITC model divides the U.S. economy into 103 sectors, whereas the BLM model includes 17. BLM also includes only two types of labor: skilled and unskilled, compared to five types in the USITC report.

The provisions related to automobiles and textiles and apparel, as modeled by BLM (2019), have a negative impact on the U.S. economy.[24] However, the assumptions made to model the effects of improved trade facilitation under the USMCA lead to offsetting positive impacts.

Both the USITC and BLM studies illustrate the difficulties associated with modeling the impacts on non-tariff trade policy changes, such as those in the USMCA, and the strong role that assumptions made in the modeling process can play on the results. It is important to review the full range of estimates and understand the key underlying assumptions that drive them. Nevertheless, in all scenarios considered across both studies, the USMCA effects on overall employment and wages in the United States are of a similar order of magnitude and range from slightly negative to less than a one-percent increase.

IV. Analysis of Provisions Negotiated to Achieve Labor Market Objectives

This section discusses two sets of the USMCA provisions negotiated with an explicit labor and employment motivation: new rules of origin provisions for automobiles and auto parts and the Agreement's labor provisions.

A. New Rules of Origin Provisions for Automobiles and Auto Parts

A rule of origin (ROO) specifies how much content must originate within the borders of the parties to a trade agreement for a product to be eligible to incur no duty under the trade agreement. The USMCA includes new ROO for automobiles and auto parts that require more regional content than under the NAFTA to be eligible for duty-free treatment. These ROOs include increased regional value content (RVC) requirements for vehicles, core auto parts, principal auto parts, and complementary auto parts;[25] new steel and aluminum purchasing requirements; and new labor value content (LVC) requirements. A simplified summary of these rules is provided in Table 1.[26]

[24] For a detailed description of how BLM incorporate the five USMCA provisions into the model, see BLM (2019), Table 2.

[25] To meet the RVC a good must contain a minimum amount of "originating" material from one of the USMCA partner countries.

[26] For a more detailed summary of all relevant provisions, see USITC (2019), Table 3.3

Table 1
Summary of the Main USMCA Rules of Origin for Automobiles and Auto Parts

USMCA Requirement	Comparison to NAFTA Requirement
Passenger vehicles and light trucks must meet a minimum 75 percent RVC.[27]	Passenger vehicles and light trucks must meet a minimum 62.5 percent RVC.
Core parts (including engines, transmissions, axles, suspension, steering, and advanced batteries) must originate in the USMCA countries.	Certain auto parts are required to originate in the NAFTA countries, while others can be "deemed originating" without proving they originated in North America.
70 percent of the steel and aluminum used in passenger vehicles and light trucks must originate in the USMCA countries.	No similar requirement.
40 percent of the total manufacturing cost of passenger vehicles and 45 percent of the total manufacturing cost of light trucks must be from high-wage material or manufacturing costs with a production wage rate of at least $16/hour, high-wage research and development and IT expenditure costs, and qualifying assembly credits.[28]	No similar requirement.

Note: For a more detailed summary of the automotive provisions of the USMCA, see USITC (2019), Table 3.3

In principle, the ROO provisions should increase the per-unit U.S. content, including employment, in the production of automobiles and parts that receive USMCA preferences. The provisions may also incentivize diverting a larger share of production to U.S. plants and locations. The new ROO provisions may not decrease the cost of producing each unit granted USMCA preferences. Any price and cost changes in the auto sector associated with the diversion of resources to or from that sector and away or toward others may affect other prices in the economy and the expected economy-wide net employment impact of the provisions.

The two studies discussed in Section III and the Office of the United States Trade Representative (USTR, 2019) assess possible employment impacts of these provisions.[29] Table 2 provides a brief description of the methodology and estimated impact for each of these assessments. The remainder of this subsection discusses these assessments in more detail.

[27] In addition, there are specific RVC requirements for the different types of auto parts.

[28] The USMCA has specific requirements for the share of each of these components can contribute to the LVC requirement.

[29] Further, the Center for Automotive Research (CAR), analyzed the impact of the USMCA combined with several other trade policy actions, including potential tariffs on the automotive sector Section 232 of the Trade Expansion Act of 1962 (Schultz, et al. 2019). While the impact of the USMCA cannot be isolated in their study, it does provide some interesting insights. Similar to the USITC, they conduct their analysis at the vehicle model level. However, they assume a higher number of vehicles will not be brought into compliance with the USMCA and instead will pay the 2.5 percent tariff. CAR also extends their analysis to include negative impacts on downstream employees, like those at dealerships.

Table 2
Summary of Analysis of the Employment Impact of the USMCA Auto-Provisions

Study	Method of Analysis	Estimated Employment Effect
USITC (2019)	CGE model; A detailed sector-specific model was used to estimate the impact of ROOs on costs. These impacts were included in the CGE model.	When considering the auto and two core auto parts (engines and transmissions) industry in isolation, they find a net employment increase of 28,100 in the vehicle, engine, and transmission production sector. When included in the economy-wide model, the changes in auto provisions "reduce wages and employment in overall economy" (USITC 2019, p. 58).
BLM (2019)	CGE model; An impact of ROOs on trade barriers suggested by other economic studies was used in the CGE model.	Because total employment is fixed by assumption (see Section III of this report), reduced output in both the motor vehicle and vehicle parts sectors suggests reduced employment in these sectors, offset by increased employment elsewhere.
USTR (2019)	Business confidential transition plans; news releases; jobs multiplier	Will support an additional 76,000 jobs in the automotive sector.

The USITC (2019) employed a complex, industry-specific economic model of the North American auto market using detailed information for 393 light vehicles produced by 22 manufacturers in North America and sold to North American consumers. The model assumes that most vehicle models are close to compliance with the new USMCA requirements and would increase their North American content to meet them. Vehicle models that were not close to compliance would not change their production to meet the USMCA requirements. This is consistent with what industry representatives told the USITC. The model is limited in that it only considers the sourcing of engines and transmissions, and not the many other auto parts that will be impacted (i.e., the model includes about 60 percent of U.S. shipments of motor vehicles and parts). The model also does not include indirect effects on auto dealers or other auto part suppliers.

When looking just at results for the auto and auto part sector, the positive employment effects appear to dominate. The USITC finds that the USMCA ROO for autos will increase production costs, decrease the number of autos sold, but lead to a net increase in U.S. employment in the vehicle, engine, and transmission production of 28,100. This change in employment includes a decrease in U.S. employment in vehicle production of 1,600 and a larger, offsetting increase in U.S. employment in engine and transmission production of 29,700. However, when the cost and price effects associated with these results are plugged into the economy-wide model (which also includes other provisions), they find have a negative effect on the U.S. economy as a whole, including reducing wages and employment in the overall economy.

The BLM (2019) study makes several assumptions to model the USMCA provisions for autos. To model the higher RVC requirement for auto parts, the authors assume that the compliance costs will be so high that exporters will forgo the USMCA benefits and all auto parts trade between the three countries will occur instead at most-favored-nation (MFN) tariff rates.[30] To model the higher RVC requirement for vehicles, the authors assume compliance costs as an ad-valorem equivalent of 75 percent of the margin of preference (i.e., the difference between the USMCA and MFN rates) and a 3 percent tariff on Mexican vehicle imports. The LVC is modeled as a 50 percent increase in labor costs in Mexico's vehicle production. These judgements drive the simulation result: regional trade in auto and auto parts declines leading to reduced production of autos and auto parts in each country. Because total employment is fixed by assumption (see Section III of this report), reduced output in both the motor vehicle and vehicle parts sectors suggests reduced employment in these sectors, offset by increased employment elsewhere.

USTR (2019) estimates that the USMCA will support 76,000 additional jobs in the U.S. automotive sector. Using business confidential transition plans provided by automakers as well as public announcements, USTR concludes that the USMCA will directly support 22,800 new automotive assembly jobs. They estimate, using a conservative 1:2 jobs multiplier, that these jobs will support an additional 45,600 automotive supplier jobs. (That is, they also assume each assembly job supports an additional two automotive supplier jobs.) They also expect the USMCA will support 8,000 additional advanced battery supplier jobs. USTR does not consider economy-wide impacts.

In considering the variety of outcomes suggested by these studies, note that the USTR estimates focus simply and transparently on impacts to the automobile sector. The USITC estimates for the automobile sector uses a complex model and the subsequent inputting of these results into their economy wide CGE model leads their results to be comprehensive in the sense that the CGE model assesses a wide array of channels of impact on the U.S. economy as a whole. However, the complexity and comprehensiveness of their models makes a concise and transparent summary identification of the precise channels affecting their results difficult. Finally, the BLM results appear driven by their assumption that producers will not seek to use the USMCA preferences because of the new ROO provisions for auto parts, their judgements about the costs imposed by meeting new ROO requirements for automobiles, and their assumption that overall U.S. employment levels are fixed.

B. Labor Provisions

The labor chapter of the USMCA brings labor obligations into the core of the agreement, rather than in a supplemental agreement as in the NAFTA, and makes the obligations more likely to be enforced. The chapter requires the Parties to adopt and maintain in law and practice labor rights as recognized by the International Labor Organization (ILO), to effectively enforce their labor laws, and not to waive or derogate from their labor laws. It includes new provisions requiring the Parties to prohibit the importation of goods produced by forced labor and to address violence against

[30] The WTO Agreement obligates Members to accord "most favored nation" tariff treatment to the goods of other WTO members. Under MFN, with certain exceptions, if a tariff is applied to a good from one Member country, the same tariff must be applied to the same good from all Member countries. (Among the allowable exceptions to MFN are bilateral free trade agreements.) U.S. law uses the term "normal trade relations" (NTR) instead of the term MFN.

workers exercising their labor rights. It also makes obligations more easily enforceable by clarifying the meaning of "manner affecting trade" and "sustained or recurring." It also 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, namely, secret ballot vote to elect union leadership, challenge existing bargaining representatives, and approve new and existing collective bargaining agreements. Similar to the NAFTA labor agreement, it provides procedural guarantees for enforcement of labor laws. These include due process through independent and impartial judicial and administrative tribunals, and establish institutional mechanisms to provide for intergovernmental engagement and cooperation with stakeholder input and a public submission process whereby members of the public can seek review of claims that a Party is not meeting its obligations under the labor chapter. Unlike the NAFTA labor agreement, all of the obligations in the labor chapter are subject to the same dispute settlement mechanisms and potential trade sanctions as the rest of the Agreement.

Compared to the NAFTA, the provisions of the USMCA are stronger and more likely to bring about compliance with the labor rights and laws covered. The effect of stronger compliance on employment and wage outcomes depends on what happens to labor costs and productivity. The literature that discusses channels through which the labor rights covered in the USMCA may affect costs and productivity is inconclusive. There are channels through which they could raise labor costs, increase labor productivity (which would have an effect similar to decreasing labor costs), or both.[31] If they increase costs on balance, then better compliance with the rights should decrease employment, wages, or both. But if productivity enhancements dominate, employment and wage levels should increase. Whether changes in compliance in one country affect overall labor market outcomes in another in turn depends on whether compliance practices affect the price at which each country sells its goods to each other and on world markets. This in turn depends on the size of each country's market share and how similar to each other consumers believe the goods from both countries to be.[32] Because of the offsetting effects of the various possible channels of impact on costs within countries and terms of trade across countries, and because of a lack of quality data, empirical work to assess how labor rights compliance in one country affects labor markets in another is also inconclusive.[33]

The USITC (2019) performed a quantitative simulation of one labor provision: the provision that requires Mexico to establish and maintain regulations that effectively recognize workers' collective bargaining rights, as specified in the Agreement. They find little-to-no impact on U.S. prices and U.S. labor markets.

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[31] See Swinnerton (1996), Organization for Economic Cooperation and Development (OECD, 1996 and 2000), Hasnat (2002), Milberg and Houston (2005), Scherrer (2007), and Salem and Rozental (2012).
[32] See Elliot and Freeman (2003), Dehijia and Samy (2004), Chau and Kanbur (2006), Kimeldorf et al. (2006), Howard and Allan (2008), Rousu and Corrigan (2008), Dragusanu et al. (2014), and Hainmueller et al. (2015).
[33] See OECD (1996 and 2000), Mah (1997), Cook and Nobel (1998), Busse (2002), Hasnat (2002), Kucera (2002), Samy and Rogriquez (2003), Melberg and Houston (2005), and Busse, Nunnenkamp and Spatareanu (2011).

V. Findings

This report on a prospective review of the effects of the USMCA on U.S. employment and labor markets finds that the scope for the USMCA to affect U.S. employment and labor markets is narrow. It reviews available quantitative simulations of the Agreement as a whole on the U.S. labor market in aggregate, which suggest that an expectation of positive effects on U.S. employment and average wage levels should depend on the policy uncertainty-reducing effects of the USMCA commitments to refrain from regulatory changes affecting international data transfer, cross-border services, and investment. In any case, the sizes of the effects are modest reflecting the narrow scope the Agreement has in the context of the very large and mostly domestic-facing U.S. economy. Finally, with regard to provisions that were explicitly motivated by employment and labor (on rules of origin for automobiles and labor rights enforcement provisions), it similarly finds reason to expect very modest effects of the provisions *per se*, and these also can range from negative to positive, so that "no effect" is within that range.

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Final Environmental Review of the The United States – Mexico – Canada Agreement (USMCA)

OFFICE OF THE U.S. TRADE REPRESENTATIVE

2019

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EXECUTIVE SUMMARY

On May 18, 2017, President Trump notified Congress of his intent to enter into negotiations with Canada and Mexico to modernize the *North American Free Trade Agreement* (NAFTA), consistent with section 105(a)(1)(A) of the *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* (Public Law 114-26, Title I; "Trade Promotion Authority" or "TPA"). The *United States – Mexico – Canada Agreement* ("USMCA" or "Agreement"), was signed on November 30, 2018.

The USMCA modernizes the 25-year-old NAFTA into a 21st century, high-standard agreement that will support mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America. The Agreement couples economic growth with environmental protection, and includes the most comprehensive set of enforceable environmental obligations of any previous U.S. free trade agreement (FTA). The USMCA moves environmental provisions into the core of the Agreement, and provides that all environmental obligations are subject to the same dispute settlement mechanism as the rest of the Agreement. It also advances environmental protection with new, enforceable tools to protect ecologically and economically significant terrestrial and marine environments in North America and beyond from environmental challenges and threats, such as wildlife trafficking, illegal logging, illegal fishing, air pollution, and marine litter. These illicit and damaging activities do not respect borders, and threaten natural resources, legitimate businesses, and even our national security. The USMCA will play a pivotal role in addressing these and other environmental issues, while simultaneously providing for enhanced public participation, strengthened coordination among North American environment and enforcement agencies, and enhanced trilateral environmental cooperation.

The USMCA environmental review process served as an important tool to identify, evaluate and incorporate environmental issues with respect to the negotiation of the USMCA. USTR carried out the environmental review in accordance with Executive Order 13141 and its Guidelines. Over the course of the USMCA negotiation, the public, Congress, stakeholders, the Trade and Environment Policy Advisory Committee (TEPAC), non-governmental organizations (NGOs), and experts at other Federal agencies provided vital knowledge and insight that informed the negotiations, the scope of the review, and the final Administration conclusions presented in this document.

The Final USMCA Environmental Review (Environmental Review) is the culmination of that ongoing formal and informal process to ensure that the environmental provisions of the USMCA achieve the relevant U.S. trade negotiating objectives outlined by Congress in the TPA, and by the Administration. The focus of this Environmental Review is on the potential economically-driven environmental impacts of the USMCA—both positive and negative—in the

United States. However, the Environmental Review also considers the potential global and transboundary environmental impacts of the Agreement. The Administration concludes:

- The USMCA will create important new export opportunities for U.S. businesses and workers because of the significance and proximity of Canadian and Mexican markets to the United States. Based on available information, including economic modeling and analysis, and informed by the changes and impacts of previous U.S. trade agreements, the estimated increase in trade that will result from the USMCA is unlikely to cause significant adverse environmental impacts in the United States.

- No specific, significant negative environmental impacts for the United States or other USMCA countries have been identified in the course of this review.

- Regarding the key potential domestic environmental concerns identified as part of the interagency review process related to the increase in trade resulting from the USMCA—localized environmental impacts at selected U.S. maritime ports, and more broadly potential transport-related impacts, the risk of the introduction of invasive alien species into the United States, and potential environmental impacts resulting from extraction of natural gas—the risk of such impacts appears to be low and mitigated by other factors. We will continue to use a wide range of tools and existing U.S. regulatory authorities and programs to monitor and mitigate any potential or unforeseen negative environmental impacts that emerge.

- With respect to market access concerns, all tariffs on legal wildlife, timber, and fish and products thereof are already zero as a result of NAFTA. The USMCA is therefore unlikely to contribute to an additional increase in legal trade of wildlife. The conservation provisions in the USMCA are expected to help to combat wildlife trafficking and promote greater conservation of wild fauna and flora. Likewise, the continuation of the currently duty free trade in these products under USMCA is not expected to put greater pressure on forest resources or exacerbate illegal logging. Instead, the USMCA's environmental provisions are likely to have a net positive effect on conservation of forest resources in North America.

- Similarly, the USMCA's new obligations to combat illegal, unreported, and unregulated (IUU) fishing and enhance environmental cooperation will strengthen the USMCA Parties' ability to combat IUU fishing, and will provide an opportunity to reduce the levels of IUU fishing and its detrimental environmental and economic impacts. The USMCA's groundbreaking prohibitions on harmful fisheries subsidies address one of the key drivers of overfishing, and are expected to contribute to improved fisheries management and the conservation of overfished stocks, to the benefit of legal fishers.

- The USMCA will require no changes to U.S. environmental laws or regulations, and will not adversely affect the ability of the United States to regulate under current U.S. environmental laws and regulations or impact our ability to set environmental regulations in the future.

- Based on an analysis of other USMCA obligations concerning environment-related Services, Good Regulatory Practices (GRP), Sanitary and Phytosanitary Measures (SPS), and Technical Barriers to Trade (TBT) – which included a review of the impact of

comparable provisions of previous U.S. FTAs – the Agreement will not adversely affect the ability of the United States to regulate on these aspects of environmental matters. Further, the Administration does not expect the USMCA to result in increased risk for a successful challenge to existing U.S. environmental measures.

- Lastly, in addition to cooperation commitments in the USMCA, the USMCA countries have entered into the *Agreement on Environmental Cooperation among the Governments of Canada, the United Mexican States, and the United States of America.* This agreement signed by Mexico on November 30, 2018, by the United States on December 11, 2018, and by Canada on December 19, 2018, provides for a robust and modernized trilateral environmental cooperation framework, addresses environmental challenges and facilitates greater collaboration on priority environmental issues such as pollution reduction, conservation of biological diversity, and sustainable management of natural resources.

I. LEGAL & POLICY FRAMEWORK

A. The Trade Promotion Authority Context

The *Bipartisan Congressional Trade Priorities and Accountability Act of 2015,* or Trade Promotion Authority (TPA), establishes a number of negotiating objectives and other priorities relating to the environment, and provides for enhanced consultation requirements for trade negotiations. TPA contains three sets of objectives—(1) overall trade negotiating objectives, (2) principal trade negotiating objectives, and (3) capacity building and other priorities. TPA also includes requirements relating to congressional oversight, consultations, and transparency.

TPA's overall objectives (section 102(a)) with respect to the environment are:

- to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources (section 102(a)(5));
- to seek provisions in trade agreements under which parties ensure that they do not weaken or reduce the protections afforded in domestic environmental laws as an encouragement for trade (section 102(a)(7)).

In addition, TPA establishes environment-related "principal trade negotiating objectives" (section 102(b)(10)), which include ensuring that any party to a trade agreement with the United States:

- adopts and maintains measures implementing its obligations under common multilateral environmental agreements (MEAs) as defined in the Act;
- does not waive or otherwise derogate from, or offer to waive or otherwise derogate from its environmental laws in a manner affecting trade or investment between the United States and that party; and,
- does not fail to effectively enforce its environmental laws, while recognizing that parties to a trade agreement retain the right to exercise prosecutorial discretion and to make decisions regarding the allocation of enforcement resources with respect to other environmental laws determined to have higher priorities.

TPA also includes several issue-specific negotiating objectives to:

- eliminate trade-distorting fisheries subsidies,
- pursue transparency in fisheries subsidies programs,
- address IUU fishing, and
- ensure that trade agreements do not establish obligations for the United States regarding greenhouse gas emissions measures.

Further, TPA provides for the promotion of certain environment-related priorities and associated reporting requirements, including:

- establishing consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science; and,

- reporting to the Committee on Ways and Means and the Committee on Finance ("Committees") on the content and operation of such mechanisms (section 102(c)(2)).

TPA also directs the Office of the United States Trade Representative (USTR) to:

- conduct environmental reviews of future trade and investment agreements consistent with Executive Order 13141 and its relevant guidelines;
- report to the Committees on the results of such reviews (section 105(d)(1)); and,
- continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing exceptions under Article XX of the General Agreement on Tariffs and Trade 1994 (GATT 1994) (section 102(c)(3)).

B. The Environmental Review Process and Scope of the Review

Environmental reviews are used as tools for integrating environmental information and analysis into the dynamic process of trade negotiations. USTR and the Council on Environmental Quality (CEQ) jointly oversee implementation of Executive Order 13141[1] and its relevant Implementation Guidelines for Environmental Reviews.[2] USTR, through the Trade Policy Staff Committee (TPSC), is responsible for conducting the individual reviews.

The aim of environmental reviews is to inform policymakers and the public about reasonably foreseeable environmental impacts of trade agreements, both positive and negative, identify complementarities between trade and environmental objectives, and help shape appropriate responses if environmental impacts are identified.

The Environmental Review Guidelines recognize that the approach adopted in individual reviews will vary on a case-by-case basis, given the differences in trade agreements and negotiating timetables. Generally, reviews have addressed the extent to which positive and negative environmental impacts may flow from economic changes estimated to result from a prospective agreement; and the extent to which provisions may affect U.S. environmental laws and regulations (including, as appropriate, the ability of state, local, and tribal authorities to regulate with respect to environmental matters).

The USMCA environmental review process began by determining the scope of the environmental review ("scoping"). USTR, through the TPSC, formally initiated the environmental review of the proposed negotiation between the United States, Mexico, and Canada through publication of a Federal Register Notice on September 26, 2017 (82 Fed. Reg. 44868). To determine the scope of this review, the Administration considered information provided by the public and input from environmental, trade, and investment experts within a number of federal agencies. In addition to providing guidance on the scope of the environmental review, any information, analysis, and insights available from these sources were taken into

[1] Executive Order 13141 – Environmental Review of Trade Agreements (64 Fed. Reg. 63,169 (Nov. 18, 1999).

[2] 65 Fed. Reg. 79442 (Dec. 19, 2000). The Guidelines can be found at: https://ustr.gov/sites/default/files/guidelines%20for%2013141.pdf.

account throughout the renegotiating process and were considered in developing U.S. negotiating positions. Potentially significant issues for in-depth analysis are included in this Environmental Review, while issues that have been adequately addressed in previous environmental reviews,[3] or were determined to be less significant, were eliminated from detailed study here.

C. Scope of the Environmental Review

Consistent with Executive Order 13141 and its Guidelines, the focus of this Environmental Review is on potential impacts in the United States. Section V considers the potential economically-driven environmental impacts in the United States, while Section VI evaluates transboundary impacts. Section VII assesses the extent to which the USMCA might affect U.S. environmental laws, regulations, policies, or international commitments.

[3]https://ustr.gov/issue-areas/environment/environmental-reviews.

II. BACKGROUND

Section A provides a brief overview of the North American economy. Section B provides background information on the economy and environment in Canada and Mexico. Section C provides information on U.S. goods trade with USMCA countries.

A. North America

The USMCA Parties all recognize the mutual supportiveness of trade and environmental protection. Canada and Mexico are two of the United States' largest trading partners, and are key collaborating countries when it comes to conservation of resources, addressing air pollution, and other key environmental issues with impacts in the North American region.

North America boasts biodiverse and ecologically significant productive forests, marine ecosystems, and fish stocks. Collectively, the USMCA countries' exports of fish and fish products equaled $12.3 billion, or roughly 8 percent of global exports, which totaled $153 billion in 2017. The region's exports of forest products are valued at $69.8 billion, or 19 percent of global exports, which totaled $376 billion in 2017.

Recent economic analysis affirms that all three USMCA countries will benefit from the Agreement. The U.S. International Trade Commission's model estimates that the USMCA would raise U.S. real GDP by $68.2 billion (0.35 percent) and U.S. employment by 176,000 jobs (0.12 percent). The model estimates that the USMCA would likely have a positive impact on U.S. trade, both with its USMCA partners and with the rest of the world. U.S. exports to Canada and Mexico would increase by $19.1 billion (5.9 percent) and $14.2 billion (6.7 percent), respectively. The model estimates that the Agreement would likely have a positive impact on all broad industry sectors within the U.S. economy.[4]

B. Economy and Environment in USMCA Countries

Canada – Economy

Canada has a population of approximately 37 million people. Its GDP was $1.7 trillion[5] and its GDP per capita was $46,261[6] in 2018. Canada's total goods trade amounted to over $910.3 billion ($450.6 billion in exports and $459.7 billion in imports) in 2018.[7] Canada's top exports are petroleum, vehicles, and machinery. Top imports include vehicles, machinery, and electrical machinery.[8] Canada's major trading partners are the United States, China, Mexico, the United Kingdom, and Japan.

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[4] USITC, U.S.-Mexico-Canada Trade Agreement: Likely Impact on the U.S. economy and the Specific Industry Sectors (Pub. No. 4889, April 2019), available at: https://www.usitc.gov/publications/332/pub4889.pdf.
[5] Statistics Canada.
[6] The International Monetary Fund, World Economic Outlook Database, October 2018.
[7] Trade Data Monitor and Statistics Canada.
[8] The World Bank.

Canada is 9.98 million square kilometers in area (slightly larger than the United States) and varies in climate from temperate in the south to subarctic and arctic in the north. A land of vast distances and rich natural resources, in terms of area Canada is the second-largest country in the world (after Russia). Canada and the United States share the world's longest land border (5,500 miles) with 90 percent of Canada's population concentrated within 100 miles of the boundary with the United States.

Canada – Key Environmental Issues and Challenges

- Air Quality and Management: Canada faces challenges with high energy use and associated pollution, including managing emissions from development of oil sands.[9] The United States and Canada signed the *Agreement between the Government of the United States of America and the Government of Canada on Air Quality* in 1991 to address transboundary air pollution. The agreement contains three annexes that address emissions from acid rain, coordinate monitoring and exchange of information on air pollution, and address precursor pollutants to ground-level ozone. Both countries have met the targets of the agreement, and Canada's emissions of key pollutants contributing to smog, acid rain, and poor air quality have significantly declined since 1990. Both countries have closely collaborated on real-time air quality reporting and mapping through the EPA-initiated AIRNow program (www.airnow.gov).

- Water Quality: Canada's landmass contains about 7 percent of the world's fresh water, much of that shared with the United States. The two countries cooperate closely in the management of shared water resources. *The Great Lakes Water Quality Agreement*, negotiated in 1972 and renewed most recently in 2012, commits the United States and Canada to cooperate on restoring and maintaining the integrity of the Great Lakes. The 2012 amendments are designed to take a more comprehensive, ecosystem-wide approach to lake restoration. There have been successes under this program, but further clean-up efforts are needed.

- Fisheries Management: Canada manages a broad range of commercial, recreational, and aboriginal fisheries. Canadian fisheries and aquaculture are managed by the Department of Fisheries and Oceans Canada. Addressing the economic and resource impacts of IUU fishing on its fisheries and associated markets is a key issue in Canada, and Canada has taken an active role in international efforts to combat IUU fishing. Although Canada has recovery plans in place for many of its fish stocks and progress is being made, stock assessments remain difficult and scientific capabilities have been stretched in recent years. The United States cooperates closely with Canada on many fisheries issues, including bilaterally and multilaterally on the management of shared fisheries resources, protection of endangered species, and scientific data collection.

- Protection of Marine Mammals: Canada has a vast coastline and is home to more than 40 marine mammal species, such as whales, dolphins, and seals. In 2018, Canada's Commissioner of the Environment and Sustainable Development found that many species are in decline because of human activities, such as bycatch and entanglement from commercial

[9] 2017 OECD Environmental Performance Review for Canada at 12.

fishing. The Commissioner found that while some measures are underway, the federal government could do more to address the threats to marine mammals.[10]

- Protected Areas: According to the OECD, Canada could do more to enhance the percentage of marine coastal and terrestrial areas it protects. For certain ecosystems, the OECD reports that Canada protects only a very small share of land.[11]

- Wildlife trafficking: Canada has made progress to stem wildlife trafficking through enhanced enforcement actions, both domestically and in collaboration with other countries and international organizations. However, Canada still faces significant challenges, including with respect to trafficking in migratory birds and trade in bear parts. The United States maintains a close working relationship with Canada in collaborative efforts to combat wildlife trafficking. For example, the U.S. Fish and Wildlife Service (FWS) Office of Law Enforcement (OLE) and Environment and Climate Change (ECC) Canada have co-led international efforts to stem the global illegal trade in Anguilla species of eel, resulting in the interdiction of dozens of shipments worth over $30 million USD.

Mexico – Economy

Mexico has a population of approximately 124.7 million people. Its GDP was $1.2 trillion[12] and its GDP per capita was $9,807[13] in 2018. Mexico's total goods trade amounted to approximately $915.2 billion ($450.9 billion in exports and $464.3 billion in imports).[14] Mexico's top exports include vehicles, electrical machinery, and machinery.[15] Mexico's top imports consist of electrical machinery, machinery and vehicles.[16] Mexico's major trading partners are the United States, China, Canada, Japan, and Germany.

Mexico is 1.96 million square kilometers in area (nearly three times the size of Texas). It is one of the most biologically diverse countries in the world and has several major biomes, including desert, tropical rainforest, marine, and forest.

The United States and Mexico both have extensive coastlines on the Pacific Ocean and the Gulf of Mexico, airsheds and watersheds, and flora and fauna that move across the U.S.-Mexico border, sometimes migrating to distant ecosystems. The United States and Mexico work closely on environmental protection and natural conservation through many treaties, agreements, and programs.

Mexico – Key Environmental Issues and Challenges

- Pollution Control: Air pollution is a major concern in specific locations, particularly Mexico

[10] 2018 Fall Report of the Commissioner of the Environment and Sustainable Development, available at: http://www.oag-bvg.gc.ca/internet/English/att__e_43151.html
[11] 2017 OECD Environmental Performance Review for Canada at 7.
[12] International Monetary Fund, World Economic Outlook Database, October 2018.
[13] International Monetary Fund, World Economic Outlook Database, October 2018.
[14] U.S. Department of Commerce, Trade Policy Information System.
[15] The World Bank.
[16] The World Bank.

City, but also along the U.S.-Mexico border. Under its *ProAire* programs, Mexico has made significant progress in reducing air pollution, notably the amount of smog in the Mexico City area. At the federal level, Mexico's Ministry of Environment and Natural Resources (SEMARNAT) implemented the National Strategy for Air Quality (ENCA) for the 2017-2030 timeframe. The ENCA aims to bring air pollution within World Health Organization (WHO) standards by 2030 by promoting low-emission public transportation and applying higher fuel efficiency standards for cars and light trucks in all Mexican states.

- Water Management: Water quality and availability are two of Mexico's most pressing environmental issues. The water needs of Mexico's growing population and increasing levels of urbanization are straining outdated infrastructure and stressing the underlying aquifers. In 2017, Mexico and the United States, in coordination with their respective states and agencies, signed an innovative and flexible agreement referred to as "Minute 323" that improves the conservation and management of water in the Colorado River basin, and promotes additional protections for the environment.

- Forestry: Deforestation continues to pose environmental challenges. Mexico's *ProÁrbol* program helps protect thousands of square miles of forest, and deforestation rates have decreased in the last 10 years. In 2017, the Government of Mexico announced the goal of achieving net zero national deforestation, focusing on five key states: Jalisco, Chiapas, Yucatan, Quintana Roo, and Campeche. The World Bank and the United States have also provided funding and technical assistance to Mexico's National Forestry Commission (CONAFOR) to strengthen forest management. The National Commission for Natural Protected Areas (CONANP) and the non-profit Mexican Fund for Nature Conservation jointly operate the Fund for Natural Protected Areas. Created 20 years ago, the fund includes contributions from the Government of Mexico, the United States, and the World Bank, among others, which directly supports the conservation of 51 natural areas and at least 30 species.

- Environmental Crimes: To help combat environmental crimes, like wildlife trafficking and illegal logging, Mexico created a new branch of the Federal Police in 2016. In 2017, Mexico also amended its legal framework to include environmental crimes under the statute for criminal organizations, increasing penalties for violators.

- Fisheries: In general, Mexico faces significant challenges enforcing its fisheries laws and regulations. Its vast coastline and the fact that small vessels make up a high percentage of its fishing fleet make patrolling and monitoring expensive and difficult to carry out. Concerning totoaba, the international black market for its swim bladder makes illegal fishing and smuggling lucrative in regions faced with economic hardships. The illegal fishing of totoaba is having a secondary impact, resulting in high mortality of the endangered vaquita. The United States cooperates with Mexico on many fisheries issues, including on the management of various tuna stocks, protection of endangered species, design of fishing gear to mitigate bycatch, and scientific data collection.

C. U.S. Goods Trade with Canada and Mexico

United States – Canada Goods Trade

Canada is the world's 10th largest economy (based on purchasing-power-parity)[17] and the United States' 2nd largest goods trading partner. Two-way goods trade between the United States and Canada totaled $617.2 billion in 2018, with U.S. goods exports to Canada totaling $298.7 billion and goods imports from Canada totaling $318.5 billion.[18] Nearly all bilateral goods trade is tariff-free under the NAFTA, and will continue to be tariff-free under the USMCA.

United States – Mexico Goods Trade

Mexico is the world's 15th largest economy (based on purchasing-power-parity)[19] and the United States' 3rd largest goods trading partner. Two-way goods trade between the United States and Mexico totaled $611.5 billion in 2018, with U.S. goods exports to Mexico totaling $243.3 billion and goods imports from Mexico totaling $346.5 billion.[20] All bilateral goods trade is tariff-free under the NAFTA, and will continue to be tariff-free under the USMCA.

[17] IMF statistics.
[18] U.S. Census Bureau statistics.
[19] IMF statistics.
[20] U.S. Census Bureau statistics.

III. DESCRIPTION OF THE AGREEMENT

A. Coverage and General Commitments

The Environment Chapter represents the most advanced and comprehensive obligations ever agreed to in a trade agreement to combat trafficking in wildlife, timber, and fish, to protect fish and marine species, and to address other pressing environmental issues. It includes enforceable commitments by all USMCA Parties to effectively enforce their environmental laws and not to waive or derogate from environmental laws in order to attract trade or investment.

- ***Dispute Settlement***

Commitments in the Environment Chapter will be enforced through the same dispute settlement procedures and mechanism available for disputes arising under other USMCA chapters, including the availability of trade sanctions. The USMCA dispute settlement system has strong rules against bias and conflict of interest, is transparent and open to the public, and encourages resolution of complaints when possible through cooperation and consultation.

- ***Wildlife Trade***

All USMCA countries are parties to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES), the world's preeminent agreement to protect listed species of plants and animals from overexploitation through international trade. The Environment Chapter also includes groundbreaking commitments to combat trade in wildlife, plants and fish—whether or not protected under CITES—if they have been taken or traded in violation of a domestic or foreign law. These include commitments for the USMCA Parties to strengthen law enforcement cooperation and information sharing, including by enhancing participation in law enforcement networks and sharing information relevant to the investigation of criminals engaged in wildlife trafficking. The Environment Chapter also requires the Parties to take measures to enhance the effectiveness of inspections of shipments of wild fauna and flora, such as through improved targeting at ports of entry. An important new feature of the USMCA, which is not in any other U.S. FTA, is that the Parties agreed to treat intentional, transnational trafficking of protected wildlife as a "serious crime," carrying with it a penalty of at least four years. In addition, the Environment Chapter includes commitments to protect and conserve wildlife and plants in the North America region, including through action by the Parties to conserve specially protected natural areas, such as wetlands.

- ***Marine Fisheries***

The USMCA requires significant enhanced action to protect our oceans. It includes prohibitions on some of the most harmful fisheries subsidies, including those provided to vessels and operators identified for illegal, unreported, and unregulated (IUU) fishing, creating concrete progress and momentum that can be transformed into greater international action in multilateral fora, such as the World Trade Organization (WTO). The USMCA Parties also agreed to stronger transparency requirements beyond what the WTO Subsidies and Countervailing Measures (SCM)

Committee already requires, and to make best efforts to restrain new subsidy programs and enhance existing subsidy programs that contribute to overfishing or overcapacity.

The Environment Chapter also includes first-ever prohibitions on shark finning and commercial whaling, as well obligations to protect marine species, such as whales, dolphins, and sea turtles through bycatch reduction measures and mandatory species-specific and gear-specific studies. The USMCA will also be a strong tool to combat IUU fishing. It includes obligations to implement port State measures consistent with the *Agreement on* Port State Measures *to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* ("Port State Measures Agreement")*t*, to support monitoring, surveillance, and enforcement schemes to detect IUU fishing practices, and to address transshipment at sea of IUU-caught products. In addition, it outlines obligations to maintain vessel documentation schemes and publicly available fishing

The Complete Text of the USMCA Environment Chapter is available on USTR's website at: https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/24_Environment.pdf

vessel registry data to increase transparency of fleets and the traceability of vessels.

- ***Forestry Issues***

The USMCA will require action to combat illegal logging and associated trade, helping to conserve some of the world's most biodiverse and carbon-rich forest ecosystems and to eliminate distortions in international markets for forest products that unfairly disadvantage U.S. businesses. The USMCA will also promote sustainable forest management, legal trade in timber products, and strengthened government capacity and institutional frameworks to conserve threatened species, as well as the livelihoods of communities that depend on them.

- ***Environmental Goods & Services***

Although tariffs on qualifying environmental goods have already been eliminated between the United States, Canada, and Mexico under the NAFTA, the Parties agreed in the USMCA Environment Chapter to strive to facilitate and promote trade and investment in environmental goods and services, and to work together to address non-tariff barriers that affect these products and services.

- ***Multilateral Environmental Agreements***

The Environment Chapter includes general commitments for the Parties to consult and cooperate as appropriate on issues of mutual interest related to relevant multilateral environmental agreements (MEAs), including exchanging information on the implementation of MEAs and as part of ongoing negotiations of new MEAs.

TPA references seven MEAs: *Convention on International Trade in Endangered Species of Wild Flora and Fauna* (CITES); *International Convention for the Regulation of Whaling* (ICRW); *Convention for the Conservation of Antarctic Marine Living Resources* (CCAMLR);

Convention for the Establishment of an Inter-American Tropical Tuna Commission (IATTC); *Ramsar Convention on Wetlands* (Ramsar); *Montreal Protocol on Ozone Depleting Substances*; and *International Convention on Preventing Marine Pollution from Ships* (MARPOL). While the United States is a party to all seven MEAs referenced in TPA, Canada is not a member of the ICRW and has acceded to CCAMLR, but is not a member of the Commission that oversees CCAMLR. Mexico is not a member of CCAMLR.

To ensure that all Parties take measures that meet or exceed those required by these MEAs, the USMCA's Environment Chapter requires the Parties to "adopt, maintain and implement" measures to fulfill their obligations under the MEAs referenced in TPA to which they are party. The Environment Chapter also includes a general prohibition on commercial whaling, and extensive commitments on sustainable management of fisheries, combatting IUU fishing, and promoting conservation of marine mammals.

In several cases, the USMCA goes beyond what is required by these MEAs to establish pioneering new commitments, such as those to prohibit harmful government subsidies to vessels fishing illegally, and to take enhanced actions to combat wildlife trafficking—regardless of whether the wildlife is protected under CITES. The Environment Chapter's fisheries commitments also build on the obligations of certain fisheries-related MEAs, such as CCAMLR and the IATTC, but extend their reach beyond particular geographic areas and particular species.

- ***Transparency and Public Participation***

The Environment Chapter establishes expansive obligations concerning transparency related to implementation and enforcement, including commitments by each USMCA Party to promote awareness of its environmental laws and policies and to provide for the receipt and consideration of written questions or comments from persons of that Party regarding its implementation of the Chapter.

The Environment Chapter also provides a framework for the modernization of the Commission for Environmental Cooperation (CEC), first established under the *North American Agreement on Environmental Cooperation* (NAAEC). The CEC Secretariat will accept submissions from the public asserting that a USMCA Party is failing to effectively enforce its environmental laws. The submission can lead to the preparation of a factual record. The USMCA shortens the timeframe for the public submission process, and commits Parties to provide updates on final factual records, as appropriate.

- ***Access to Remedies for Environmental Harm***

The Environment Chapter includes commitments by the United States, Canada, and Mexico to ensure access to fair, equitable, and transparent administrative or judicial proceedings for enforcing their environmental laws, and to provide appropriate sanctions or remedies for violations of their environmental laws.

- ***Cooperation***

The Environment Chapter includes an article on Environmental Cooperation that sets out the Parties' commitment to expanding environmental cooperation, including to support implementation of the obligations in the Chapter. Mexico, the United States, and Canada signed an *Agreement on Environmental Cooperation* (ECA) respectively on November 30, 2018, December 11, 2018, and December 19, 2018, to provide a continued framework for cooperative activities on environmental matters.

- ***Biodiversity***

Both Mexico and the United States are considered megadiverse countries, and Canada is recognized for its diversity of ecosystems and unique and sensitive habitat. The USMCA's cooperative commitments will promote conservation and sustainable use of biological diversity.

- ***Invasive Alien Species***

The Environment Chapter includes a commitment for the USMCA Environment Committee to coordinate with the Committee on Sanitary and Phytosanitary Measures to identify cooperative opportunities to share information and management experiences on the movement, prevention, detection, control, and eradication of invasive alien species.

- ***Corporate Social Responsibility and Public-Private Partnerships***

The Environment Chapter includes commitments to encourage companies to voluntarily adopt corporate social responsibility policies, and to use mechanisms, such as public-private partnerships to help to protect the environment and natural resources, among other objectives.

- ***Implementation***

The Environment Chapter establishes a senior-level Environment Committee, which will meet regularly to oversee implementation of the chapter, with opportunities for public participation in the process.

- ***New Features***

In addition to many of the new features mentioned above, the USMCA's Environment Chapter introduces additional innovative provisions in environment areas that have not previously been incorporated into U.S. FTAs, including:

  - A first ever obligation for the Parties to take measures to prevent and reduce marine litter, and to cooperate to combat marine litter from land and sea-based sources.

  - Provisions requiring each Party to make air quality data and information publicly available, and to work together in areas such as ambient air quality planning, and inventory of methodologies for air quality and emissions measurements.

- Commitments by each Party to promote sustainable forest management and trade in legally harvested forest products.

- An obligation that each Party maintain appropriate environmental impact assessment procedures, and that such procedures provide for the disclosure of information to the public.

B. Summary of Other Chapters

Beyond the Environment Chapter, there are a number of other USMCA Chapters that are relevant to this Environmental Review:

- ***Market Access for Goods***

The USMCA will maintain the duty free treatment from NAFTA for originating goods between the Parties, as well as the prohibition on export duties, taxes, and other charges. New commitments have been included in the Market Access chapter to reflect developments in United States trade agreements that address non-tariff barriers related to trade in remanufactured goods, import licensing, and export licensing. The new Market Access chapter will more effectively support trade in manufactured goods between the United States, Mexico, and Canada by removing provisions that are no longer relevant, updating key references, and affirming commitments that have phased in under the original agreement. In particular, the provisions related to remanufactured goods will support remanufacturing industries, which extend the life cycle of industrial goods and reduce the use of raw material and energy resources.

- ***Market Access in the Agriculture Sector***

All food and agricultural products that have zero tariffs under NAFTA will remain at zero tariffs. Since the original NAFTA did not eliminate all tariffs on agricultural trade between the United States and Canada, the USMCA will create new market access opportunities for United States exports to Canada of dairy, poultry, and eggs, and in exchange the United States will provide new access to Canada for dairy, peanuts, processed peanut products, and a limited amount of sugar and sugar containing products.

- ***Customs Administration and Trade Facilitation***

The Customs and Trade Facilitation Chapter of the USMCA includes important new provisions that will help reduce costs and bring greater predictability to the border, while at the same time ensuring customs administrations have the tools necessary to enforce the law. New provisions will help ensure that traders have the necessary information to meet customs requirements – including commitments on Internet publication, advance rulings, and administrative guidance. The USMCA requires customs administrations to be responsive to importers and exporters, and provisions on appeals, penalties, and standards of conduct require customs administrations to follow rules to ensure fairness and integrity in customs work. It also includes forward-leaning provisions related to automation, including a mandatory single window

and immediate release of goods once customs requirements are met, which are designed to reduce the burdensome red tape that can delay shipments.

- ***Sanitary and Phytosanitary Measures (SPS)***

In the SPS chapter, the United States, Mexico, and Canada have agreed to strengthen disciplines for science-based SPS measures, while ensuring Parties maintain their sovereign right to protect human, animal, and plant life or health. Provisions include increasing transparency on the development and implementation of SPS measures; advancing science-based decision making; improving processes for certification, regionalization and equivalency determinations; conducting systems-based audits; improving transparency for import checks; and working together to enhance compatibility of measures. The USMCA would establish a new mechanism for technical consultations to resolve issues between the Parties.

- ***Technical Barriers to Trade (TBT)***

The USMCA TBT chapter strengthens disciplines related to transparency, standards, technical regulations conformity assessment procedures and trade facilitation matters. Furthermore, the chapter maintains each government's rights to regulate products and manufacturing processes that ensure the protection of human, animal, or environmental health and safety. New provisions in the chapter enhance rights and obligations under the WTO TBT Agreement, including using the WTO TBT Committee Decision on International Standards as a basis in determining what standards are "international." In cases where there is no international standard, the chapter provides an alternative pathway for standards developed in North America to be considered in technical regulations. The chapter also prevents discriminatory treatment of the conformity assessment bodies that are located in one Party's territory and seeks to prevent testing procedures from becoming unnecessary obstacles to trade. The chapter incorporates good regulatory practices for technical regulations, and emphasizes the Parties' commitment to reduce unnecessary barriers and to provide national treatment with respect to labeling.

- ***Sectoral Annex on Energy Performance Standards (EPS)***

The USMCA includes a new EPS Annex, which aims to harmonize federally mandated energy performance standards across a wide range of product categories (household appliances, HVAC, lighting, industrial equipment, and others) within a nine-year timeframe, and establishes a mechanism for continued regulatory cooperation on EPS. This is a new area that has never been included in the Parties' previous free trade agreements, and it will benefit U.S. manufacturers by strengthening standards, reducing the need for duplicative product testing for U.S. exports, and improving energy efficiency cooperation in North America.

- ***Chemical Substances Annex***

The Chemical Substances Annex promotes enhanced regulatory compatibility and trade between the three Parties, while recognizing the regulatory authority of each Party. The sectoral commitments build on the existing, extensive regulatory cooperation on chemicals between the Parties and identify areas of focus for future cooperation. The Parties agreed to make efforts to

align risk assessment methodologies and risk management measures for chemical substances. Moreover, the Parties recognized the importance of minimizing unnecessary economic barriers or impediments to technological innovation and have agreed to define and, where appropriate, use a risk-based approach to the assessment of chemicals. In a risk-based approach, the evaluation of a chemical substance or chemical mixture includes the consideration of both the hazard and exposure as well as the protection of health and the environment.

- ***Investor-State Dispute Settlement (ISDS)***

ISDS is addressed below in Section VII.

- ***Government Procurement***

The USMCA includes a chapter on government procurement between the United States and Mexico, under which both countries will continue to have market access opportunities comparable to what is currently available under NAFTA. The chapter includes language on technical specifications to make clear that such specifications can be used to promote the conservation of natural resources or protection of the environment so long as the specifications are consistent with the rest of the obligations.

- ***Anticorruption***

The Anticorruption Chapter of the USMCA builds from the base of commitments that have been incorporated in our most recent trade agreements, but were not in the original NAFTA. Key aspects include requirements that Parties criminalize acts of corruption, commitments on combatting embezzlement, new whistleblower protections, and strong cooperation among the Parties to enforce anticorruption laws.

- ***Good Regulatory Practices***

The USMCA includes, for the first time in a U.S. trade agreement, a chapter on good regulatory practices, which refers to good governance procedures that governments apply to promote transparency and accountability when developing and implementing regulations. The chapter includes commitments relating to central coordination; publication of annual plans of expected regulations; public consultations on draft texts of regulations; evidence-based analysis and explanations of the scientific or technical basis for new regulations; other provisions concerning evidence-based decision-making (such as parameters for conducting regulatory impact assessments and retrospective reviews); and techniques for encouraging regulatory compatibility and regulatory cooperation. The chapter makes clear that no provision prevents governments from pursuing public policy objectives with respect to health, safety, or the environment.

- ***Publication and Administration (Transparency)***

The USMCA chapter on Publication and Administration requires each Party to ensure that its laws, regulations, procedures, and administrative rulings of general application are publicly

available. To the extent possible, proposed measures are required to be published in advance for public comment, and be available online. It also provides for due process rights for stakeholders regarding administrative proceedings, including prompt review of any administrative action through independent and impartial judicial or administrative tribunals or procedures. The chapter also includes a new commitment to compile laws and regulations of general application at the central level of government on those freely accessible websites that are identified in an Annex to the Chapter.

- ***Rules of Origin***

The USMCA includes chapters on rules of origin and on origin procedures, including new product-specific rules for passenger vehicles, light trucks, and auto parts. These rules will help to preserve vehicle and parts production in the region and the United States, and transform supply chains to use more regional and U.S. content, especially content that is key to future automobile production and high-paying jobs. The rules will close loopholes that allowed vehicles to qualify for duty-free treatment even if vehicle content came from outside North America. The USMCA also encourages the use of high-wage North American labor by establishing a new labor value content rule for a significant portion of vehicle content. This will help ensure that U.S. producers and workers are able to compete on an even playing field and incentivize new vehicle and parts investments in the United States.

- ***Dispute Settlement***

This chapter provides a mechanism for the settlement of disputes between the Parties for matters arising under the Agreement. The chapter provides for a two-step process comprising consultations and review by a panel. The panel report is due no later than 150 days from the date of the appointment of the last panelist. If the panel finds that the responding Party has failed to comply with its obligations or caused nullification or impairment, the Parties shall attempt to agree on a resolution of the dispute. If the disputing Parties are unable to agree on resolution of the dispute, the complaining Party may suspend the application to the responding Party of benefits of equivalent effect to the non-conformity or the nullification or impairment until such time as the dispute is resolved. The panel may be convened again to determine if the suspension is excessive or if the responding Party has eliminated the non-conformity or nullification or impairment.

- ***Exceptions***

The USMCA recognizes some exceptions to the obligations set out throughout the Agreement. For example, USMCA incorporates the GATT Article XX exceptions with respect to goods-related obligation and GATS Article XIV exceptions with respect to services-related obligations.

- ***Final Provisions and Review Mechanism***

This chapter contains provisions regarding, among other things, amendments to the Agreement, the languages in which the Agreement is authentic, and entry into force. In addition,

the chapter sets the term of the USMCA at 16 years, with the possibility of extensions. The Commission is required to review the operation of the Agreement every six years. At the end of each such review, each Party, through its head of government, must confirm whether it wishes to extend the term of the Agreement for another 16 years (that is, if this is done at the 6th anniversary, the Agreement term will then be 22 years). If this does not occur, the Commission will meet to review the Agreement every year until agreement to extend is reached, or the term expires. At any point when the Parties decide to extend the Agreement for another 16-year period, the Commission will continue conducting reviews every 6 years.

IV. Public & Advisory Committee Comments

To determine the scope of this Environmental Review, the Administration considered information provided by the public in response to the Federal Register notice dated September 27, 2017 (82 Fed. Reg. 44868) and by requesting input from environmental, trade, and investment experts within federal agencies through the TPSC. In addition, information, analysis and insights from these sources were taken into account throughout the negotiations. The public comments are summarized below, in Section IV.A.

In addition to public and interagency comment, USTR engaged extensively and consulted regularly with the TEPAC, which provided policy advice on issues involving trade and the environment from the outset through the conclusion of negotiations. The TEPAC Report is summarized below, in Section IV.B.

A. Summary of Public Comments[21]

Seven submissions were received in response to the request for public comment on the Environmental Review.[22] Most commenters focused on areas to be included in the final agreement to address environmental harms, with a view to using this Environmental Review to help identify the scope of those provisions.

In particular, multiple commenters stressed the importance of establishing stronger environmental obligations subject to the same dispute settlement procedures as other chapters of the agreement. In addition, multiple commenters highlighted the need for enhanced trilateral environmental cooperation and trade capacity building, improved public participation provisions, and support for robust enforcement of environmental laws.

Multiple commenters also affirmed the importance of combatting trafficking in wildlife, timber, and fish, and the inclusion of obligations to provide for adequate penalties for such crimes, and to adopt and maintain measures to implement CITES. Three commenters expressed support for strong marine fisheries provisions, such as those to combat IUU fishing, to prohibit harmful fisheries subsidies, to promote sustainable fisheries management, and to ensure strong protections for marine species, including for example, addressing the practice of shark-finning.

One commenter stressed the need to either eliminate ISDS or vastly reform it to ensure that the Agreement does not provide a platform to challenge sovereign countries' environmental laws. Another commenter underscored the importance of the Environmental Review to reflect on the impacts of NAFTA on biodiversity conservation and loss, urging the Environmental Review include specific ways to address these issues in the United States, Canada, and Mexico, whether through stricter domestic and international regulation or environmental cooperation. Another commenter urged that the Agreement address the negative impacts of industrialized animal agriculture practices.

[21] See Annex II for the list of organizations providing comments.
[22] https://www.regulations.gov/document?D=USTR-2017-0018-0001.

B. Summary of Advisory Committee Report

Section 135(e)(1) of the *Trade Act of 1974* (19 U.S.C. 2155(e)(1)) requires advisory committees to submit reports on trade agreements no later than 30 days after the date on which the President notifies Congress of his intention to enter into an agreement. TEPAC submitted its report on the USMCA on September 27, 2018. The composition of the TEPAC is diverse, with a range of civil society members—including NGOs, businesses, and academia—representing a range of views and experience in the environmental policy area. TEPAC's primary conclusions as to whether and to what extent the USMCA promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives set out by Congress in the *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* are summarized below.

TEPAC concluded that the USMCA "as a whole will contribute to improved environmental outcomes by building on the environmental provisions of NAFTA 1994" and that it "largely meets the environmental objectives established by Congress in the Bipartisan Trade Act of 2015."[23] Specifically, TEPAC recognized that the Agreement "substantially achieves Congress' specific negotiating objectives," including by addressing all seven of the MEAs listed in TPA directly or through standalone provisions.[24] TEPAC also found that the USMCA Environment Chapter addresses Congress' negotiating objectives relating to IUU fishing and fisheries subsidies, and addresses four other important conservation issues: marine litter, marine wild capture fisheries, sustainable fisheries management, and conservation of marine species.[25] Although TEPAC would like to see additional fisheries subsidies prohibitions, it points out that the USMCA improves upon the Trans Pacific Partnership (TPP) by also including fishing vessel operators, as well as vessels, in the prohibition on subsidies for IUU Fishing.[26] TEPAC also welcomes new provisions to prohibit shark finning and commercial whaling.[27]

The full text of the advisory committee report is available at: https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/advisory-committee

TEPAC was also pleased to see that the USMCA requires "enhanced shipping inspections to interdict illegal wildlife trade and requires parties to treat transnational wildlife trafficking as a serious crime."[28] TEPAC also welcomed obligations to address illegal logging and associated trade, as well as provisions that support sustainable forest management and promote trade in legally harvested products.[29] The committee also indicated its support for commitments to

[23] TEPAC Report at 2.
[24] TEPAC Report at 6.
[25] TEPAC Report at 8-9.
[26] TEPAC Report at 7.
[27] TEPAC Report at 9.
[28] TEPAC Report at 9.
[29] TEPAC Report at 9-10.

strengthen government capacity for conservation.[30] TEPAC noted, however, the committee would have liked to have seen additional obligations to address demand reduction efforts for wildlife, and even stronger commitments to prohibit trade and transshipment of illegally taken or traded wild fauna and flora products. [31]

TEPAC recognized some advancement on air quality and trade in environmental goods and services. [32] TEPAC acknowledged limitations set out by Congress in TPA regarding inclusion of obligations on greenhouse gas emissions in FTA, but nevertheless, the committee felt more could have been done to address clean energy, fossil fuel subsidies, and sustainable transportation vehicles, among other topics. [33]

While TEPAC members have a range of views on ISDS provisions in the Investment Chapter, and some members "would have preferred a further scaling back, or even full elimination, of ISDS, the consensus among TEPAC members is that the changes made here are positive."[34]

TEPAC acknowledged the efforts made by the U.S. Government and the other Parties to address some of the specific concerns that have arisen regarding use of ISDS procedures in the past.

[30] TEPAC Report at 9.
[31] TEPAC Report at 10.
[32] TEPAC Report at 10-12.
[33] TEPAC Report at 12.
[34] TEPAC Report at 14.

V. Potential Economically-Driven Environmental Impacts

A. Potential Impacts in the United States

North America is already a heavily integrated market and export destination for U.S. manufactured goods, agricultural products, and services suppliers. Collectively, Canada and Mexico are already the largest goods and services export market of the United States. Nearly all goods trade between the United States, Canada and Mexico is already duty-free under the NAFTA, and the United States already allows substantial market access to foreign services providers, including in environmentally sensitive areas (e.g., tourism, maritime shipping, and services incidental to energy distribution). As such, the USMCA is not expected to have significant economically-driven environmental impacts in the United States.

Although future changes in production and exports in specific environmentally-sensitive sectors may raise questions regarding the USMCA's direct environmental effects in the United States, our analysis and interagency consultations revealed no immediate concerns about possible future changes in production. Overall, the likelihood and magnitude of any increased environmental risks resulting from the USMCA are small, and in any event, will be mitigated by other factors, such as strengthened obligations in the USMCA to effectively enforce environmental laws.

Addressing non-tariff barriers in environmental goods and services, and promoting trade and investment in such services, can support environmental and natural resource stewardship goals in the United States, Canada, and Mexico (e.g., improved sanitation and pollution prevention).

As discussed below, there are no changes required to U.S. environmental laws or regulations as a result of the USMCA, nor would environmental regulations be adversely affected under the USMCA. Commitments to effectively enforce U.S. environmental laws, and not to weaken them in order to encourage trade or investment, will reinforce U.S. regulatory authorities.

Specific issues that were identified and analyzed by USTR and relevant U.S. regulatory agencies in the course of the environmental review process included the potential for increased trade to contribute to: (1) potential transport-related environmental impacts, including localized environmental impacts at selected U.S. maritime ports; (2) increased risk of introduction of invasive alien species; and (3) potential environmental impacts due to increased domestic liquefied natural gas production driven by prospective USMCA trade. These issues are addressed below, taking into account best available information.

- ***Transport-Related Environmental Issues***

Air and water pollution from the concentration and cumulative effects of emissions from ships, trucks, trains, and goods-moving equipment associated with domestic and international trade were identified in the interagency scoping for the environmental review. Some air emissions associated with goods movement, including particulate matter, nitrogen oxides (NOx), Sulphur oxides (SOx) and black carbon, from diesel exhaust, are known to have a number of

adverse effects on human health and the environment, particularly near major transportation corridors and ports. Possible cumulative environmental impacts with respect to maritime areas and ports could include, but are not limited to: (a) impacts from marine litter, both generated by ships themselves as well as from oceanic trash movement to beaches aided by ship movement; (b) increased pressure on marine mammal (e.g., seal, whale, and dolphin) populations from the presence of more ships in the trade channels, manifested mainly in the form of noise and ship strikes; (c) increased movement and release in U.S. waters of alien invasive species carried in ship ballast water and hull fouling; (d) other marine discharges (e.g., ballast water, antifoulants, deposition of sulfur oxides and nitrogen oxides) that may further alter the quality of the marine environment (temperature, turbidity, pH, *etc.*); (e) risk of collision or allision resulting from new vessel activity in areas that previously were lightly used, with commensurate risks of oil spills or other releases into areas; and (f) increased potential for emergency and weather-related back-up of containers at ports and additional burdens on U.S. port infrastructures.

All trucks, trains, and shipping vessels operating in the United States must meet all U.S. environmental and safety laws, regulations and standards, including emissions standards. While changes in trade volume associated with the USMCA could result in adjustments to total emissions associated with trade-related goods movement, there is no basis to expect that such changes will have significant environmental impacts in the United States. It is possible that there will be an increase in trade and by extension, an increase in transport-related pollution; however, if volume decreases, or efficiency of transportation mode changes, pollution may actually decrease. If maritime transport is used, it might – along coastal and inland waterway routes – decrease pollution since barges pollute less than equivalent tonnage carried by trucks. Likewise, increases in regional transportation and trade may have an overall decreasing effect on total emissions if local trade replaces trans-oceanic trade.

Potential air quality impacts can reach far inland but may arise most notably along key transportation routes, as well as in and near key gateway points of entry. However, it is difficult to associate increases at gateway ports, for example, with regional trade agreements since gateway ports will grow with global demand and are more likely to be impacted by global and trans-ocean carrier trade. The more likely impact is along coast-wise routes and marine highway systems connecting Canada, the United States, and Mexico, and the coast-wise communities that would be subject to possible increases in emissions and discharges near their shores that would newly develop or increase based on changes in vessel patterns.

Importantly, the USMCA would not affect U.S. regulatory authority and measures to monitor, measure and reduce pollution, and again, all trucks, trains, and shipping vessels operating in the United States must meet all U.S. environmental and safety laws, regulations and standards, including emissions standards. In addition, there are current Federal partnership-based initiatives underway to address the environmental impacts associated with goods movement, including work to address the impacts on local communities. For example, the United States successfully proposed, through efforts by the EPA, Coast Guard, the Department of Justice, and the Department of State, through work at the International Maritime Organization, amendments to Annex VI of the MARPOL Convention to establish the North American Emission Control Areas (ECA) extending 200 nautical miles off the U.S. and Canadian Atlantic and Pacific coasts and the U.S. Gulf Coast (Canada co-sponsored this proposal with the U.S.)

and the U.S. Caribbean Sea ECA (around Puerto Rico and the U.S. Virgin Islands). There is also discussion about an ECA in Mexico, which would change impacts of emissions from ships moving within the entire region under the agreement.

Further, the 2020 global fuel sulfur cap will impact potential emissions for the area under the Agreement as well as areas of the high seas between them, where applicable. Under the sulfur cap, alternative technology may be used if non-compliant fuel is burned, but the technology must ensure that the resulting emissions do not exceed those emissions that would have been produced if the compliant fuel were used. Lastly, under the *Clean Air Act*, EPA has promulgated stringent national emission control measures for trucks and locomotives.

- ***Invasive Alien Species***[35]

Canada and Mexico encompass a range of climates, which share similar conditions to those found in the United States. This similarity in climatic conditions may increase the vulnerability of the United States to the establishment and spread of invasive species. To the extent that the USMCA stimulates increases in commodity trade along pathways for the introduction of invasive species, there is a risk that the USMCA could contribute to the increased movement of invasive species between the other USMCA Parties and the United States. For example, commercial marine traffic carries some risk of additional invasions from ballast water discharges or hull fouling.[36] Similarly, the extensive land borders with Canada and Mexico provide for additional pathways of introduction associated with the movement of vehicles and goods along rail lines, roads, and waterways. Therefore, an increase in goods trade, absent adequate sanitary and phytosanitary controls, could be associated with an increased risk of introducing invasive species.

The risks of increased introduction of invasive species associated with increases in the movement of commercial goods, vehicles, and passengers resulting from the USMCA is difficult to quantify, particularly as introduction of invasive species also may be the result of both intentional and unintentional introductions unrelated to USMCA.

The USMCA will not affect U.S. regulatory authority and measures to prevent, control and eradicate invasive species. Existing policies will allow for continued monitoring and targeting of known and potential invasive species and their pathways of introduction. For example, U.S. Fish and Wildlife Service's (FWS) authority to list injurious wildlife under the *Lacey Act*[37] can be used to address high-risk vertebrate and some invertebrate species by prohibiting their import through regulation. Species may be listed as injurious if they cause harm to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States. FWS uses rapid screening to predict invasiveness of imported species. Through the

[35]The term "invasive species" means, with regard to a particular ecosystem, a non-native organism whose introduction causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health. *See* Executive Order 13751 "Invasive Species."

[36] Costello, Christopher, et al. "Unintended biological invasions: Does risk vary by trading partner." Journal of Environmental Economics and Management54.3 (2007): 262-276.

[37] 18 USC 42(a) https://www.fws.gov/le/pdffiles/Lacey.pdf

FWS's Office of Law Enforcement, Wildlife Inspectors are stationed at major ports to monitor shipments of wildlife and plants and to intercept illegal shipments.

The United States Department of Agriculture Animal and Plant Health Protection Service (APHIS) safeguards U.S. agriculture and natural resources against the entry, establishment, and spread of damaging plant and animal pests and diseases into the United States; which facilitates the safe trade of agricultural products. Early identification enables APHIS to anticipate and minimize potential outbreaks and any environmental impacts from expanded trade, including the potential movement of invasive species by currently known and to-be-determined pathways. As these threats are ever changing, APHIS adjusts its strategies for identifying pests and diseases. APHIS has several approaches and tools and works closely with many partners to either eradicate the pest or disease or where eradication is not feasible, to manage the pest or disease, thereby minimizing its impact on the economy and the environment. APHIS also has regulations and authority to take action in the United States should invasive agricultural pests be detected. One important legal instrument that APHIS operates under is the *Lacey Act* "that prohibits trade in wildlife, fish, and plants that have been illegally taken, possessed, transported, or sold." The Quarantine 37 regulation addresses the import of plants intended for planting, and the Quarantine 56 regulation is meant to simplify and expedite plant protection rules for approving new imports and pest-free areas. These tools along with other early detection/rapid response efforts, such as targeting protocols developed by the Department of Homeland Security for use at ports of entry, can also be used to identify new, potentially invasive species.

Invasive species issues are also the focus of considerable international effort, including work through the International Maritime Organization, the *International Plant Protection Convention*, and a number of MEAs. Moreover, the Environment Chapter of the USMCA includes commitments by the Parties to identify cooperative opportunities to share information and management experiences on means to address movement, prevention, detection, control, and eradication of invasive alien species. This could, for instance, inform and facilitate improved horizon scanning and sentinel programs to identify new species of concern to North America and its constituent countries, the collection and analysis of location data on non-native species, as well as development of clean stock programs to ensure that products are treated prior to transboundary shipping. Thus, the USMCA has the potential to strengthen cooperation on research, monitoring, prevention, and control of invasive species in both the United States and in the other USMCA countries. We expect those policies along with bilateral and trilateral cooperation activities to help minimize any additional risk posed by increased trade under the USMCA.

- ***Natural Gas Exports***

Some concerns have been raised by members of the public that liberalized trade in natural gas, including liquefied natural gas (LNG) under the USMCA, could potentially contribute to a significant increase in domestic natural gas production, and pose environmental risks, including those associated with unconventional gas extraction techniques, such as hydraulic fracturing. Ultimately, however, the USMCA will not require changes to the *Natural Gas Act of 1938*, U.S. environmental laws or U.S. Department of Energy (DOE), Federal Energy Regulatory Commission (FERC), or U.S. Department of Transportation's Maritime Administration

(MARAD) regulations that regulate LNG (and pipeline natural gas) production and export, and safeguard against potential environmental risks. Thus, no negative environmental impacts are foreseen from the USMCA.

In response to concerns from stakeholders, DOE prepared two reports to consider any potential effects. First, DOE conducted a review of existing literature on potential environmental issues associated with unconventional natural gas production in the lower-48 states entitled *Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States*.[38] Second, DOE published the National Energy Technology Laboratory's report entitled, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States*.[39] An update to this report, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update was published on September 19, 2019. [40]

Under the *Natural Gas Act of 1938* (NGA), DOE has authority to review applications seeking authority to import or export natural gas from the United States. The NGA requires DOE to perform a public interest review of applications seeking to export natural gas to non-FTA countries. Additionally DOE must review the environmental impact of non-FTA export applications to meet its responsibilities under the *National Environmental Policy Act*. Applications to import or export natural gas, including LNG, to or from countries with which the United States has an FTA in force that requires national treatment for trade in natural gas ("FTA countries") are deemed by the NGA to be consistent with the U.S. public interest and are approved without modification or delay.

As of December 10, 2019, DOE has approved 55 long-term applications to export domestically produced LNG from the lower-48 states equivalent to 56.22 billion cubic feet/day (Bcf/d) of natural gas to FTA countries. DOE has also issued 38 final long-term authorizations to export lower-48 states domestically-produced LNG to non-FTA countries for a period of twenty years in a volume equivalent to 38.06 Bcf/d of natural gas. The authorized volumes for export to FTA and non-FTA countries are not additive; the Natural Gas Act requires DOE to grant applications to export natural gas to countries with which the United States has a free trade agreement requiring national treatment for trade in natural gas (FTA countries) without modification or delay. Over the past nine years, dozens of applicants proposing to build large-scale liquefaction and export facilities in the United States have applied for both FTA and non-FTA authorizations from DOE. By law, DOE has promptly granted the FTA authorizations, many of which carry export terms of 25 years. The market has shown, however, that a FTA authorization alone has not been enough to support the financing and construction of large-scale LNG projects. The large-scale LNG projects currently under construction in the United States did not reach final investment decision until after they had received both: (i) an authorization from the Federal Energy Regulatory Commission (FERC) to construct and operate their LNG

[38] Dept. of Energy, Draft Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, 79 Fed. Reg. 32,258 (June 4, 2014).
[39] Dept. of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States, 79 Fed. Reg. 32,260 (June 4, 2014).
[40] Dept. of Energy Nat'l Energy Technology Laboratory, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update* (DOE/NETL 2019/2041) 84 FR 49278 (Sept. 12, 2019), *available at: https://www.energy.gov/sites/prod/files/2019/09/f66/2019%20NETL%20LCA-GHG%20Report.pdf.*

facility, and (ii) a non-FTA authorization from DOE to export the LNG. For these reasons DOE has focused on the volume of non-FTA authorizations as the better guide to the export capacity that may be built and utilized in the United States.

DOE also has granted a 30-year authorization to export LNG from Alaska to FTA countries in a volume equivalent to 2.55 Bcf/d of natural gas, and has issued a conditional 30-year authorization permitting LNG exports from Alaska to non-FTA countries pending a successful environmental review of the proposed project.

As of December 10, 2019, eight large scale lower-48 states liquefaction facilities are in various stages of construction and operation, with approximately 7 Bcf/d of takeaway capacity online currently across four operating projects. A total of nearly 15.5 Bcf/d of export capacity is projected to be online across all seven projects by the end of 2025, which is equivalent to approximately 17.2 percent of 2018 U.S. dry natural gas production.

In addition to DOE's authority over exports of LNG, U.S. LNG import and export terminals are subject to approval by FERC or, in the case of terminals in deepwater ports, the MARAD. Both FERC and MARAD conduct environmental reviews as part of their consideration of the terminal application regardless of whether the facilities will be used for exports to or imports from FTA or non-FTA countries. DOE acts as a cooperating agency in that review to meet DOE's environmental responsibilities for exports of LNG to non-FTA countries.

Under the USMCA, the United States will be required to provide national treatment of natural gas to Canada and Mexico. Given their contiguous borders, the vast majority of natural gas trade between the United States, Canada, and Mexico is conducted via pipeline. The United States also imports a small quantity of LNG from Canada, and exports a growing (but still small in comparison to pipeline gas) amount of LNG to Mexico. While DOE will make public interest determinations to authorize exports to FTA or non-FTA countries on a case-by-case basis, considering economic, energy security, environmental, and geopolitical impacts, among other factors, exportation of the LNG is ultimately a private commercial decision.

The United States became a net exporter of natural gas in 2017 and is projected to be a net exporter of energy overall in the coming year. Projections from the Energy Information Administration show that the United States will continue to increase natural gas production; however other countries are also rapidly developing their natural gas resources and exports.

- ***Environmental Goods & Services***

Environmental goods and services include a wide variety of services and technologies relevant to, for example, pollution control, clean energy, waste management and natural resource protection—from solar panels to wind turbines, water treatment filters, and recycling equipment. Respectively, Mexico and Canada are the top two U.S. export markets for U.S. environmental goods, with U.S. exports of those goods valued at approximately $82.7 billion in 2018. Canada and Mexico accounted for 33 percent of total U.S. exports of environmental goods in 2018. U.S. environmental goods exports to Canada and Mexico increased by 43 percent between 2009 and 2018.

Although tariffs on environmental goods are already zero among the USMCA Parties, the USMCA's environmental provisions are likely to result in increased demand for environmental technologies in these markets. More generally, addressing environmental challenges in USMCA countries could lead to increased demand for environmental infrastructure projects and related consulting, engineering, testing, and other services. Moreover, because of the global nature of some pollution problems, increased adoption of green technologies can generate transboundary benefits. For example, increased adoption of these technologies in Canada or Mexico would generate environmental benefits for the United States if they reduce air pollution emissions that affect U.S. local and regional air quality (such as ozone). The USMCA will also promote cooperation among the United States, Canada, and Mexico on issues such as energy-efficiency through its Annex on Energy Performance Standards. In this way, the USMCA provisions are expected to have a positive environmental impact in North America.

VI. Transboundary Issues

While not required under the EO 13141 or the primary focus of this environmental review, this section summarizes analysis concerning a range of potential transboundary impacts of the USMCA.

While the environmental effects of the USMCA also are likely to vary by country, the Environment Chapter sets out tools to prevent or manage economically driven impacts. It seeks to leverage trade policy to take on an array of environmental challenges, including wildlife trafficking, illegal logging and associated trade, illegal fishing, and marine pollution, which threaten human health, habitat, and biodiversity. That concern is a driving factor behind inclusion of obligations to: effectively enforce environmental laws and not weaken them to attract trade or investment; protect endangered species and combat trafficking in wildlife and timber; and ensure the long-term conservation of our marine fisheries. Moreover, promotion of the trade in environmental goods and services, along with new investment, will likely spur environmentally preferable technologies, production methods, and services as well as higher standards for private sector environmental performance.

The Administration places a high priority on the effective implementation and fulfillment of these obligations, to ensure that the Environment Chapter delivers on its promise of strengthening environmental protection across the region, while growing trade with our partner countries. A rigorous implementation process, along with monitoring and enforcement and trade capacity building efforts reaching across the entire Administration and stakeholder community, will help us to ensure that USMCA Parties are fulfilling their USMCA environmental commitments and that the benefits of the expected increase in trade resulting from the Agreement are sustainable.

- ***Wildlife Trade & CITES***

Wildlife trafficking is a serious transnational crime that threatens security, economic prosperity, the rule of law, long-standing conservation efforts, and spreads infectious diseases. The biodiversity resources of USMCA Parties include globally significant species and ecosystems. Mexico and the United States are categorized as megadiverse, meaning that they are two of a group of 17 countries[41] that are home to the majority of global biodiversity resources. Canada is also home to highly diverse, unique, and valuable ecosystems. Wildlife trafficking can push vulnerable species to extinction and destabilize ecosystems already stressed by habitat loss, including from illegal logging and associated trade. Combating wildlife trafficking and the illegal trade in plants can help protect threatened and endangered species as well as the livelihoods of communities that depend on them.

Illegal, unsustainable resource use and trade is increasingly a security issue, as well as environmental and economic issues. Legal, sustainable resource use and trade enhance stability and security, as well as environmental and economic conditions. Trade in a wide variety of

[41] Australia, Brazil, China, Colombia, Ecuador, Democratic Republic of Congo, India, Indonesia, Madagascar, Malaysia, Mexico, Papua New Guinea, Peru, Philippines, South Africa, United States, and Venezuela.

wildlife and forest products occurs among the USMCA countries, and involves a broad spectrum of economic actors, ranging from subsistence users, to luxury goods consumers, and, in the case of illicit wildlife and timber trade, large-scale criminal networks. In some cases, these networks are the same or overlap with those that deal in other illicit goods such as drugs and weapons, and have been linked to insurgency groups and even terrorist organizations. Insurgency groups have benefitted substantially from poaching and trafficking of ivory and other wildlife products. The stakes and potential costs of inaction could not be higher.

Canada generates and exports significant volumes of wildlife products annually to the United States for use as food, luxury goods, traditional medicine, pets, and trophies. The United States is also a globally significant exporter of wildlife and wildlife products. In addition, Mexico has been identified as a major source and transit point for trafficked wildlife.[42]

Growing demand in developing economies represents one of the primary drivers of increased wildlife trade over the last decade. While much of this trade is legal and regulated, wildlife trafficking is one of the largest illegal markets and is having adverse impacts on the region's substantial biodiversity resources. According to TRAFFIC, a global network that monitors wildlife trade, illegal trade in wildlife and wildlife products in the region has led to dramatic declines in the populations of many endangered species with a high commercial value, exacerbating the impact of other negative trends such as increased loss of habitat and biodiversity.

A core element of the legal framework for international trade in wildlife, and recent U.S. FTAs, is CITES, a multilateral environmental agreement to which all of the USMCA countries are parties. Since CITES entered into force in 1975, countries have worked together to regulate the international trade of listed animal and plant species and ensure that such international trade is legal and not detrimental to the long-term survival of wild populations. Today, CITES regulates more than 35,000 species of animals and plants, from sea turtles to tropical hardwoods.

CITES provides a legal framework for international trade in listed species, and requires party countries to develop and enact domestic legislation to implement and enforce the Convention. Trade in most CITES-listed specimens is based on a system of permits and certificates, which are issued by the exporting country and predicated on determinations that the specimen was legally acquired and that export will not be detrimental to the survival of the species. Trade in species listed in Appendix I is subject to stricter protection under CITES and requires import permits, which are issued by the importing country and predicated on determinations that the trade will not be detrimental to the survival of the species and the specimen is not to be used for primarily commercial purposes. CITES Parties are also required to maintain records and report annually on trade in CITES specimens, and to report biannually on measures taken to enforce the provisions of CITES.

The CITES National Legislation Project categorizes countries on a scale from 1 to 3 according to their progress in enacting domestic legislation to fully implement CITES. Category

[42] In 2017, Mexico was identified by the U.S. as a "Focus Country" under the Eliminate, Neutralize, and Disrupt (END) Wildlife Trafficking Act of 2016.

1 status is the highest ranking, and indicates that a country has adequate legislation in place to meet its CITES obligations. All of the USMCA countries are listed in Category 1.

Existing U.S. tariffs on wildlife legally imported from USMCA countries are already zero, so the USMCA is unlikely to contribute to an increase in legal trade of wildlife, while the conservation and customs cooperation provisions in the USMCA will help to combat wildlife trafficking. USMCA countries will also enhance cooperation and capacity building related to wildlife trafficking issues. Thus, the USMCA offers an opportunity to enhance ongoing efforts to protect endangered species, combat wildlife trafficking, and ensure legal and sustainable wildlife trade.

- ***Deforestation, Illegal Logging & Associated Trade***

Illegal logging activities include unauthorized logging in protected areas, exceeding timber concession limits, removal of protected timber species, and other violations of national and domestic laws. It is well recognized that illegal logging and associated trade has serious economic, environmental, and social impacts. Timber producing countries, including USMCA partners, reportedly lose substantial revenue to illegal logging. The United States, for example, is estimated to lose up to $1 billion per year due to competition with illegally harvested wood and wood products. Products from illegally harvested timber span the entire value chain, from logs and sawn timber, to wood flooring and furniture. Trade in illegally sourced wood distorts markets, undermines efforts towards sustainable forest management, and exacerbates deforestation trends. Further, illegal logging increases threats to endangered species as the resulting deforestation or forest degradation destroys habitats and reduces resilience to disaster, and unauthorized logging roads open access to remote areas for wildlife poachers.

Accurate data on the extent of illegal logging activity is limited. The estimates that exist, however, indicate that the scale of the problem is substantial. Chatham House, a British research institute, estimated that worldwide 100 million cubic meters of timber are cut illegally each year, leading to the possible destruction of five million hectares (over 12 million acres) of forest annually.

Most forest products already enter the United States duty-free as a result of NAFTA and most-favored-nation treatment, therefore, the USMCA is not likely to have a significant impact on U.S. demand for forest products from Mexico or Canada. Apart from the anticipated economic effects, the USMCA provides an opportunity to address concerns relating to deforestation and illegal logging and associated trade. The USMCA contains enforceable obligations requiring Parties to effectively enforce their environment and conservation laws, including laws governing land use and illegal logging, and not to weaken them to encourage trade or investment. In addition, USMCA countries are committed to take measures to protect and conserve specially protected natural areas, such as wetlands, national parks and other fragile ecosystems. Moreover, the USMCA will also promote sustainable forest management, legal trade in timber products, and maintain and strengthen government capacity and institutional frameworks, including to conserve threatened species, as well as the livelihoods of communities that depend on them.

The USMCA framework for enhanced cooperation and information sharing will allow law enforcement and other authorities to continue to work together more effectively to combat trade in timber illegally harvested in non-USMCA countries that enters the USMCA market and unfairly disadvantages U.S. businesses. The United States and Mexican customs officials have already been working closely together on cross-border cooperation and strengthened information sharing networks in recent years to improve the detection and detention of illegal timber from third countries, including from other U.S. FTA partner countries. Once implemented, the USMCA obligations on forestry can be expected to result in a positive environmental impact in USMCA countries and the Western Hemisphere more broadly by helping to improve sustainable forest management and enhance measures to combat illegal timber trade.

- ***Marine Fisheries***

Fish and fish products are among the most traded food commodities. USMCA countries accounted for 7.3 million metric tons of global marine catch in 2016 (of which the United States was about two-thirds of the total), and all three countries ranked among the top 20 global producers of marine wild capture fishing.[43] The value of USMCA countries' exports in fish and seafood products was approximately $12.3 billion in 2017.[44] Because trade in the products amongst the USMCA Parties is already duty free under the NAFTA, the USMCA is not likely to have a significant effect on U.S. demand for these products. Accordingly, the USMCA is not likely to put substantially greater pressure on fisheries resources.

- ***Fishing Practices***

IUU fishing is a serious threat to legitimate fishing operations, and undermines conservation and management efforts for sustainable fisheries. While precise data is difficult to collect due to the inherent nature of IUU fishing, it is estimated to have a global cost of billions of dollars each year. It impairs the sustainability of fishing as a livelihood, and impedes food security. IUU fishing also deprives fisheries managers of information critical for accurate stock assessments and estimates of impacts on protected species. It can also exacerbate the problem of discards and bycatch because vessels engaged in illegal activity are more likely to use unsustainable fishing practices and non-selective gear. A lack of adequate oversight by some flag states, as well as weak fisheries enforcement capacity facilitate the scope and extent of IUU fishing activities.

Recognizing these issues and following the development of the Food and Agriculture Organization's International Plan of Action to Prevent, Deter, and Eliminate IUU fishing, many Regional Fisheries Management Organizations (RFMOs) and arrangements have adopted IUU vessel lists and call upon member countries to deny port access and services to vessels identified on such lists. The United States already engages cooperatively with USMCA countries through the RFMOs and other mechanisms to combat IUU fishing.

The USMCA addresses these challenges with commitments to take actions to combat IUU fishing, and provides opportunities for enhanced environmental cooperation and capacity

[43] FAO Fisheries Global Capture Production Database 2016: http://www.fao.org/fishery/statistics/global-capture-production/en.
[44] IHS Markit, Global Trade Atlas Database (accessed November 2, 2018).

building that will strengthen USMCA countries' ability to combat IUU fishing. Thus, the USMCA provides an opportunity to reduce the levels of IUU fishing and its detrimental environmental and economic impacts.

Under the USMCA, each Party is required to promote the long-term conservation of marine species, including sharks, marine mammals, whales, sea turtles, and seabirds, through the implementation and effective enforcement of conservation measures such as fisheries bycatch mitigation measures (e.g., the use of sea turtle excluder devices), and prohibitions of certain fishing practices. This will help ensure the health of not just the world's valuable fish stocks, but of particular species that are essential to the overall health of the region's marine ecosystems.

- ***Fisheries Subsidies***

According to the Food and Agriculture Organization, "the fraction of fish stocks that are within biologically sustainable levels has exhibited a decreasing trend from 90 percent in 1974 to 66.9 percent in 2015. In contrast, the percentage of stock fished at biologically unsustainable levels increased from 10 percent in 1974 to 33.1 percent in 2015, with the largest increases in the late 1970s and 1980s. In 2015, maximally sustainable fished stocks accounted for 59.9 percent and underfished stocks for 7.0 percent of the total assessed stocks."[45]

Subsidies that contribute to overfishing and overcapacity, as well as subsidies to IUU fishing, distort free market forces and support fleets larger than what is required to fish at sustainable levels. These subsidies can contribute to the depletion of a critical natural resource, impact the livelihood of those who depend on fishing, and make it more difficult for countries to sustainably manage their own fisheries resources. The United States has long identified disciplines on fisheries subsidies as a key area in which trade agreements can contribute to environmental conservation and sustainable development, but collective action is required to ensure that our marine fisheries resources remain stable, healthy, and productive for present and future generations.

The USMCA includes prohibitions on fisheries subsidies that: (1) negatively affect fish stocks that are in an overfished condition; and (2) are provided to any fishing vessel or operator (with the inclusion of operators a groundbreaking advancement) while listed by the flag State or a relevant RFMO or Arrangement for IUU fishing in accordance with the rules and procedures of that organization or arrangement and in conformity with international law. The marine capture fisheries subsidies article also sets out a commitment that each Party shall make best efforts to refrain from introducing new subsidies, or extending or enhancing existing subsidies that contribute to overfishing or overcapacity. The USMCA also mandates transparency, requiring parties to report on fisheries subsidy programs regularly.

The USMCA's prohibitions on the harmful fisheries subsidies noted above address one of the main drivers of overcapacity and unsustainable levels of fishing. Curbs on these harmful subsidies will help contribute to improved fisheries management and decreased pressure on overfished stocks. The USMCA rules also enhance transparency requirements for fisheries subsidies programs. The USMCA also establishes a framework for greater cooperation and

[45] FAO The State of World's Fisheries and Aquaculture (SOFIA) 2018 http://www.fao.org/3/I9540EN/i9540en.pdf

capacity building relating to fisheries management issues. When implemented, these measures would be expected to have beneficial environmental impacts in USMCA countries and the region more broadly.

- ***Coastal & Marine Ecosystems***

Coastal and marine ecosystems contain an abundance of natural resources and are extremely important to food security, jobs, and economic development. Significant ecosystems in North America include coral reefs, Arctic ecoregions, extensive continental shelf fisheries, and temperate kelp forests. From these rich, diverse ecosystems, USMCA countries produce products for international trade and national use, including fish, kelp and other sea-plant resources, oil and minerals, aquaculture products, tourism and recreation.

Activities associated with economic growth, such as coastal urbanization, port development and navigation routes, tourism infrastructure, coastal fisheries and aquaculture practices, and land-based and ocean-based marine pollution can have significant and direct impacts on the resilience of natural coastal-marine ecosystems. Generally speaking, greater vessel activity has the potential to increase the risk of oil and ship-based pollution, to impact marine life, and to cause destruction to the marine environment.[46] North America already has a high density of shipping, fishing, and transiting vessel activity that may increase as trade increases, and greater trade potentially could increase transportation-related impacts on marine ecosystems. However, the magnitude of any increased risks or impacts to coastal and marine ecosystem resulting from increased trade under the USMCA are difficult to quantify.

In addition, increased coastal development can lead to coastal habitat degradation. Biological diversity may also be threatened by land-based agricultural activities that cause runoff and sedimentation of near shore waters. However, marine parks, sanctuaries, reserves, monuments, special management areas, estuaries, research areas, no-take areas, wildlife refuges, and other forms of strict or cooperative protection have been established by USMCA Parties and other countries in order to protect marine ecosystems and species. The USMCA requires Parties to take measures to protect the marine environment from ship pollution. Specifically, each Party is obligated to take measures to prevent the pollution of the marine environment from ships, in particular with respect to pollution regulated by MARPOL, and committing to transparency, including making information on its programs, and activities, including cooperative programs related to the prevention of pollution of the marine environment from ships, publicly available.

Further, the USMCA creates opportunities for knowledge-sharing, cooperation, and capacity building among USMCA Parties. Through environmental cooperation and capacity building under the USMCA, the United States can work with USMCA countries to implement critical marine pollution conventions, promote ecosystem-based management of areas of common conservation concern, encourage the establishment new marine protected areas (MPAs) and the adoption of best management practices for existing areas, and support ongoing regional initiatives.

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[46] Plastic waste is of particular concern in the Pacific Ocean, choking marine life, impairing ship transit and washing onto shores. Ships are significant contributors to marine debris globally and to "garbage patches" in the eastern and western equatorial areas of the Pacific Ocean.

- ***Invasive Alien Species***

The risks posed by the introduction of invasive species is a transboundary issue, namely the risk that species from one region will become invasive in another depending in part on the ecological and climatic conditions in each country. The more similar the geographic and climatic characteristics are between countries, the greater the risk that a harmful species would establish and spread if introduced.

The trade pathways for invasive species vary in degrees of risk of environmental harm. Trade-related pathways that involve a risk of invasive introductions include: the movement of vehicles and conveyances used to transport commodities (*e.g.*, ballast water in ships, shipping containers that may contain insects or other organisms), pathogens on products and pathogens on invasive species, products that may contain or carry potentially invasive organisms (*e.g.*, grains contaminated by weed seeds, insects in wooden packaging materials, or on plants and plant products), and occasionally the commodity itself (*e.g.*, certain species of ornamental plants or exotic aquarium fish). Species originating in or transferring from one or more USMCA countries may potentially have harmful effects in other USMCA countries.

The potential effect of the USMCA and these risks are difficult to quantify, particularly given the range of domestic systems and resources focused on the issue in the different USMCA countries. For example, Canada and Mexico have policies and programs designed to address incremental risks. As noted above, the USMCA will not affect USMCA countries' authority to regulate in the public interest or its implementation of measures to monitor, prevent, and combat invasive species. USMCA Parties have adopted SPS measures, which impose requirements (e.g., heat/fumigation treatments, certifications, traceability) that help reduce the risk of entry, and spread of, pests through trade.

Furthermore, the Environment Chapter includes provisions that will ensure coordination with the USMCA SPS Committee to identify opportunities to share information among USMCA countries on the movement, prevention, detection, control, and eradication of invasive species. Additionally, the SPS Chapter includes commitments to address risks to human, animal, and plant life or health, which can include invasive alien species. Effective biosecurity, including a rapid response mechanism will also help to facilitate trade without increasing the levels of risk. Thus, the USMCA is expected to strengthen cooperation on research, monitoring, prevention, and control of invasive species (see also Section VIII Environmental Cooperation).

VII. Potential Regulatory Impacts

A. Regulatory Review

Consistent with Executive Order 13141 and its Guidelines, this review includes consideration of the extent to which the USMCA might affect U.S. environmental laws, regulations, policies, or international commitments. Given that U.S. laws and regulations are already in conformity with the USMCA's Environment Chapter obligations, no statutory or other regulatory changes are required to implement the environment obligations of the Agreement.

FTA obligations related to investment, services, government procurement, SPS, TBT, and good regulatory practices can have particular significance for domestic regulatory practices concerning the environment, health, and safety. Previous environmental reviews, including the interim and final reviews for the Chile, Singapore, Dominican Republic-Central America, Peru, Colombia, and Korea FTAs, considered potential impacts on the U.S. regulatory regime with respect to such obligations and found that the respective trade agreements were not anticipated to have a negative impact on U.S. legal or regulatory authority or practices.

From the outset, preserving the U.S. Government's ability to maintain strong environmental laws and regulations, and an effective process for enforcing them, has been a non-negotiable position. As set out in the USMCA Preamble, USMCA Parties recognize their inherent right to regulate and resolve to preserve the flexibility of each Party to set legislative and regulatory priorities, and protect legitimate public welfare objectives, such as health, safety, environmental protection, conservation of living or non-living exhaustible natural resources, integrity and stability of the financial system, and public morals.

In addition, the USMCA includes additional protections against unintended negative impacts on Parties' regulatory practices. For example, in the Investment Chapter, the obligations on "National Treatment" (Article 14.4) and "Most-Favored-Nation Treatment" (Article 14.5) are accompanied by new text clarifying that whether investors are "in like circumstances" for purposes of these obligations depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives. The Investment Chapter also includes new language confirming that an ISDS tribunal may not order a government to change its laws or regulations. These new provisions further safeguard U.S. regulators' flexibility to regulate in the public interest.

Finally, the USMCA Annex on Energy Performance Standards is expected to have beneficial environmental impacts by facilitating greater harmonization of federally mandated energy performance standards across a wide range of product categories to the highest levels regionally. The Annex is also expected to reduce costs by reducing the need for duplicative product testing for U.S. exports.

Based on previous analysis, and given that the USMCA's core obligations in these areas are either similar to or build on those undertaken in previous U.S. FTAs, the Administration

concludes that the USMCA will not have a negative impact on the ability of U.S. Government authorities to enforce or maintain U.S. laws or regulations or to pass stronger environmental regulations in the future. The U.S. Government is able to fully comply with the obligations set forth in the USMCA without adversely affecting its ability to continue to regulate under current U.S. environmental laws.

B. Investment

Under the USMCA, the Parties have agreed to treat investors and investments of the other Parties in accordance with the highest international standards, which are consistent with U.S. law and practice, while also safeguarding each Party's sovereignty and promoting domestic investment. With respect to both investment protection rules and ISDS procedures, the Investment Chapter of the USMCA updates and modernizes the NAFTA to better reflect U.S. priorities related to foreign investment.

The key investment protection provisions include rules prohibiting expropriation without prompt, adequate, and effective compensation; discrimination; performance requirements (e.g., technology transfer and local content requirements); nationality-based requirements on the appointment of senior management; restrictions on the transfer of investment-related capital; and denial of justice and other breaches of the customary international law minimum standard of treatment (MST). In the event of an investment dispute, each Party can seek remedies for breach of these rules in State-to-State dispute settlement procedures. In the alternative, U.S. and Mexican investors can themselves initiate ISDS in certain circumstances. ISDS with Canada will be phased out, but State-to-State remedies will remain.

Under the reformed approach to ISDS in the Investment Chapter, U.S. and Mexican investors in all sectors will have limited access to ISDS as a last resort to provide protection in the context of such egregious issues as discrimination and direct expropriation. In five areas – oil and gas, power generation, telecommunications, transportation, and infrastructure— investors that enter into government contracts will have broader access to ISDS to protect the long-term, capital-intensive investments in these sectors, which are subject to heightened political risks.

VIII. Environmental Cooperation

The United States, Canada, and Mexico have a long history of environmental cooperation. The *North American Agreement on Environmental Cooperation (*NAAEC) established the Commission for Environmental Cooperation (CEC) in 1994 with Canada, Mexico, and the United States as Parties to the agreement. Part of the mission of the CEC is to encourage public participation and collaboration to foster protection, conservation, and enhance the environment of North America. Through this cooperation, the CEC has addressed environmental issues ranging from conservation of the monarch butterfly, to curbing the disposal of food waste in landfills through innovative waste reduction options, undertaking conservation and restoration approaches to promote carbon sequestration in coastal and marine ecosystems, and refining methodologies and protocols for measuring and mapping blue carbon habitats with a focus on sea grass. Also, through the CEC, the three countries recently concluded a two-year project on "Supporting Sustainable Trade of CITES Species." This CEC-CITES project promotes priority actions to support sustainable CITES trade for key priority species groups (sharks, tarantulas, turtles, and timber). The CEC has also partnered with the private sector to explore ways to increase green building construction and create green workforce training.

The USMCA negotiation provided an opportunity to modernize and enhance the effectiveness of the CEC, while continuing to provide for a trilateral framework for environmental cooperation. Indeed, TPA provides that a principal negotiating objective of the United States is to strengthen the capacity of U.S. trading partners to protect the environment through the promotion of sustainable development. In addition, TPA instructs negotiators to seek to establish consultative mechanisms among Parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science. To this end, Mexico, the United States, and Canada signed an *Agreement on Environmental Cooperation* (ECA), respectively, on November 30, 2018, December 11, 2018, and December 19, 2019.

The Environment Chapter of the USMCA and the ECA provide for the continuation of the CEC, comprising a Council, a Secretariat, and a Joint Public Advisory Committee (JPAC). The Council is the CEC governing body, and its responsibilities range from establishing strategic priorities for environmental cooperation to approving the CEC budget. The Council comprises cabinet-level or equivalent representatives. The Secretariat supports the Council, and is the body that receives submissions from the public regarding claims that a USMCA Party has failed to effectively enforce its environmental laws, as set out in the USMCA Environment Chapter. The JPAC includes members appointed from the United States, Canada, and Mexico. JPAC members act at the direction of the Council, and may provide advice on matters related to implementation of the ECA.

Key objectives of the ECA are to support implementation of the USMCA Environment Chapter through environmental cooperation, and to promote public participation in the development of environmental measures. The ECA includes a list of illustrative activities on which the Parties may decide to cooperate in the following topical areas: 1) strengthening

environmental governance; 2) reducing pollution and supporting low emissions and resilient economies; 3) conserving and protecting biodiversity and habitats; 4) promoting the sustainable management and use of natural resources; and 5) supporting green growth and sustainable development.

The United States, Canada, and Mexico also work together to address environmental issues through multilateral and regional mechanisms and organizations such as the United Nations Environment Program, the World Bank, the International Tropical Timber Organization, and RFMO/Associations. In addition, several U.S. Government agencies have regional and bilateral environment programs in the USMCA countries. These agencies include the Department of State, the Department of the Interior, the Department of Commerce, the Environmental Protection Agency, and the Department of Agriculture. Annex III provides additional examples of recent environmental cooperation activities that federal agencies are undertaking with USMCA countries.

These cooperation provisions and commitments will spur new efforts and contribute to existing regional, as well as national, efforts to protect, improve, and conserve the environment and also enhance public participation in environmental activities and encourage the use of public-private partnerships. Annex III includes examples of environmental cooperation activities between U.S. Government agencies and partners in Canada and Mexico.

Annex I:
Data Tables

Table 1.1: U.S. Total Exports, General Imports, and Merchandise Trade Balance, by Major Industry/Commodity sectors, 2013-17[47]

	Million $						
Item	**2013**	**2014**	**2015**	**2016**	**2017**	**Absolute change, 2016–17**	**Percent change, 2016–17**
U.S. total exports:							
Agricultural products	157,633	164,429	146,644	148,683	153,116	4,433	3
Forest products	40,839	41,169	39,059	37,707	39,698	1,991	5.3
Chemicals and related products	231,422	235,020	227,676	218,089	227,270	9,181	4.2
Energy-related products	154,463	161,755	110,225	98,418	143,236	44,818	45.5
Textiles and apparel	23,318	23,985	23,272	21,656	22,082	426	2
Footwear	1,391	1,456	1,464	1,368	1,430	62	4.5
Minerals and metals	160,510	152,910	135,667	128,684	136,452	7,769	6
Machinery	139,616	145,981	138,765	128,097	135,945	7,848	6.1
Transportation equipment	322,152	336,439	327,401	320,022	325,434	5,412	1.7
Electronic products	261,190	267,833	264,119	260,407	268,278	7,870	3
Miscellaneous manufactures	43,842	47,636	47,366	47,754	49,138	1,383	2.9
Special provisions	42,140	43,260	41,444	40,125	44,655	4,530	11.3
Total	1,578,517	1,621,874	1,503,101	1,451,011	1,546,733	95,722	6.6
U.S. general imports:							
Agricultural products	126,657	136,341	136,947	139,153	147,406	8,253	5.9
Forest products	39,984	42,213	42,383	43,118	44,856	1,738	4
Chemicals and related products	236,678	251,529	260,293	259,846	268,112	8,266	3.2
Energy-related products	384,142	351,626	194,132	157,826	198,096	40,270	25.5
Textiles and apparel	118,003	121,688	126,538	120,265	121,423	1,158	1
Footwear	24,811	26,018	27,650	25,634	25,654	20	0.1
Minerals and metals	190,442	205,500	189,230	183,522	200,714	17,192	9.4
Machinery	170,227	185,529	185,884	179,537	196,414	16,878	9.4
Transportation equipment	375,526	404,024	426,225	418,286	434,894	16,608	4
Electronic products	421,656	439,109	449,793	449,951	484,271	34,321	7.6
Miscellaneous manufactures	109,936	114,391	124,817	124,973	130,453	5,481	4.4
Special provisions	69,925	78,388	84,291	85,695	90,610	4,915	5.7
Total	2,267,987	2,356,356	2,248,183	2,187,805	2,342,905	155,100	7.1

[47] Source: Compiled from official statistics of the U.S Department of Commerce. Note: Import values are based on customs value; export values are based on free along ship value, U.S. port of export. Calculations based on unrounded data. Sectors are ordered by the level of processing of the products classified therein.

U.S. merchandise trade balance:							
Agricultural products	30,976	28,088	9,697	9,530	5,710	-3,820	-40.1
Forest products	856	-1,044	-3,324	-5,411	-5,158	253	4.7
Chemicals and related products	-5,256	-16,509	-32,617	-41,757	-40,843	915	2.2
Energy-related products	-229,679	-189,871	-83,907	-59,408	-54,860	4,548	7.7
Textiles and apparel	-94,685	-97,702	-103,265	-98,609	-99,341	-733	-0.7
Footwear	-23,420	-24,562	-26,186	-24,266	-24,225	41	0.2
Minerals and metals	-29,933	-52,591	-53,563	-54,838	-64,262	-9,424	-17.2
Machinery	-30,610	-39,549	-47,119	-51,440	-60,470	-9,030	-17.6
Transportation equipment	-53,374	-67,584	-98,824	-98,264	-109,460	-11,196	-11.4
Electronic products	-160,466	-171,276	-185,674	-189,543	-215,994	-26,450	-14
Miscellaneous manufactures	-66,094	-66,755	-77,452	-77,218	-81,316	-4,098	-5.3
Special provisions	-27,785	-35,128	-42,847	-45,570	-45,955	-385	-0.8
Total	-689,470	-734,482	-745,082	-736,794	-796,172	-59,378	-8.1

Table 1.2: Canada: U.S. Total Exports and General Imports, by Major Industry/Commodity Sectors, 2013-17

Item	Million $						
	2013	2014	2015	2016	2017	Absolute change, 2016–17	Percent change, 2016–17
U.S. total exports:							
Agricultural products	26,568	27,373	26,124	25,884	26,196	312	1.2
Forest products	11,008	10,788	10,199	9,710	9,890	181	1.9
Chemicals and related products	40,537	41,283	38,198	36,511	38,342	1,832	5
Energy-related products	25,837	34,040	22,256	17,462	19,664	2,202	12.6
Textiles and apparel	5,423	5,531	5,205	5,076	5,215	139	2.7
Footwear	459	497	500	509	498	-11	-2.2
Minerals and metals	31,002	30,597	26,459	24,907	26,274	1,367	5.5
Machinery	30,651	32,107	29,164	26,254	27,468	1,214	4.6
Transportation equipment	77,507	78,094	74,345	73,560	78,092	4,532	6.2
Electronic products	35,152	35,172	32,447	31,451	32,542	1,092	3.5
Miscellaneous manufactures	9,432	9,903	8,847	8,454	8,806	352	4.2
Special provisions	7,179	7,431	7,110	7,020	9,483	2,464	35.1
Total	300,755	312,817	280,855	266,797	282,472	15,674	5.9
U.S. general imports:							
Agricultural products	24,941	26,437	25,286	25,246	26,106	860	3.4
Forest products	18,088	18,971	18,069	18,704	19,116	412	2.2
Chemicals and related products	33,299	33,518	32,211	29,680	29,449	-231	-0.8
Energy-related products	110,230	117,928	70,837	54,755	74,241	19,486	35.6
Textiles and apparel	2,323	2,303	2,243	2,181	2,231	50	2.3
Footwear	47	59	73	50	52	2	4.1
Minerals and metals	32,671	33,324	29,762	28,778	31,585	2,807	9.8
Machinery	13,592	13,696	12,918	12,164	13,535	1,371	11.3
Transportation equipment	71,548	74,542	73,911	73,639	71,873	-1,766	-2.4
Electronic products	9,101	9,114	8,932	8,929	9,342	413	4.6
Miscellaneous manufactures	4,402	4,528	5,250	5,537	5,250	-287	-5.2
Special provisions	12,262	14,867	16,738	18,095	17,195	-899	-5
Total	332,504	349,286	296,230	277,756	299,975	22,220	8

Table 1.3: Mexico: U.S. Total Exports, General Imports, and Merchandise Trade Balance, by Major Industry/Commodity Sectors, 2013-17

	Million $						
Item	**2013**	**2014**	**2015**	**2016**	**2017**	**Absolute change, 2016–17**	**Percent change, 2016–17**
U.S. total exports:							
Agricultural products	18,868	20,086	18,296	18,503	19,276	774	4.2
Forest products	5,747	5,839	5,858	5,754	6,066	312	5.4
Chemicals and related products	33,714	35,758	34,113	32,932	35,126	2,194	6.7
Energy-related products	23,507	24,696	18,944	19,577	26,585	7,007	35.8
Textiles and apparel	5,359	5,732	5,996	5,442	5,554	111	2
Footwear	121	120	134	97	95	-2	-1.8
Minerals and metals	20,893	23,061	22,748	20,981	21,995	1,013	4.8
Machinery	21,197	23,299	23,472	23,108	24,070	963	4.2
Transportation equipment	39,088	41,358	42,254	39,951	41,148	1,197	3
Electronic products	47,915	50,645	54,174	53,554	53,051	-503	-0.9
Miscellaneous manufactures	2,654	3,018	3,080	3,041	2,973	-68	-2.2
Special provisions	6,892	7,394	7,134	6,761	7,048	287	4.2
Total	225,954	241,007	236,204	229,702	242,989	13,287	5.8
U.S. general imports:							
Agricultural products	19,296	21,218	23,008	24,887	26,703	1,816	7.3
Forest products	1,652	1,817	1,950	1,910	1,981	71	3.7
Chemicals and related products	9,652	10,657	10,759	10,608	11,534	926	8.7
Energy-related products	34,813	30,282	13,674	8,724	11,128	2,405	27.6
Textiles and apparel	5,830	5,976	5,902	5,804	6,104	300	5.2
Footwear	549	499	493	413	427	14	3.5
Minerals and metals	19,278	19,503	18,104	18,099	19,377	1,279	7.1
Machinery	26,357	29,054	30,098	29,918	31,408	1,490	5
Transportation equipment	85,152	96,659	104,402	105,192	114,156	8,964	8.5
Electronic products	65,188	65,064	72,485	73,558	75,772	2,214	3
Miscellaneous manufactures	5,382	6,109	6,547	6,782	6,699	-84	-1.2
Special provisions	7,408	8,891	8,980	8,161	8,756	595	7.3
Total	280,556	295,730	296,401	294,056	314,045	19,989	6.8

Table 1.4: USMCA Partners (Canada and Mexico): U.S. Total Exports, General Imports, and Merchandise Trade Balance, by Major Industry/Commodity Sectors, 2013-17

	Million $						
Item	**2013**	**2014**	**2015**	**2016**	**2017**	**Absolute change, 2016–17**	**Percent change, 2016–17**
U.S. total exports:							
Agricultural products	45,436	47,459	44,420	44,387	45,472	1,085	2.4%
Forest products	16,755	16,627	16,057	15,464	15,956	492	3.2%
Chemicals and related products	74,251	77,041	72,311	69,443	73,468	4,025	5.8%
Energy-related products	49,344	58,736	41,200	37,039	46,249	9,210	24.9%
Textiles and apparel	10,782	11,263	11,201	10,518	10,769	251	2.4%
Footwear	580	617	634	606	593	-13	-2.1%
Minerals and metals	51,895	53,658	49,207	45,888	48,269	2,381	5.2%
Machinery	51,848	55,406	52,636	49,362	51,538	2,176	4.4%
Transportation equipment	116,595	119,452	116,599	113,511	119,240	5,729	5.0%
Electronic products	83,067	85,817	86,621	85,005	85,593	588	0.7%
Miscellaneous manufactures	12,086	12,921	11,927	11,495	11,779	284	2.5%
Special provisions	14,071	14,825	14,244	13,781	16,531	2,750	20.0%
Total	526,709	553,824	517,059	496,499	525,461	28,962	5.8%
U.S. general imports:							
Agricultural products	44,237	47,655	48,294	50,133	52,809	2,676	5.3%
Forest products	19,740	20,788	20,019	20,614	21,097	483	2.3%
Chemicals and related products	42,951	44,175	42,970	40,288	40,983	695	1.7%
Energy-related products	145,043	148,210	84,511	63,479	85,369	21,890	34.5%
Textiles and apparel	8,153	8,279	8,145	7,985	8,335	350	4.4%
Footwear	596	558	566	463	479	16	3.5%
Minerals and metals	51,949	52,827	47,866	46,877	50,962	4,085	8.7%
Machinery	39,949	42,750	43,016	42,082	44,943	2,861	6.8%
Transportation equipment	156,700	171,201	178,313	178,831	186,029	7,198	4.0%
Electronic products	74,289	74,178	81,417	82,487	85,114	2,627	3.2%
Miscellaneous manufactures	9,784	10,637	11,797	12,319	11,949	-370	-3.0%
Special provisions	19,670	23,758	25,718	26,256	25,951	-305	-1.2%
Total	613,060	645,016	592,631	571,812	614,020	42,208	7.4%

TABLE 1.5: NAFTA: Selected U.S. imports, by major industry/commodity sectors, 2017[48]

Sector	U.S. imports for consumption	Dutiable imports	Calculated duties collected	Dutiable import share	Weighted average duty
	Thousand dollars			*Percent*	
Agricultural products	52,571,440	321,365	21,640	0.6	6.7
Forest products	21,066,054	25,388	1,241	0.1	4.9
Chemicals and related products	41,039,910	1,101,329	52,322	2.7	4.8
Energy-related products	84,262,219	42,284,250	68,213	50.2	0.2
Textiles and apparel	8,322,454	756,774	48,719	9.1	6.4
Footwear	467,265	14,000	1,272	3.0	9.1
Minerals and metals	50,704,120	683,081	27,152	1.3	4.0
Machinery	44,822,955	3,554,426	81,848	7.9	2.3
Transportation equipment	185,305,965	5,511,359	149,490	3.0	2.7
Electronic products	85,027,122	4,461,627	105,958	5.2	2.4
Miscellaneous manufactures	11,973,891	426,792	26,472	3.6	6.2
Special provisions	25,963,200	6,361,552	19,378	24.5	0.3
Total	611,526,595	65,501,942	603,707	10.7	0.9

[48]*Source*: Compiled from official statistics of the U.S. Department of Commerce. *Note*: Calculations based on unrounded data. Import data does not include U.S. Virgin Island imports. Import figures are based on customs value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

TABLE 1.6: All countries: Selected U.S. imports, by major industry/commodity sectors, 2017[49]

Sector	U.S. imports for consumption	Dutiable imports	Calculated duties collected	Dutiable import share	Weighted average duty
		Thousand dollars			*Percent*
Agricultural products	146,485,495	28,435,680	1,008,192	19.4	3.5
Forest products	44,771,946	4,479,295	212,810	10.0	4.8
Chemicals and related products	271,669,297	67,843,972	3,040,169	25.0	4.5
Energy-related products	187,514,163	113,054,622	276,093	60.3	0.2
Textiles and apparel	120,961,713	91,563,347	13,095,390	75.7	14.3
Footwear	25,471,351	24,276,451	2,875,602	95.3	11.8
Minerals and metals	1([a]),446[50]	43,543,962	2,010,887	21.8	4.6
Machinery	195,611,617	71,518,172	2,037,698	36.6	2.8
Transportation equipment	432,840,976	148,746,429	4,017,315	34.4	2.7
Electronic products	482,234,157	54,615,126	1,396,194	11.3	2.6
Miscellaneous manufactures	130,119,972	41,302,931	2,993,996	31.7	7.2
Special provisions	90,632,421	19,699,469	77,011	21.7	0.4
Total	2,328,312,554	709,079,455	33,041,357	30.5	4.7

[49]*Source*: Compiled from official statistics of the U.S. Department of Commerce. *Note*: Calculations based on unrounded data. Import data does not include U.S. Virgin Island imports. Import figures are based on customs value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

[50] [a] Less than $500.

TABLE 1.7: Canada: Selected U.S. imports, by major industry/commodity sectors, 2017[51]

Sector	U.S. imports for consumption	Dutiable imports	Calculated duties collected	Dutiable import share	Weighted average duty
		Thousand dollars			*Percent*
Agricultural products	26,042,767	287,382	20,581	1.1	7.2
Forest products	19,088,826	17,439	839	0.1	4.8
Chemicals and related products	29,606,259	339,266	16,464	1.1	4.9
Energy-related products	73,221,787	40,898,065	65,401	55.9	0.2
Textiles and apparel	2,229,872	109,231	9,328	4.9	8.5
Footwear	51,583	3,618	499	7.0	13.8
Minerals and metals	31,333,896	265,367	9,460	0.8	3.6
Machinery	13,534,454	666,333	17,733	4.9	2.7
Transportation equipment	71,510,186	1,711,742	45,052	2.4	2.6
Electronic products	9,266,524	768,108	16,725	8.3	2.2
Miscellaneous manufactures	5,258,142	87,610	6,577	1.7	7.5
Special provisions	17,206,275	3,780,458	17,484	22.0	0.5
Total	298,350,571	48,934,620	226,141	16.4	0.5

[51]*Source*: Compiled from official statistics of the U.S. Department of Commerce. *Note*: Calculations based on unrounded data. Import data does not include U.S. Virgin Island imports. Import figures are based on customs value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

TABLE 1.8: Mexico: Selected U.S. imports, by major industry/commodity sectors, 2017[52]

Sector	U.S. imports for consumption	Dutiable imports	Calculated duties collected	Dutiable import share	Weighted average duty
		Thousand dollars			*Percent*
Agricultural products	26,528,673	33,983	1,059	0.1	3.1
Forest products	1,977,228	7,949	402	0.4	5.1
Chemicals and related products	11,433,651	762,063	35,858	6.7	4.7
Energy-related products	11,040,432	1,386,184	2,813	12.6	0.2
Textiles and apparel	6,092,582	647,543	39,391	10.6	6.1
Footwear	415,682	10,381	773	2.5	7.4
Minerals and metals	19,370,224	417,714	17,692	2.2	4.2
Machinery	31,288,501	2,888,093	64,116	9.2	2.2
Transportation equipment	113,795,779	3,799,617	104,439	3.3	2.7
Electronic products	75,760,598	3,693,518	89,233	4.9	2.4
Miscellaneous manufactures	6,715,749	339,182	19,895	5.1	5.9
Special provisions	8,756,925	2,581,093	1,895	29.5	0.1
Total	313,176,024	16,567,322	377,565	5.3	2.3

[52]*Source*: Compiled from official statistics of the U.S. Department of Commerce. *Note*: Calculations based on unrounded data. Import data does not include U.S. Virgin Island imports. Import figures are based on customs value. Dutiable import share is dutiable imports divided by imports for consumption. Weighted average duty is calculated duties collected divided by dutiable imports. Special provisions include imports under chapters 98 and 99 of the Harmonized Tariff Schedule of the United States.

Annex II:

Commenters

1. Center for Biological Diversity (November, 27, 2017)
2. Humane Society International (November, 27, 2017)
3. Oceana (November, 27, 2017)
4. Wildlife Conservation Society (November, 27, 2017)
5. David Ortman (November 27, 2017)
6. Gay Timmons, (November 27, 2017)
7. Mercedes Angela Horak (November 27, 2017)

Annex III:

Existing Environmental Cooperation Activities with USMCA Countries

This annex provides examples of environmental cooperation activities between U.S. Government agencies and partners in USMCA countries. Although illustrative of the number and variety of cooperative activities, the list is not exhaustive. Further information on these activities is available from the respective agencies responsible for such work.

NORTH AMERICA

- *Invasive Species*

  The United States has worked with Canada and Mexico on sanitary and phytosanitary issues related to the development and conduct of risk assessment procedures for aquatic invasive species under the CEC. Guidance and regional standards developed by the North American Plant Protection Organization are particularly relevant to invasive species. Furthermore, through its Mexico Program, the U.S. Fish and Wildlife Service has supported the efforts by Mexico's biodiversity commission, La Comisión Nacional para el Conocimiento y Uso de la Biodiversidad (CONABIO), to implement its National Strategy on Invasive Species. Activities included the delivery of an online training workshop aimed at decision makers and field personnel working for the government of Mexico on how to prevent, control, manage, and eradicate biological invasions. The Trilateral Committee for Wildlife and Ecosystem Conservation and Management (Trilateral Committee) has addressed a range of invasive species issues, and is currently working with the Trilateral Islands Initiative to focus on invasive species threats to North American islands. Discussions across the three countries have also identified ongoing regional projects, as well as priorities that could be considered under a North American Invasive Alien Species Strategy and Action Plan.

- *Wildlife Conservation*

  Under the auspices of the Trilateral Committee for Wildlife and Ecosystem Conservation and Management and the Mexico Program, the Department of the Interior's U.S. Fish and Wildlife Service (FWS) is working with the Governments of Mexico and Canada to address priorities of mutual concern including implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), wildlife trafficking and law enforcement cooperation; Monarch butterfly conservation; landscape and seascape conservation connectivity and area based conservation partnerships; integrating human dimensions of conservation; using technology innovations for conservation; and adapting to ecosystem changes.

- *Fisheries, Marine Conservation and Scientific Cooperation*

  - The North America Marine Protected Area Network (NAMPAN) was implemented through the Commission for Environmental Cooperation (CEC) as an interagency partnership to promote and support collaboration among the North American Marine Protected Areas. In 2018 NOAA, Mexico's National Commission for Natural Protected Areas (CONAMP), Parks Canada, and the CEC developed a 5-year Strategic Plan to provide guidance for the development of NAMPAN as an independent network.

  - Through the CEC, the U.S., Canada and Mexico have cooperated on scientific guidelines and tools for Marine Protected Areas (MPAs) to plan for and manage climate impacts. In 2013, the CEC published Scientific Guidelines for Designing Resilient Marine Protected Areas in a Changing Climate. In 2017, CEC developed and field tested a rapid vulnerability assessment methodology in two shared seascapes on the Pacific coast, and published the Rapid Vulnerability Assessment Tool in English and Spanish. A coastal and marine adaptation toolkit was published in early 2019.

- *Extreme Events*

  - NOAA cooperates with Canada and Mexico through the North American Climate Services Partnership to provide accessible and timely information for decision-makers on issues that include drought, wildfires and other extreme events.

(1) CANADA

- *Fisheries, Marine Conservation and Scientific Cooperation*

  - The United States cooperates with Canada to sustainably manage shared fisheries resources in both the Atlantic and Pacific Oceans (including Pacific halibut, Pacific hake/whiting, North Pacific salmon, North Atlantic salmon, and tuna stocks in both oceans) through several bilateral treaties, annual bilateral consultations, RFMOs (including the Inter-American Tropical Tuna Commission, the North Pacific Fisheries Commission, the North Pacific Anadromous Fish Commission, the Northwest Atlantic Fisheries Organization, the North Atlantic Salmon Conservation Organization, and the International Commission for the Conservation of Atlantic Tunas), and other multilateral fora. NOAA and the U.S. Coast Guard also collaborate with Canada on at-sea enforcement issues.

  - NOAA and Canada also collaborate extensively with regards to North Atlantic right whale conservation, including the use of various protection measures, including speed restrictions, increased surveillance and closures of fishing areas where right whales are spotted.

- The United States and Canada cooperate extensively with regards to Atlantic salmon. This cooperation includes a sampling program for the mixed stock, interceptory Atlantic salmon fishery off West Greenland that provides essential scientific information on salmon harvested in that fishery, including stock origin, and a multi-year marine tracking program to track and monitor the dynamics of their marine migration from the coast of Greenland back to natal rivers in North America and Europe.

- The United States and Canada cooperate broadly and deeply with regard to Pacific salmon, including management of salmon in the Yukon River, the largest transboundary river in North America, and other important transboundary salmon stocks. The bilateral cooperation includes sampling programs and stock assessments that are essential for defining and understanding the population dynamics of U.S. and Canadian origin salmon.

- NOAA and the United States Coast Guard work closely with Canada through joint patrols and aerial surveillance to enforce the prohibition on directed fishing for anadromous stocks in the high seas areas of the North Pacific Ocean.

- The United States and Canada are collaborating through the International Year of the Salmon (IYS), which has to date included several scientific workshops and joint enforcement activities across the Northern Hemisphere. The IYS is a project launched by the North Pacific Anadromous Fish Commission (NPAFC) and the North Atlantic Salmon Conservation Organization (NASCO) and other partners. The IYS focal year was 2019, with projects and activities starting in 2018 and continuing into 2022.

- The United States and Canada are recent signatories to the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean. The agreement aims to prevent unregulated fishing in the high seas portion of the central Arctic Ocean through the application of precautionary conservation and management measures as part of a long-term strategy to safeguard healthy marine ecosystems and to ensure the conservation and sustainable use of fish stocks.

- The U.S. Integrated Ocean Observing System, led by NOAA, collaborates with Canada on ocean observations and modeling.

- The United States and Canada cooperate to manage the shared fisheries of the Great Lakes through the Great Lakes Fisheries Commission, including extensive joint work to combat the spread of invasive species that affect these fisheries, particularly parasitic sea lamprey.

- *Wildlife Conservation, Water Issues, Arctic Matters and Protected Areas Management*

  - The United States Department of the Interior cooperates with Canada on the conservation and management of polar bears, greater sage grouse, black footed ferret,

and porcupine caribou; protection of migratory birds under the *Migratory Bird Treaty Act*; the Arctic Council; water issues, including restoration, water quality, and invasive species in the Great Lakes and other boundary waters, including through the International Joint Commission under the *Boundary Waters Treaty of 1909*; the grasslands initiative; and management of transboundary parks and landscapes, including two jointly-designated World Heritage sites.

- *General Environmental Cooperation*

  - NOAA and Canada renewed a ten-year cooperative partnership on collaboration on weather, climate, ocean, and other earth systems for the enhancement of health, safety and economic prosperity. NOAA cooperates with Canada through the Great Lakes International Joint Commission.

(2) MEXICO

The United States and Mexico work closely on environmental protection and natural conservation through many treaties, agreements, and programs.

- *Environmental Enforcement Capacity Building*

  - Department of Justice's Office of Overseas Prosecutorial Development Assistance and Training in Mexico and Mexican partners conducted a "train-the-trainers" in 2014, and a subsequent one-week course on the Transition to the Accusatorial System for 20 federal environmental crimes investigators and 10 state judges in Mexico City. Graduates of the train–the-trainers course worked with program to draft the course curriculum and were the primary instructors of the course. The curriculum focused on subjects such as discovery, investigative authority, and exclusionary guidelines in the context of environmental crimes under the new accusatorial system, and was part of Justice Department's three-year Transition to the Accusatorial System program under the Merida Initiative.

  - The Department of State has provided support for environmental law enforcement training and strengthening linkages among regional enforcement bodies.

  - Since 2014, the Mexico Program of the U.S. Fish and Wildlife Service has supported the efforts of PROFEPA (Office of the Federal Attorney for Environmental Protection) to address the root causes of illegal trade of wildlife in Mexico via capacity building activities that strengthen the technical skills of law enforcement inspectors and civil society to protect biodiversity from illegal trafficking and overexploitation.

  - In 2016-2018, the U.S. Fish and Wildlife Service supported the efforts of the Center of Judiciary and Environmental Studies (CEJA) and PROFEPA to implement a series of online certificate courses and hands-on training workshops aimed at strengthening the technical capacities of more than 120 federal and 150 state wildlife inspectors in

Mexico to prevent, control and address the illicit trade and traffic of wildlife across the country.

- The U.S. Fish and Wildlife Service has a Law Enforcement Attaché based at the U.S. Embassy in Mexico City, who covers Mexico, Central America, and the Caribbean. The International Attaché program provides ongoing support to regional efforts to combat wildlife and timber trafficking by coordinating investigations, providing training, strengthening relationships with host country law enforcement, and building capacity in range countries in their regions.

- *Wildlife Conservation*

  - The Mexico Program of the U.S. Fish and Wildlife Service continues to support the efforts of CONANP (Commission of Natural Protected Areas) and Mexican civil society groups to conserve species of binational concern such as the California condor, the jaguar, and the monarch butterfly. Funds provided have delivered specialized training for natural resources professionals, improved rural and indigenous communities abilities to sustainably manage natural resources, and the implementation of environmental education activities, among others.

  - The U.S. Department of the Interior continues to cooperate with the Government of Mexico to promote and implement transboundary conservation activities in the Big Bend Rio Bravo region along the U.S.-Mexico border. It also continues to cooperate with Mexico on Colorado River water management and conservation under the 1944 Water Treaty and the Colorado River Basin Salinity Control Forum, as well as on management, conservation, and restoration of the environment; monarch butterfly conservation; and the safe and responsible development of energy resources. Under its Mexico grants program, the U.S. Fish and Wildlife Service is working with the Government of Mexico, academic institutions, and local NGOs to protect priority species, habitats and ecological processes across landscapes with high biodiversity value in Mexico.

- *Protected Area Management*

  - The U.S. Department of Interior's National Park Service supports joint inventory and monitoring activities and park management exchanges and training through 11 sister parks arrangements between U.S. national parks and national parks in Mexico.

  - The U.S. Fish and Wildlife Service supports the training of CONANP's park rangers, as a way to strengthen Mexico's ability to effectively manage its 182 natural protected areas, restore ecosystems, and carry out monitoring and species management actions, while working with communities to resolve human-wildlife and land tenure conflicts.

Fisheries, Marine Conservation and Scientific Cooperation

- The United States cooperates with Mexico to sustainably manage shared fisheries resources in both the Atlantic and Pacific Oceans (especially with regards to sea turtles and various tuna stocks) through various mechanisms, including annual bilateral consultations, RFMOs (including the Inter-American Tropical Tuna Commission and the International Commission for the Conservation of Atlantic Tunas), and other multilateral fora. NOAA and the U.S. Coast Guard also collaborate with Mexico on at-sea enforcement issues.

- Beginning in 2009, NOAA's collaboration with Mexico's National Fisheries Institute (INAPESCA), has led to increased sampling of Atlantic Bluefin Tuna larva into the Southwest Gulf of Mexico and along the East Yucatan coast.

- NOAA is working in cooperation with INAPESCA to conduct a series of evaluations of commercial shrimp trawling gear and alternative fishing gear to gillnets. The objective is to evaluate the configuration and performance of new alternative fishing gear design developed by the INP for use in the Gulf of California. The prototype trawl design was developed to mitigate vaquita porpoise bycatch in the shrimp grill net fishery.

- NOAA is working with Mexico to reverse the decline of the world's most endangered cetacean species – the tiny vaquita porpoise of the northern Gulf of California, Mexico. Vaquitas die from entanglement in fishing gear, and a resurgence in illegal fishing for totoaba (a large, endangered, and CITES Appendix I-listed fish species that is in high demand in Asia for its swim bladders) that uses gear that is exceptionally lethal for vaquitas. NOAA is assisting Mexico to assess the status and trends of vaquita and to develop, test, and put into use alternative fishing gear to replace entangling fishing gear. NOAA and U.S. Fish and Wildlife Service agents cooperate with Mexican agencies to strengthen cross-border enforcement to combat the illegal trade in totoaba, which is often trans-shipped through the United States, investigate smuggling cases, and are working with the U.S. Department of Justice to prosecute these cases.

- NOAA and Mexico conduct extensive fisheries cooperation on scientific matters in both the Atlantic and Pacific through MEXUS-Gulf and MEXUS-Pacifico. Bilateral projects have included fisheries management, enforcement, seafood trade, endangered species conservation, and aquaculture. Periodic meetings provide a forum to exchange views and plan cooperative projects. The achievements in dolphin, sea turtle, and Atlantic highly migratory species conservation, and cooperative scientific research have been particularly notable.

- NOAA recently completed a three-year program in the Gulf of California to enhance management effectiveness for 12 MPAs. Sites included Mexico's Parque Nacional Sistema Arrecifal Veracruzano, Parque Nacional Arrecife Alacranes, Parque Nacional Isla Contoy, and Reserva de la Biosfera Tiburon Ballena. The U.S. and Mexico are also working to establish sister sanctuary relationships between Florida Keys and

Flower Garden Banks National Marine Sanctuaries and Mexican sites in the Gulf of Mexico.

- In 2018 the Department of State launched a two-year project, implemented by The Nature Conservancy in collaboration with NOAA, to improve science-based management and governance of data- and capacity-limited fisheries in Mexico. This project will strengthen capacity for the scientific assessment of fisheries and promote the integration of stock assessment science into policy.

REGIONAL

- *Forest Management*
  - The State Department supports a multi-year project between the International Tropical Timber Organization, CITES, the European Union and several other donors that provides assistance to countries throughout the North America region to design forest management plans, conduct forest inventories, provide guidelines and case studies for making Non-Detriment Findings for CITES listed tree species, and develop and disseminate tools for timber identification.
- *Wildlife Conservation*
  - The State Department plans to hold USMCA regional training workshops on CITES implementation and investigations, sharing information, and prosecuting wildlife trafficking and illegal logging cases. The activity will facilitate stronger linkages among regional enforcement bodies.

A two-year project on "Supporting Sustainable Trade of CITES Species," funded by the Commission for Environmental Cooperation (CEC), was initiated in 2017. CITES authorities from Canada, Mexico, and the United States are involved in this project, which promotes priority actions to support sustainable trade for key priority North American CITES-listed species groups (turtles, sharks, tarantulas, and timber). Tri-national workshops to support legal, sustainable, and traceable trade in these taxa have already been held for turtles, sharks, and tarantulas and a final workshop on timber was held in November 2018. A website has been developed to explain to the public, experts, and stakeholders, including local people involved in international trade, the goals of the project and to report on implementation of priority actions (http://www3.cec.org/cites/).

EFFECT OF THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, THE UNITED MEXICAN STATES, AND CANADA ON STATE AND LOCAL GOVERNMENTS

I. INTRODUCTION

The Agreement between the United States of America, the United Mexican States, and Canada (USMCA or Agreement) establishes modernized and rebalanced rules of trade that far surpass the North American Free Trade Agreement (NAFTA). The Agreement will support free and fair trade, the rule of law, and open and transparent governance.

A key USTR statutory advisory committee is the Intergovernmental Policy Advisory Committee (IGPAC). The IGPAC is composed of representatives and associations representing executive, legislative, and judicial branches of sub-federal government, including states, counties, and city officials. The National Lieutenant Governors Association (NLGA), the National Conference of State Legislatures (NCSL), and the National Association of Insurance Commissioners (NAIC) are among the organizations represented on the IGPAC.

Pursuant to the Trade Act of 1974, the IGPAC is required to provide to the President, to Congress, and to the United States Trade Representative a report at the conclusion of negotiations for trade agreements. The IGPAC report assesses the impact of the Agreement from the perspective of U.S. state and local governments (available in full at www.ustr.gov).

On September 27, 2018, the IGPAC submitted its report following the announcement of a bilateral deal between the United States and Mexico on August 28, 2018. On September 30, 2018, the conclusion of negotiations between the United States, Canada, and Mexico (the Parties) for the trilateral USMCA was announced. At that time, USTR invited the IGPAC to supplement its comments and amend its report based on the final USMCA. The IGPAC did not provide additional comments amending its original report. Its original report was entitled "Trade Agreement between the U.S., Mexico and Potentially Canada" and it anticipated, and strongly supported, Canada's inclusion in the final agreement.

In its introduction, the IGPAC report recognizes that:

> "The [Agreement] meets most of the overall and principle negotiating objectives as set forth in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and most members believe the Agreement promotes the overall economic interests of the United States.
>
> In addition, IGPAC members believe firmly that this FTA like all trade agreements should be drafted, implemented, and interpreted, to respect and give due consideration to existing state and local level regulatory, tax, and economic development policies, and to support the social, economic, and environmental values that those policies promote. Consistent with longstanding principles of federalism, statutes and regulations that states and local governments have validly adopted, that are constitutional, and that reflect

reasonable responses to the needs of their constituents, should not be overridden by provisions in trade agreements."

This report addresses several areas of interest to states and localities in the Agreement, based on the IGPAC's report and other comments received regarding the potential impact of the Agreement on sub-federal governments. Additionally, USTR has taken into account states' and localities' overall interest in preserving sub-federal regulatory abilities and prerogatives.

II. ISSUES OF INTEREST

A. Trade Remedies

The USMCA Trade Remedies Chapter substantially updates the NAFTA. It includes provisions that reflect the due process and transparency standards of the United States – including the use of electronic filing – that will enable U.S., Mexican, and Canadian businesses to effectively participate in antidumping and countervailing duty proceedings.

In addition, the Parties have agreed to strong duty evasion cooperation provisions, so that Parties work together to combat attempts to undermine existing antidumping, countervailing duty, and safeguards measures. The chapter provides for duty evasion verifications and in-country facility visits by the respective customs authorities, as well as the sharing of customs information for the specific purpose of combatting duty evasion.

The IGPAC report highlights an initial U.S. proposal with respect to trade remedies regarding rules for seasonal and perishable products, noting:

> "This proposal was ultimately dropped from the NAFTA 2.0 agreement. IGPAC members have varying opinions on this outcome. The IGPAC representative from Florida is disappointed that this provision was left out of the agreement while the representatives from Washington and Arizona support the elimination of this proposal."

B. Government Procurement

The USMCA includes a chapter on government procurement between the United States and Mexico, under which the United States will continue to have access to the Mexican procurement market. However, the United States now has excluded Transportation Security Administration/Department of Homeland Security textile procurements from coverage.

Under the USMCA, both Mexico and the United States will maintain other exclusions consistent with those under the NAFTA. For the United States, this includes exclusions such as the small business-set-aside, federal requirements attached to grants for transportation and mass transit projects, and exclusions for the Department of Defense. Canada is not a Party to the USMCA Government Procurement Chapter, but Canada and the United States will retain market access under the WTO Government Procurement Agreement.

Regarding government procurement, the IGPAC report states:

"IGPAC…supports the provision under "Conditions for Participation" which explicitly allows procuring entities to promote compliance with labor laws in the territory in which the good or service is produced as set forth in the Labor Chapter."

The Committee reiterates its longstanding position that sub-central procurement commitments must be voluntary and on a "positive list" basis, to be determined by each state or local government. The IGPAC report also notes its support for the exclusions from government procurement chapters of previous trade agreements, including the exclusion of sub-federal entities. The USMCA maintains these exclusions and the Administration agrees that sub-federal commitments should be supported by state and local governments.

C. Investment

Under the USMCA, the Parties have agreed to treat investors and investments of the other Parties in accordance with the highest international standards, consistent with U.S. law and practice, while also safeguarding each Party's sovereignty and promoting domestic investment. With respect to both investment protection rules and investor-State dispute settlement (ISDS) procedures, the USMCA Investment Chapter updates and modernizes the NAFTA to better reflect U.S. priorities related to foreign investment.

The key investment protection provisions include rules prohibiting expropriation without prompt, adequate, and effective compensation; discrimination; performance requirements (*e.g.*, technology transfer and local content requirements); nationality-based requirements on the appointment of senior management; restrictions on the transfer of investment-related capital; and denial of justice and other breaches of the customary international law minimum standard of treatment. In the event of an investment dispute, each Party can seek remedies for breach of these rules in State-to-State dispute settlement proceedings. In the alternative, U.S. and Mexican investors can themselves initiate ISDS in certain circumstances. ISDS with Canada will be phased out, but State-to-State remedies will remain.

The IGPAC report states that while "[m]ost, but not all, IGPAC members believe that the complete elimination of the investor-state dispute resolution mechanism would improve the Agreement," the IGPAC supports many of the changes in the Agreement, including:

- the limited scope of ISDS claims under the Agreement (other than for U.S. and Mexican investors in certain specified sectors that have government contracts);
- the requirement that an investor, to access the limited ISDS procedures, first exhaust domestic courts or administrative remedies prior to submitting a claim for arbitration; and
- the clarification that the most-favored nation (MFN) provision cannot be used to bring in the ISDS procedures of other trade agreements into this Agreement.

In addition, anticipating that Canada would be included in the final agreement, the IGPAC stated its support for the phase-out of ISDS with Canada over three years, as reflected in the final text of the Agreement.

D. Cross-Border Trade in Services

The USMCA Cross-Border Trade in Services Chapter helps ensure that U.S. suppliers receive fair treatment when supplying cross-border services. The chapter includes the core obligations of national treatment and MFN treatment, ensuring nondiscrimination in the supply of services. The chapter also includes a rule addressing local presence requirements that helps ensure that U.S. suppliers will not be required to establish an office in Mexico or Canada as a condition for supplying cross-border services.

The USMCA includes commitments to keep services markets open and free from new quantitative restrictions, enhanced rules for ensuring good governance in licensing regimes, and a new article on small and medium-sized businesses. The chapter's annexes provide the basis for ongoing work in professional services and transportation services, a new set of disciplines for delivery services, and improvements in Canada's broadcasting market. Except where the Parties have negotiated specific exceptions, the obligations in the chapter apply to all services and are subject to enforcement through dispute settlement.

The USMCA cross-border services obligations respect the sovereign right of the Parties to regulate services and to introduce new, non-discriminatory regulations at both the state and the federal level. U.S. commitments in the services sector in the USMCA are based on existing state law and practice and do not require states to make any changes to existing laws or regulations. Moreover, nothing in the USMCA impairs the states' ability to establish or enforce laws in the public interest such as those protecting consumers, health, safety, and the environment.

The IGPAC report comments that:

> "Given the growing importance of services industries to the US economy, state and local governments generally support objectives to liberalize trade in services industries as a means of increasing market access for US firms and for reaching trade development objectives. IGPAC members equally assert that the independent exercise of state and local legislative and regulatory power is critical to protecting citizens' interests and safeguarding the federal system."

The IGPAC further notes that it is pleased to see the chapter does not include a domestic regulation "necessity test" which would require regulations be no more burdensome to ensure the quality of the service.

E. Digital Trade

When the NAFTA was negotiated, the digital revolution was in its infancy and consequently that agreement did not specifically address digital trade. The USMCA includes a new chapter on digital trade that contains the strongest outcomes of any international agreement, and provides a firm foundation for the expansion of trade and investment in innovative products and services in North America.

The IGPAC raised concerns regarding two different issues within the chapter. Its first concern is in regards to the possibility of limiting state efforts to ensure compliance with personal information protections. However, the relevant paragraph, Article 19.8.3 (Personal Information Protection) is a non-binding provision, recognizing the importance of ensuring a certain balance, but not imposing a binding obligation to do so.

The IGPAC also expressed concern about the USMCA's limitations on access to source code and algorithms and that these provisions could limit access to source codes and algorithms needed for state licensure, oversight, and enforcement activities. With respect to these concerns, however, the provisions already incorporate sufficient flexibility, including through an explicit clarification that a Party (including a state government) can require access to source code or an algorithm for a specific investigation, inspection, examination, enforcement action, or judicial proceeding.

F. Intellectual Property Rights

The USMCA Intellectual Property Rights (IPR) Chapter provides strong and effective protection and enforcement of IPR critical to driving innovation, creating economic growth, and supporting American jobs.

In its report, the IGPAC states:

> "IGPAC recognizes the importance of intellectual property-intensive industries to the economy of our country and the estimated 40 million Americans jobs that are directly or indirectly related to these industries. The enforcement of strong intellectual property rights (IPR) helps ensure that IPR holders reap the benefits of their creativity and innovation, while preserving the comparative advantage of US intellectual property-intensive industries. The failure to enforce strong IPR damages US firms and workers and potentially exposes consumers to harmful counterfeit and pirated products."

As a general matter, the IGPAC states that the USMCA must strike the right balance between protecting IPR and the affordability of products and services for consumers, particularly the affordability of pharmaceuticals. It states that relevant provisions should "distinguish between respecting the bona fide rights of the intellectual property holders and the efforts of pharmaceutical companies to expand their profits at the expense of consumers." It does not recommend any changes to the chapter. The Administration took these views into account when negotiating the USMCA and sees them reflected in the Agreement.

The IGPAC notes that sub-central government healthcare programs are not directly subject to Section B (Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices) of the Publication and Administration Chapter. However, it notes that one representative did express concern about Article 29.7 (Procedural Fairness) of this Section, arguing that "the review process" could be used by pharmaceutical companies to drive up prices for U.S. consumers. However, this provision reflects current law in the United States and does not necessitate any changes.

G. State-Owned Enterprises

The State-Owned Enterprises (SOEs) and Designated Monopolies Chapter is largely new to the trade relationship of the Parties. It includes new disciplines that prohibit certain subsidies to SOEs that are particularly trade-distorting. These new subsidy rules are "WTO-Plus" and go beyond subsidy disciplines negotiated in previous trade agreements. The chapter also broadens the definition of what constitutes an SOE to ensure that any government ownership of an entity that confers control is captured, even minority stakes or "golden shares." In addition, the SOE Chapter includes commitments by the Parties to ensure that SOEs and designated monopolies make commercial purchases and sales on the basis of commercial considerations and do not discriminate against the enterprises, goods, or services of the other Parties.

The IGPAC welcomes this chapter, which will help U.S. companies that are facing unfair competition from subsidized SOEs. Its report states:

> "Frequently, U.S. companies cannot compete against SOEs on a level-playing field as they often receive government support including discounted loans, land grants, lower input costs or other subsidies, preferential access to government procurement, trade protection, regulatory advantages including national standards, and relaxed regulatory enforcement that unbalance the playing field. The Agreement contains welcome transparency provisions that will throw light on the operation of SOEs and rules to help to ensure that U.S. companies can compete with them on a level playing field."

The report also notes that the USMCA provides for negotiations to determine the future coverage of sub-federal SOEs within six months after the Agreement enters into force. IGPAC supports the postponement of sub-federal coverage and calls for a robust consultation process with potentially affected states before negotiating further commitments. USTR intends to engage in a robust consultation process with potentially affected states, and will do so before committing to an extension of SOE obligations to sub-federal entities.

H. Labor and Environment

Unlike the NAFTA, the USMCA includes a comprehensive Labor Chapter within the core text of the Agreement that will be subject to the same dispute settlement mechanisms and potential trade sanctions as the rest of the Agreement. It provides procedural guarantees for enforcement of labor laws, including due process through independent and impartial judicial and administrative tribunals. It establishes institutional mechanisms to provide for intergovernmental engagement and cooperation with stakeholder input and a public submission process whereby members of the public can seek review of claims that a Party is not meeting its obligations under the Labor Chapter.

In addition, the USMCA includes an Annex on Worker Representation in Collective Bargaining in Mexico, in which Mexico commits to specific legislative actions as part of its constitutional labor reforms in order to provide for the effective recognition of the right to collective bargaining. Mexico approved such legislation on May 1, 2019.

In its report, the IGPAC recognizes the precedent-setting advances in this chapter:

> "Overall, the labor provisions of the Agreement contain many improvements over earlier labor chapters. The inclusion of the provisions relating to Migrant Workers (Article X.8); Violence Against Workers (Article 7), and the provisions related to Forced or Compulsory Labor (Article X.6) are improvements over past FTAs. In addition, the annex on Worker Representation in Collective Bargaining (Annex 23-A) could lead to improvements in labor conditions in Mexico."

In addition, the IGPAC also appreciates the exclusion of local and state labor laws that are not enforceable by action of the federal government from the enforcement provisions of the USMCA Labor Chapter. In addition, IGPAC endorses the decision to subject the Labor Chapter to the same binding dispute settlement provisions that are applied to the rest of the Agreement.

As with the Labor Chapter, the USMCA includes a comprehensive Environment Chapter within the Agreement that will be subject to the same dispute settlement mechanisms and potential trade sanctions as the rest of the Agreement.

The USMCA Environment Chapter includes the most comprehensive set of enforceable environmental obligations of any previous U.S. trade agreement, including obligations to combat trafficking in wildlife, timber, and fish, to enhance the effectiveness of customs inspections, and strengthen law enforcement networks to stem such trafficking. The Parties also agreed to prohibit some of the most harmful fisheries subsidies, such as those that benefit vessels or operators involved in illegal, unreported, and unregulated (IUU) fishing. It also includes new protections for marine species, such as prohibitions on shark-finning and the killing of great whales for commercial purposes. There are also first-ever articles to improve air quality, prevent and reduce marine litter, support sustainable forest management, and ensure appropriate procedures for environmental impact assessments.

The IGPAC supports the increased focus on the Environment Chapter of the Agreement. As stated in its report:

> "The committee also appreciates the exclusion of state and local environmental laws that are not enforceable by action of the federal government from the enforcement provisions of the Trade Agreement between the United States and Mexico environment chapter."

> IGPAC endorses the decision to subject the Environment Chapter to the same binding dispute settlement provisions that are applied to the rest of the Agreement.

I. Good Regulatory Practices

The Agreement does not prevent the United States or state and local governments from enacting, modifying, or fully enforcing domestic laws protecting consumers, health, safety, or the environment. The IGPAC supports this approach as well as the non-application of dispute settlement to this chapter.

J. Dispute Settlement

The IGPAC supports the binding dispute settlement procedures in the Agreement.

K. Currency Manipulation

The IGPAC report notes the increasing number of economists and trade policy experts who have identified currency manipulation as leading to larger trade deficits and jobs losses in the United States than the country otherwise would have experienced absent such manipulation, and notes the current international economic system has been ineffective in addressing currency manipulation. The IGPAC assesses that the USMCA's Macroeconomic Policies and Exchange Rate Matters Chapter is a step in the right direction to addressing this situation.

III. CONCLUSION

The United States negotiated the USMCA based on an extensive consultative process with state and local government leaders, including through the formal advice issued by the IGPAC. These consultation and advice are reflected in the outcomes and the USMCA's high standards, and have helped ensure that the Agreement is a comprehensive overhaul of the NAFTA that will increase and facilitate trade in the region, the world's economic powerhouse. In fact, in 2018, U.S. goods and services trade with Canada and Mexico totaled $1.4 trillion, with $663 billion in exports. The USMCA will further grow this trade, enhancing access to both markets for U.S. companies across all U.S. states and localities and supporting jobs across the country.

United States-Mexico-Canada Agreement (USMCA)

LABOR RIGHTS REPORT

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EXECUTIVE SUMMARY

This report examines the labor laws and practices of Mexico and Canada, which are signatories to the United States-Mexico-Canada Agreement (USMCA). It focuses on whether those laws and practices, pursuant to the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA) and Chapter 23 (the Labor Chapter) of the USMCA, are consistent with internationally recognized labor rights. Section 105 of TPA requires that the President provide a "meaningful labor rights report" concerning each country with which a free trade agreement (FTA) is being negotiated. This report fulfills that requirement.

U.S. trade policy tools to effect change on labor rights have evolved over time. More than 25 years ago, when the United States entered into the North American Free Trade Agreement (NAFTA) with Mexico and Canada, labor provisions were not included in the core of the agreement. Rather they were incorporated into a side agreement called the North American Agreement on Labor Cooperation (NAALC), under which a single provision – a requirement to enforce labor laws related to child labor, occupational safety and health, and minimum wage – was enforceable, and a sanction for a violation was only a one-time monetary assessment. NAFTA's State-to-State dispute settlement provisions did not apply to the side agreement. It was not until 2007 with the Free Trade Agreements (FTAs) with Peru, Colombia, Panama, and South Korea that the United States and its trading partners committed to adopt and maintain in their statutes and regulations, and practices thereunder, the fundamental labor rights as stated in the International Labor Organization's (ILO) *Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998)*, and to subject those commitments to dispute settlement and possible trade sanctions.

The USMCA updates the NAFTA with modern provisions representing a 21st century, high-standard agreement. The USMCA includes a Labor Chapter that builds on commitments made in previous agreements, including those with Peru, Colombia, Panama, and South Korea, and goes well beyond prior FTAs. It brings labor obligations into the core of the agreement, makes them fully enforceable, and represents the strongest provisions of any United States trade agreement.

In the USMCA, the Parties commit to adopt and maintain in laws and regulations, and practices thereunder, the fundamental labor rights as stated in the ILO Declaration. The USMCA Parties also commit to effectively enforce their labor laws and not to waive or otherwise derogate, or offer to do so, from those laws in a manner that would be inconsistent with the fundamental labor rights. The Parties commit to provide access to impartial and independent tribunals for labor law enforcement; to ensure that the enforcement proceedings are fair, equitable, and transparent; and to promote public awareness of their labor laws. In addition, the USMCA Parties commit to adopt and maintain laws and practices governing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. Each Party commits not to waive or otherwise derogate, or offer to do so, from its labor laws so as to weaken or reduce adherence to labor rights in export processing zones.

The Labor Chapter includes an Annex on Worker Representation in Collective Bargaining in Mexico, under which Mexico commits to take specific legislative action to provide for the effective recognition of the right to collective bargaining. The Government of Mexico approved

a labor law reform package consistent with its commitments in this Annex on May 1, 2019, and in November 2019 allocated approximately $70 million in the 2020 budget to begin a four-year implementation process of the reforms. The United States and Mexico also have negotiated a separate Rapid Response Mechanism that will provide for monitoring and enforcement of labor rights at specific facilities. The mechanism provides for a determination by a panel of labor experts of Mexico's compliance with USMCA obligations on freedom of association and collective bargaining, and the possibility of enforcement actions by the U.S. Government such as suspension of USMCA tariff benefits and other penalties or remedies.

The Labor Chapter also includes new provisions requiring the Parties 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. To support North American jobs, the USMCA includes new product specific rules of origin for automobiles and automotive parts intended to level the playing field for workers across North America by, for example, requiring that 40-45 percent of a vehicle's content be made by workers in facilities earning an average of at least $16 USD per hour in order to qualify for duty free treatment. The USMCA sets a high-water mark for labor protections in a trade agreement and provides the opportunity to secure reform of trade partners' laws and practices consistent with international standards, to enhance enforcement of their labor laws, and to modernize institutions responsible for administering labor protections.

This report is comprised of individual country reports on Canada and Mexico, each documenting the labor laws and practices of the country being examined. Each country report consists of three sections and includes an Executive Summary. The "Overview of Legal Framework" section provides a general overview of the country's labor laws that are relevant to the USMCA Labor Chapter, and their administration. The "Key Issues of Note" section identifies areas of concern with labor laws and practices relevant to the internationally recognized labor rights. The "Other Issues of Note" section describes issues that do not rise to the level of key issues, but that also should be monitored within the context of the country's commitments on labor. Each country report notes changes made by the country during recent years, including commitments made in the USMCA to address issues identified during the course of negotiations.

This report notes that, generally, Mexico and Canada either currently have labor laws and practices concerning the internationally recognized labor rights that are largely consistent with relevant international standards, or have committed to address issues concerning the consistency of their laws and practices with international standards. In addition to fully enforceable labor obligations and full access to the USMCA's dispute settlement procedures, as well as the Rapid Response Mechanism between the United States and Mexico described above, the Agreement provides mechanisms for regular monitoring and dialogue on labor rights issues, including a senior-level Labor Council, national contact points, a public submission process, a cooperation mechanism, and a cooperative labor dialogue mechanism.

This report does not identify any key issues of note for Canada. With regard to Mexico, this report notes issues with respect to the implementation and application of the legal framework in practice, in particular with regard to independent unions and collective bargaining, but recognizes that recently enacted Constitutional and labor law reform would fundamentally transform Mexico's system of labor justice administration and address these issues.

INTRODUCTION

This report on labor rights in Canada and Mexico is prepared pursuant to Section 105 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Pub. L. 114-26) (TPA). Section 105(d)(3) provides:

> The President shall submit to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on a timeframe determined in accordance with section 104(c)(3)(B)(v)- (A) a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating ....

The President, by Executive Order 13701 (80 Fed. Reg. 43901 (July 17, 2015)), assigned the above responsibilities to the Secretary of Labor and provided that they be carried out in consultation with the U.S. Trade Representative (USTR) and the Secretary of State.

Pursuant to this mandate, the report examines "labor laws" and practices of each country that is a signatory to the USMCA. The TPA defines "labor laws" as

> the statutes and regulations, or provisions thereof, of a party to the negotiations that are directly related to core labor standards as well as other labor protections for children and minors and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, and for the United States, includes Federal statutes and regulations addressing those standards, protections, or conditions, but does not include State or local labor laws.

TPA, Section 111(18). "Core labor standards" is defined in the TPA as:

> (A) freedom of association;
> (B) the effective recognition of the right to collective bargaining;
> (C) the elimination of all forms of forced or compulsory labor;
> (D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and
> (E) the elimination of discrimination in respect of employment and occupation.

TPA, Section 111(7). This is consistent with the USMCA Labor Chapter's definition of "labor laws". See USMCA, Section 23.1.[1]

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[1] "Labor laws" is defined as "statutes and regulations, or provisions of statutes and regulations, of a Party that are directly related to the following internationally recognized labor rights:

> a. freedom of association and the effective recognition of the right to collective bargaining;
> b. the elimination of all forms of forced or compulsory labor;

The report relies on research, reports and materials prepared by U.S. Government agencies, including U.S. Embassies in the Canada and Mexico, the Canadian and Mexican governments, international organizations such as the International Labor Organization (ILO), and nongovernmental organizations.

This report provides a general overview of the legal framework governing labor laws and practices for Canada and Mexico. It draws attention to important developments in recent years as they relate to the labor laws as defined in TPA and USMCA. It identifies key issues of note regarding labor laws and practices and other issues of note that should be monitored within the context of the USMCA.

c. the effective abolition of child labor, a prohibition on the worst forms of child labor, and other labor protections for children and minors;
d. the elimination of discrimination in respect of employment and occupation; and
e. acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health."

CANADA

EXECUTIVE SUMMARY

Canada's current labor laws and practices related to the internationally recognized labor rights are largely consistent with relevant international standards. Canada has a strong legal framework and system of industrial relations with active unions and private sector collective bargaining, and protections against workplace discrimination and forced and child labor. There are no key issues of concern with regard to the consistency of Canada's laws and practices with internationally recognized labor rights noted in this report. However, this report notes other issues related to the minimum age for employment, child labor in hazardous work, and forced labor.

1. Overview of Legal Framework

Labor rights in Canada are set forth at the federal and provincial levels. The Charter of Rights and Freedoms (the bill of rights in the Constitution) generally does not address labor issues directly, but does recognize the right of freedom of association and the Canadian Supreme Court has consistently found the freedom of association provisions applicable to organized labor and its activities.[2] Both the Federal and Provincial Governments enact laws that govern the workplace, working conditions, labor relations, and other labor issues. Federal labor law governs in sectors regulated by the Federal Government, including industries that are international or extra-provincial, transport and its infrastructure across international or provincial boundaries, marine, port and ferry services, air transport, pipelines, fisheries, crown corporations, banks, telecommunications (including broadcasting), and other activities. In all, federal labor law covers roughly 10 percent of the workforce, with other workers covered by provincial laws and regulations.[3]

Provinces enact and enforce their own laws and regulations concerning labor in the sectors not governed by federal law. The application of internationally recognized labor rights in some occupations varies in certain respects among the provinces.

In general, Canada's legal framework protects freedom of association and the right to bargain collectively. However, several provinces have laws restricting freedom of association in certain areas of work. For example, in Ontario, several categories of professionals, including architects, land surveyors, lawyers, dentists, and other medical professionals are exempted from collective

[2] Judgments of the Supreme Court of Canada, Health Services and Support – *Facilities Subsector Bargaining Assn. v. British Columbia*, [2007] 2 S.C.R. 391, 2007 SCC 27, June 6, 2007; available from http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2366/index.do.

[3] U.S. Department of State, "Canada," in *Country Reports on Human Rights Practices- 2017*, Washington, D.C., April 20, 2018; available from http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dlid=277315. .

agreement protections.[4] In Alberta, Ontario and New Brunswick, agricultural and horticultural workers are excluded from general labor legislation, and, thus, do not have the right to form unions for the purposes of collective bargaining.[5]

The right to strike generally is provided under both federal and provincial laws, although the Federal Government can determine which of its services, facilities or activities are considered "essential services," effectively limiting some workers' right to strike.[6] In November 2018, the Federal Public Sector Labour Relations Act (FPSLRA) was amended to eliminate restrictions on collective bargaining that granted the employer the right to designate the percentage of essential employees in a bargaining unit, and to refer disputes to mandatory arbitration in cases where 80 percent or more of the positions in a bargaining unit are designated essential by the employer.[7] The federal sector labor relations law prohibits strikes while a collective agreement is in force and some provinces extend the prohibition to all employees covered by a collective agreement.[8]

At the federal level, Canada's Employment Equity Act requires equal employment opportunities and equal pay for equal work for four specific groups: women, aboriginal people, people with disabilities, and members of visible minorities in federally-regulated industries.[9] Several provinces, including Manitoba, New Brunswick, Nova Scotia, and Prince Edward Island, require pay equity in the public sector, while Ontario and Quebec have pay equity laws that cover both public and private employees.[10]

The Federal Government has established laws and regulations related to child labor, including its worst forms. Canada's Constitution authorizes the Federal Government and the provinces to establish laws prohibiting child labor.[11] Federal law does not supersede provincial law except concerning child pornography.[12] Canada's federal and provincial jurisdictions each have a Ministry of Labor, which enforces labor laws, including laws related to child labor.[13] The Federal Government has also established laws and regulations related to forced labor.

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[4] Province of Ontario, *Labour Relations Act*, (1995), Chapter c.1, Schedule A., Sections. 1, 1(3), and 5; available from https://www.ontario.ca/laws/statute/95l01.

[5] ITUC, Survey of Violations of Trade Union Rights; available from https://survey.ituc-csi.org/Canada.html?lang=en#tabs-2.

[6] Federal Public Sector Labour Relations Act (S.C. 2003, c. 22, s. 2), Division 8; available from https://laws-lois.justice.gc.ca/eng/acts/P-33.3/. See also U.S. Department of State, "Country Reports - 2017: Canada."

[7] Federal Public Sector Labour Relations Act (S.C. 2003, c. 22, s. 2), Division 8.

[8] Federal Public Sector Labour Relations Act (S.C. 2003, c. 22, s. 2), Division 14, Section 194(1), See also Province of Quebec, *Labour Code*, Article 107; available from http://legisquebec.gouv.qc.ca/en/pdf/cs/C-27.pdf.

[9] Canadian Human Rights Commission, "Equal Employment Opportunities"; available from http://www.chrc-ccdp.gc.ca/eng/content/equal-employment-opportunities.

[10] U.S. Department of State, "Country Reports - 2017: Canada."

[11] U.S. Library of Congress, *Children's Rights: Canada* (2007); available from http://www.loc.gov/law/help/child-rights/canada.php.

[12] Ibid.

[13] Government of Canada. *Labor Standards in Canada*; available from http://www.cic.gc.ca/english/work/labour-standards.asp; see e.g., Province of Ontario, *Employment Standards Act,* (2000); available from http://www.canlii.org/en/on/laws/stat/so-2000-c-41/latest/so-2000-c-41.html.

All provinces maintain and enforce minimum wage laws. Some provinces exempt certain types of work, such as hospitality or agriculture, and certain types of workers, such as those under 18 years old who work on a part-time basis during school.[14] For employees under federal jurisdiction, the minimum wage is the rate for the province where the worker is usually employed.[15] Canada's Labor Code mandates an eight-hour day and 40-hour week for employees covered by the code.[16] All provinces and territories have laws limiting the normal workweek to 40 to 48 hours. Federal law requires that all employees receive at least 10 days of annual leave after one year of employment.[17] No laws regulate overtime hours specifically, but various industries have standards for rest set by the Labor Code, which have the effect of governing work hours.[18]

Federal law establishes health and safety standards for the industries it covers, and the provinces have similar laws for workplaces not covered by federal law.[19] All jurisdictions prohibit dangerous work and enforce the right of workers to refuse or desist from hazardous work.[20]

2. Key Issues of Note

None identified.

3. Other Issues of Note

3.1 Child Labor

Under the USMCA, Canada commits to adopt and maintain in laws and practices the effective abolition of child labor and a prohibition on the worst forms of child labor.[21] Children must be protected from working before a minimal legal age,[22] and they should be protected from hazardous work and other worst forms of child labor.[23]

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[14] U.S. Department of State, "Country Reports - 2017: Canada."
[15] Government of Canada, *Current and Forthcoming Minimum Hourly Wage Rates for Experienced Adult Workers in Canada* [online]; available from http://srv116.services.gc.ca/dimt-wid/sm-mw/rpt1.aspx.
[16] Government of Canada, *Canada Labour Code*; available from http://laws-lois.justice.gc.ca/eng/acts/l-2/FullText.html.
[17] U.S. Department of State, "Country Report - 2017: Canada."
[18] Ibid.
[19] Ibid
[20] Ibid.
[21] Agreement Between the United States of America, the United Mexican States, and Canada (USMCA), Article 23.3.1.(c), November 30, 2018.
[22] See ILO, *General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization*, para. 327.
[23] See Ibid, paras. 540-43.

a. Minimum age for employment

At the federal level, there is no established minimum age for admission to employment in federally-regulated undertakings such as shipping, railway, aviation, broadcasting, and banking.[24] Each province has the authority to set the minimum age for admission to employment, which varies between 12 and 16 years.[25] The minimum age for employment falls below 15 years in nine provinces.

b. Minimum age for child labor in hazardous work

At the federal level, the Canadian Labor Standards Regulations set the minimum age for admission to hazardous work in federally-regulated undertakings at 17 years.[26] The minimum age for hazardous work at the provincial level varies from 14 to 17 years.[27] In Ontario, minors may not be employed in logging operations until they are 15 years old and may not be employed in factory work until they are 16 years old. Employment in mines and on construction sites are also generally limited to persons age 16 years and older, but employment in underground mines is generally limited to those at least 18 years old.[28]

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[24] See U.S. Library of Congress, *Children's Rights: Canada*; Canadian Labor Congress, *Minimum Age Laws in Canada* [previously online] November 18, 2015 [cited April 6, 2015]; previously available from http://www.canadianlabour.ca/action-center/minimum-age-campaign/minimum-age-laws-canada [hard copy on file]. See also U.S. Library of Congress, *Children's Rights: Canada,* [online] July 2, 2015 [November 8, 2016]; available from http://www.loc.gov/law/help/child-rights/canada.php.

[25] See Canadian Labor Congress, *Minimum Age Laws in Canada*. The minimum ages for employment in the Provinces and Territories are as follows: Alberta (children from 12 to 14 years may be employed outside of school hours); British Columbia (children from 12 to 14 years are allowed to work; children under 12 years may work with the permission of the Director of Employment Standards); Manitoba (children under 16 years may not be employed without a permit from the Director of Employment Standards); New Brunswick (children under 14 years cannot be employed without a permit from the Director of Employment Standards); Newfoundland and Labrador (children under 16 years may not be employed without the written consent of the parent/guardian); Northwest Territories and Nunavut (children under 17 years may be employed with some exceptions); Nova Scotia (children under 14 years may work if it does not impede school work or healthy development); Ontario (children under 14 years may be employed except in industrial undertakings); Prince Edward Island (children under 16 years may be employed but cannot work between 11 p.m. and 7 a.m. Children may also be employed in plants processing agricultural or forestry products where there are no toxic substances or heavy machinery); Quebec (children under 14 years may work with parental consent); Saskatchewan (the minimum age for work is set at 14 years); and Yukon (children under 16 years may not work unless permitted by the Director or Superintendent of the school).

[25] Government of Canada. *Labor Standards in Canada*. See also U.S. Library of Congress, *Children's Rights: Canada.*

[26] Government of Canada, *Canada Labour Standards Regulations, C.R.C.,* Chapter C. 986, Section 10; available from http://laws-lois.justice.gc.ca/eng/regulations/C.R.C., c. 986/page-1.html. The Canadian Labor Standards Regulations state that children under 17 years are not permitted to work in federally-regulated undertakings during school hours, between the hours of 11 p.m. and 6 a.m., or when performing work that is likely to be injurious to their health or safety, including work underground in mines, on vessels, or in the vicinity of explosives. See also Canadian Labor Congress, *Minimum Age Laws in Canada*. See also U.S. Department of State, "Country Reports – 2017: Canada."

[27] U.S. Library of Congress, *Children's Rights: Canada.*

[28] See U.S. Library of Congress, *Children's Rights: Canada*. See also Mines and Mining Plants Regulation, R.R.O No 854, Section 8 (1990); available from https://www.ontario.ca/laws/regulation/900854.

3.2 Forced Labor

Under the USMCA, Canada commits to adopt and maintain in laws and practices the elimination of all forms of forced or compulsory labor.[29] The Charter of Rights and Freedoms prohibits forced labor and establishes "the right to life, liberty and security of person and the right to not be deprived thereof except in accordance with the principles of fundamental justice."[30] Canada's Criminal Code prohibits human trafficking and prescribes a mandatory minimum sentence of five years for child trafficking.[31] Under the Criminal Code "exploitation" is a crime and is defined as where "a person exploits another person if they cause them to provide, or offer to provide, labor or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labor or service."[32] Factors that may be considered in determining whether an accused exploits another person, include whether the accused: (a) used or threatened to use force or another form of coercion; (b) used deception; or (c) abused a position of trust, power, or authority.[33]

Canada has a strong legal framework to penalize perpetrators of all forms of human trafficking.[34] In 2018, federal, provincial, and municipal law enforcement officials prosecuted and concluded 196 trafficking cases against 196 individuals and convicted 36 traffickers.[35] Following the expiration, in 2016, of its four year National Action Plan to Combat Human Trafficking, the Government published an evaluation of the Plan in 2017 and conducted nationwide consultations in 2018 to inform its future efforts to combat trafficking in persons.[36] In May 2019, the Government launched the Canadian Human Trafficking Hotline to connect victims and survivors of human trafficking to trauma-informed resources and services.[37] In September 2019, the

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[29] Agreement Between the United States of America, the United Mexican States, and Canada (USMCA), Chapter 23, November 30, 2018.
[30] Government of Canada, *A Consolidation of the Constitution Acts 1867 to 1982, Canadian Charter of Rights and Freedoms*, Article 7, [online]; available from http://laws-lois.justice.gc.ca/PDF/CONST_E.pdf.
[31] U.S. Department of State, "Canada," in *Trafficking in Persons Report - 2016*, Washington, D.C., June 30, 2016; available from http://www.state.gov/documents/organization/258876.pdf. See also Government of Canada, *Criminal Code*, (1985), Article 279; available from http://laws-lois.justice.gc.ca/eng/acts/C-46.
[32] *Criminal Code*, (1985), Article 279.04(1).
[33] Ibid. at Article 279.04(2).
[34] U.S. Department of State, "Trafficking in Persons Report- 2016: Canada." See also, UN Committee on the Rights of the Child, *Optional Protocol on the sale of children, child prostitution and child pornography, Concluding observations on the initial periodic report of Canada, adopted by the Committee at its sixty-first session* (17 September-5 October 2012); available from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPSC%2fCAN%2fCO%2f1&Lang=en.
[35] U.S. Department of State, "Trafficking in Persons Report- 2019: Canada".
[36] Ibid.
[37] Government of Canada, Public Safety, Human Trafficking, *available at* https://www.publicsafety.gc.ca/cnt/cntrng-crm/hmn-trffckng/index-en.aspx.

Government announced its new National Strategy to Combat Human Trafficking.[38] Despite these efforts, men, women, and children are reportedly trafficked through and to Canada for forced labor.[39]

[38] Ibid.
[39] Ibid.

MEXICO

EXECUTIVE SUMMARY

The Government of Mexico (GOM) has taken important steps since 2017 to improve protection of worker rights, as part of addressing long-standing concerns regarding the wide-spread registration of collective bargaining agreements negotiated by non-representative unions without the involvement or approval of workers. Under the USMCA Labor Chapter Annex ("Worker Representation in Collective Bargaining in Mexico"), Mexico commits to adopt specific legislative actions to provide for the effective recognition of the right to collective bargaining, strengthen freedom of association protections, and ensure union democracy. Consistent with these commitments, Mexico enacted historic labor law reform in May 2019. In 2018, Mexico also ratified the ILO's *Convention 98 on the Right to Organize and Collective Bargaining.*

The legislation enacted in 2019 will implement the landmark Constitutional reform adopted in 2017 to transform the labor justice system. The reform will transfer the authority to adjudicate labor disputes from tripartite Conciliation and Administrative Boards (CABs) to new labor courts in Mexico's judicial branch. The creation of labor courts addresses a long-standing concern about the composition and operation of the CABs. The reform will also transfer registration of unions and collective bargaining agreements (CBAs) to a new, independent, impartial, and specialized Federal Conciliation and Labor Registration Center. The reform establishes procedures to prevent the registration of CBAs entered into by non-representative unions that prevent genuine collective bargaining, which are known as "protection contracts." Accordingly, the reform will ensure that workers have access to a hard copy of, are able to review, and ultimately vote to approve existing, new, and future revisions to CBAs before they can be registered by the Government and have legal effect.

Continued engagement with the GOM as part of the implementation of the USMCA and its labor obligations will be a critical part of improving protections for Mexican workers and leveling the playing field for U.S. workers and businesses. Key issues of note include: 1) verifiable demonstration of worker support for CBAs; 2) transparent procedures and expedited timelines for union representation elections; and 3) independence and impartiality in the administration of labor justice. This report also describes the enforcement of child labor and forced labor laws given the extent and nature of these problems. Finally, the assurance of adequate funding for the implementation of the labor justice reform is a central aspect of continued engagement with Mexico under the USMCA.

1. Overview of Legal Framework

Internationally recognized labor rights in Mexico are set forth in the country's Constitution, the Federal Labor Law (FLL), and regulations issued by the Executive Branch.

Mexico's Constitution guarantees freedom of association, including a prohibition on dismissals based on union affiliation or participation in strikes, and provides for collective bargaining and

the right to strike.[40] The Constitution prohibits compulsory labor; establishes acceptable conditions of work with respect to a minimum wage, an eight-hour workday and a rest day, and safety and health protections; and prohibits employment discrimination.[41] These rights and protections are also codified in the FLL, which applies to all 32 Mexican Federal Entities (31 states as well as Mexico City, which became a state as part of a reform to Mexico's Constitution in 2016).[42] In the case of occupational safety and health, federal regulations set out workplace requirements.[43]

The GOM has established laws and regulations related to child labor, including its worst forms.[44] The Constitution and FLL set the minimum age for employment at 15 years, subject to certain restrictions.[45] The FLL establishes 18 years as the minimum age for hazardous work and provides a list of prohibited hazardous occupations or activities for children.[46] In addition, children under 18 years old must have a medical certificate to work.[47] The General Law to Prevent, Sanction, and Eradicate Human Trafficking and for the Protection and Assistance of Victims establishes penalties for forced labor perpetrators and assistance for trafficking victims.[48]

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[40] *Constitución Política de los Estados Unidos Mexicanos,* Articles 1, 9 and 123(A).XVI, XVII, XVIII, XIX, and XXII; available from http://www.diputados.gob.mx/LeyesBiblio/pdf/1_120419.pdf. The introductory clause of Article 123 of the Constitution, which promotes "the social organization of work," has been interpreted to protect the right to bargain collectively; See Commission for Labor Cooperation, *Labor Relations Law in North America: Comparative Guides to Labor and Employment Law in North America.*", Washington, D.C.: Commission for Labor Cooperation, 2000, 101, 119; available from http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1026&context=reports.

[41] *Constitución Política de los Estados Unidos Mexicanos*, Articles 1, 2.VIII, 5, and 123.

[42] See, e.g., Government of Mexico, *Ley Federal del Trabajo*, (1970), [hereinafter *FLL*], Articles 2, 3, 56, 61, 63, 69, 90, 357, 387, 450, 475-Bis, and 509; available from http://www.diputados.gob.mx/LeyesBiblio/pdf/125_220618.pdf.

[43] Government of Mexico, *Reglamento Federal de Seguridad y Salud en el Trabajo,* (2014); available from http://www.diputados.gob.mx/LeyesBiblio/regla/n152.pdf.

[44] Government of Mexico, *Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos,* (2018); available from https://www.gob.mx/cms/uploads/attachment/file/310904/LEY_GPSEDM_TRATA_19-01-2018.pdf. Articles 10.VII, 16, and 25 protect children 18 years and younger against human trafficking and commercial sexual exploitation. See also Government of Mexico, *Ley General de los Derechos de Niñas, Niños y Adolescentes*, (2018); available from http://www.diputados.gob.mx/LeyesBiblio/pdf/LGDNNA_200618.pdf. Article 47 includes prohibitions on using children in illicit activities, including drug trafficking.

[45] *Constitución Política de los Estados Unidos Mexicanos*, Article 123(A).III; see also Government of Mexico, *Ley General de Educación,* (1993), Article 4; available from http://www.diputados.gob.mx/LeyesBiblio/pdf/137_190118.pdf; Government of Mexico, *Decreto por el que se reforman y derogan diversas disposiciones de la Ley Federal del Trabajo, en materia de trabajo de menores,* (2015), Article 22; available from http://www.dof.gob.mx/nota_detalle.php?codigo=5396526&fecha=12/06/2015.

[46] Government of Mexico, *Decreto por el que se reforman y derogan diversas disposiciones de la Ley Federal del Trabajo, en materia de trabajo de menores,* (2015), Articles 175 and 176; available from http://www.dof.gob.mx/nota_detalle.php?codigo=5396526&fecha=12/06/2015.

[47] Ibid., Article 174.

[48] Government of Mexico, *Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos,* (2018), Article 22; available from https://www.gob.mx/cms/uploads/attachment/file/310904/LEY_GPSEDM_TRATA_19-01-2018.pdf

The Constitution provides exclusive authority to Congress to enact labor laws and provides exclusive federal enforcement jurisdiction for labor matters related to 22 industrial sectors and services, three types of enterprises, and matters affecting two or more states.[49] All other labor law enforcement is reserved for the states.[50] Although the new labor legislation will significantly change the labor justice landscape, until that law is fully implemented[51], responsibility for enforcement of the FLL at the federal level will remain divided primarily between the Secretariat of Labor and Social Welfare (STPS), which undertakes workplace inspections, and the tripartite federal CAB, which conciliates and adjudicates individual and collective labor disputes between employers and workers.[52] State departments of labor enforce labor laws at the state level, and local CABs will continue to carry out the same function as the federal CAB.[53]

The federal CAB is divided into 61 operative units called "special boards" throughout the country, with 16 "special boards" in the Federal District that have particular scopes of jurisdiction.[54] The local CABs are also subdivided into varying numbers of "special boards,"[55] which are organized by location and whose geographic jurisdiction is determined by state governors.[56] CAB decisions are final and may only be appealed on constitutional grounds through a separate judicial proceeding in federal courts referred to as the *amparo* process.[57] There are estimates of between 500,000 and 700,000 CBAs registered in all the CABs[58], of

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[49] *Constitución Política de los Estados Unidos Mexicanos*, Articles 73.X and 123.A.XXXI. The list of industries and services is codified in *FLL* Article 527.

[50] Ibid., Article 124; *FLL*, Article 529.

[51] Mexico's 2019 labor reform establishes deadlines for the creation of new Labor Courts (2022 for local courts and 2023 for federal courts) and the Federal Center for union and CBA registration (by 2021), *FLL*, Transition Articles 3, 5 and 6.

[52] *FLL*, Articles 523, 524, and 604.

[53] Ibid., Articles 523, 524, and 621.

[54] *FLL*, Article 606; National Institute for Transparency, Access to Information and Protection of Personal Information (INAI), *Transparency Portal*; *Federal Conciliation and Arbitration Board,* [online] September 30, 2016 [October 30, 2016]; available from http://www.portaltransparencia.gob.mx/pot/estructura/showOrganigrama.do?method=showOrganigrama&_idDependencia=14100.

[55] *FLL*, Articles 621 and 622; see, e.g., Secretariate of Labor, *Local Conciliation and Arbitration of the Toluca Valley*, [online] 2014 [November 7, 2016], (divided into five special boards); available from http://www.edomex.gob.mx/juntatoluca#; Secretariate of Labor, *Local Conciliation and Arbitration of Valle Cuautitlán Texcoco*, [online] 2015 [November 7, 2016] (divided into twelve special boards); available from http://juntatexcoco.edomex.gob.mx/jurisdiccion.

[56] *FLL*, Article 622.

[57] *Constitución Política de los Estados Unidos Mexicanos,* Article 107.V(d); Government of Mexico, *Ley de amparo, reglamentaria de los artículos 103 y 107 de la Constitución Política de los Estados Mexicanos,* (2013), Article 170.I; available from http://www.diputados.gob.mx/LeyesBiblio/pdf/LAmp_150618.pdf; *FLL*, Article 848; see also Commission for Labor Cooperation, *Labor Relations Law in North America: Comparative Guides to Labor and Employment Law in North America*, pp. 147, 153 and 154 for discussion on the *amparo* process.

[58] El Economista, "Inicia Ruta Para Poner al Día 500000 Contratos Colectivos;" available from https://www.eleconomista.com.mx/empresas/Inicia-ruta-para-poner-al-dia-500000-contratos-colectivos-20190707-0115.html; Mexcentrix, "Mexican envoy: U.S. labor should embrace USMCA;" available from https://www.mexcentrix.com/index.php/aboutus/clients?view=article&id=347:mexican-envoy-u-s-labor-should-embrace-usmca&catid=13:news.

which approximately 125,000 are in active workplaces[59], and over 500,000 labor dispute cases pending adjudication by the CABs.[60]

2. Key Issues of Note

In 2017, the GOM passed a landmark Constitutional reform that fundamentally transformed the labor justice system in Mexico, transferring responsibility for registration of unions and CBAs to a new, independent, specialized federal entity and transferring the resolution of labor disputes, including the *recuento* (recount) voting process used to challenge union representation rights, to new labor courts.[61] For the reform to be fully implemented, the GOM had to enact legislative changes to the FLL. On November 30, 2018, the United States, Mexico, and Canada signed the USMCA, which includes an Annex to the Labor Chapter that commits the GOM to adopt specific legislative actions to provide for the effective recognition of the right to collective bargaining.[62] The legislation enacted in 2019 addresses the commitments in the Annex, and implements the 2017 Constitutional reform, and Mexico has appropriated over $70 million as part of the 2020 budget to begin a four-year implementation process of the reforms.[63]

In 2016, the GOM developed a new inspection protocol to improve compliance with legal requirements that employers post and disseminate CBAs to employees at their worksites.[64] In 2015, the GOM amended the FLL to increase the minimum age for employment from 14 to 15 years, establish 18 as the minimum age for hazardous work and ratified ILO Convention 138 on the Minimum Age.[65]

While acknowledging the progress the GOM has made on labor matters, this section provides a synopsis of some key labor laws related to internationally recognized labor rights found in the USMCA and issues of note that remain.

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[59] Government of Mexico, statement of the Vice Minister of Labor, Alfredo Dominguez Marrufo, September 19, 2019; available at https://www.gob.mx/stps/prensa/reforma-laboral-atacara-contratos-de-proteccion-en-el-pais-alfredo-dominguez-marrufo?idiom=es.

[60] U.S. Embassy – Mexico City, *reporting, March 7, 2019.*

[61] Government of Mexico, *Decreto por el que se declaran reformadas y adicionadas diversas disposiciones de los artículos 107 y 123 de la Constitución Política de los Estados Unidos Mexicanos, en materia de Justicia Laboral.*, (2017); available from http://www.dof.gob.mx/nota_detalle.php?codigo=5472965&fecha=24/02/2017.

[62] Agreement Between the United States of America, the United Mexican States, and Canada Text; available from https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between.

[63] In November 2019, Mexico's Congress enacted a national budget for 2020 that includes approximately $70 million for the first year of implementation of the reform of labor justice administration. The reform process will occur over four years, and new institutions such as labor courts and administrative bodies will begin operations in stages during this timeframe.

[64] Secretariat of Labor and Social Welfare, *Protocolo del Operativo Sobre Libre Contratación Colectiva*;" available from http://www.gob.mx/cms/uploads/attachment/file/103560/Protocolo_Contratacio_n_Colectiva.pdf.

[65] Government of Mexico, *Decreto por el que se reforman y derogan diversas disposiciones de la Ley Federal del Trabajo, en materia de trabajo de menores,* (2015); available from http://www.dof.gob.mx/nota_detalle.php?codigo=5396526&fecha=12/06/2015; and ILO, *México ratifica el Convenio 138 de la OIT sobre la edad mínima de admisión al empleo*, 2015; available from https://www.ilo.org/mexico/noticias/WCMS_359411/lang--es/index.htm.

2.1 Freedom of Association and Collective Bargaining

Under the USMCA, Mexico commits to "adopt and maintain in its statutes and regulations, and practices thereunder," the labor rights of freedom of association and the effective recognition of the right to collective bargaining.[66] The USMCA Labor Chapter Annex also commits Mexico to adopt and maintain measures in its labor laws that provide for the right of workers to freely engage in concerted activities, prohibit employer domination or interference in union activities, and provide for an effective system to verify that elections of union leaders are carried out through secret ballot votes.[67] Mexico also commits to establish and maintain impartial and independent labor courts and to resolve labor disputes, including union representation challenges, through an expedited process (*recuento*) and to establish a new, impartial, and independent entity that is charged with the registration of unions and CBAs.[68] To further meaningful collective bargaining, the Annex calls for verification by the new independent entity that the worksite at issue is operational, a copy of the CBA was made readily accessible to workers prior to a vote on the CBA, and the majority of workers covered by the CBA voted to approve the CBA through a secret vote before the agreement is registered.[69] The Labor Chapter Annex also requires that the labor reform include the establishment of a centralized website that provides public access to all CBAs in force; a requirement for majority support for revisions of all existing CBAs to be verified by the independent entity; and a secret ballot vote within the first four years on all existing CBAs, verifiable by the new independent entity.[70]

a. Verifiable demonstration of worker support for CBAs

Under Mexican law, when no CBA is present at a work site, an employer is required to negotiate a CBA upon the request of a union representative claiming to represent the workers. If the employer refuses to sign a CBA, the workers may exercise their right to strike.[71] Prior to the 2019 labor reform, a trade union was not required to demonstrate that it represents workers that would be covered by a CBA before engaging in bargaining unless a CBA is already in force at the work site, in which case the union could then challenge the existing union's control of that agreement.[72] The FLL did not require workers covered by a CBA to ratify or otherwise demonstrate support for the agreement. Once an agreement is concluded, it is deposited with the appropriate CAB and has legal effect, granting exclusive bargaining rights to the union that holds title to the agreement.[73] CBAs extend to all workers in the workplace, with few exceptions, and may be for either an indefinite or a specified period.[74] If neither Party requests a revision of the CBA, the agreement will be extended for a period equal to its current period of validity or indefinitely.[75]

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[66] USMCA, Article 23.3.1(a).
[67] Ibid., Annex 23-A, section 2(a) and 2(c).
[68] Ibid., Article 23.10.6 and Annex 23-A, section 2(b).
[69] Annex 23-A, section 2(e).
[70] Ibid., sections 2(f)-(g).
[71] *FLL*, Article 387.
[72] Ibid., Articles 388 and 389.
[73] Ibid., Article 390.
[74] Ibid., Articles 396 and 397.
[75] Ibid., Article 400.

The above legal framework created the possibility of negotiation of initial CBAs without the support or knowledge of the covered workers. In practice, such agreements, which are known as "protection contracts," can be concluded before enterprises begin operations or hire any workers or only shortly thereafter, by unrepresentative unions supported by the employers, and in many cases provide only the minimum benefits required by the FLL.[76] Once an agreement is registered at a worksite, other unions cannot bargain collectively unless they demonstrate that they represent the majority of workers through a CAB-run *recuento* process.[77] Since the *recuento* process can be lengthy and delayed by procedural challenges, initial contracts can result in "protecting" employers from bargaining with representative unions.

The existence of protection contracts in Mexico has been documented by the Department of State, the ILO, academics, and civil society organizations.[78] Legitimate collective bargaining requires negotiation by representatives freely chosen by the workers and not representatives appointed or dominated by employers.[79]

In 2012, the GOM enacted the most significant reform of its FLL since 1974. The reform requires the CABs, and in some cases STPS, to make public CBAs and union registration materials, preferably by publishing them online, and to produce copies of the agreements upon request in accordance with the Federal Law on Transparency and Access to Information.[80] The reform also required employers to post and disseminate copies of CBAs at worksites covered by

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[76] See U.S. Department of State, "Mexico" in *Country Reports on Human Rights Practices* - 2017, Washington, D.C., April 2018; available from http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dlid=277345 ; See also ILO CFA, *Report 387 (October 2018)*, para. 29; available from https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3964298 and The Labor Advisory Committee on Trade Negotiations and Trade Policy, "*Report on the Impacts of the Renegotiated North American Free Trade Agreement*," September 27, 2018; available from https://ustr.gov/sites/default/files/files/agreements/FTA/AdvisoryCommitteeReports/Labor%20Advisory%20Committee%20on%20Trade%20Negotiations%20and%20Trade%20Policy%20%28LAC%29.pdf.

[77] *FLL*, Articles 388, 389, 895, and 931.

[78] See, e.g., U.S. Department of State, "Country Reports – 2017: Mexico;" ILO CEACR, *Observation, Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), Mexico (ratification: 1950)* [online], adopted 2017, published 107th ILC session (2018); available from https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3343978; The Labor Advisory Committee on Trade Negotiations and Trade Policy, "*Report on the Impacts of the Renegotiated North American Free Trade Agreement;* Nestor De Buen Lozano, "Los Contratos Colectivos de Trabajo de Protección," *Revista Latinoamericana de Derecho Social* 20 Enero-Junio (2015); available from http://biblio.juridicas.unam.mx/revista/pdf/DerechoSocial/20/cmt/cmt4.pdf; Maquila Solidarity Network, *Labor Justice Reform in Mexico: A Briefing Paper*, July 2017; available from http://www.maquilasolidarity.org/sites/maquilasolidarity.org/files/attachment/Labour_Justice_Reform_Mexico_MSN_2017.pdf.

[79] ILO, *Compilation of decisions of the Committee on Freedom of Association* (CFA Digest), para.1214; available from https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:70002:0::NO:70002:P70002_HIER_ELEMENT_ID,P70002_HIER_LEVEL:3947611,1.

[80] *FLL*, Articles 365 Bis and 391 Bis. STPS is responsible for publishing union registrations for unions under federal jurisdiction.

such agreements.[81] Although the legal reform was an important and necessary first step to increase transparency, there are reports that it has not been fully implemented and that in many cases, the CABs have not set up online databases to post contracts and have poorly functioning websites. In some cases, accessing CBAs and union registration materials through the applicable transparency laws is reportedly difficult and time-consuming.[82]

STPS developed a new inspection protocol, as part of its 2016 labor inspection strategy, to improve compliance with the requirement in Article 132.XVIII of the FLL that employers post and disseminate CBAs to employees at their worksites. The protocol establishes a detailed methodology and approach that inspectors must follow, during both regular and targeted inspections, to assess whether employers have complied with Article 132.XVIII and to seek remediation in case of violations. Under the protocol, STPS is to proactively target for inspection employers with registered CBAs, randomly selected from a list of employers with existing agreements to be provided by the CABs.[83] In its response to the ILO's Committee on the Application of Standards (CAS) regarding Convention 87 on Freedom of Association, the GOM indicated that, as of April 2018, STPS had conducted 197 labor inspections to implement the provisions of the protocol, benefiting 68,285 workers.[84] However, the impact and results of such efforts are unclear, and reports indicate that STPS does not regularly publish information on protocol implementation, as required by the protocol.[85]

The 2019 labor reform addresses the USMCA commitments in the Labor Chapter Annex and will help prevent new protection contracts and root out existing ones. The reform establishes a Federal Conciliation and Labor Registration Center (the Center) to register unions and CBAs and requires that, in order to request that the employer negotiate an initial CBA, a union must obtain a "Certificate of Representativeness" from the Center.[86] The union must request the Certificate in writing, and the request must include the name of the union, address where it can be notified, and name and address, or identification data, of the employer or worksite, as well as the business activity of the workplace.[87] The request must also be accompanied by a list showing the union

[81] Ibid., Article 132.XVIII.
[82] ILO Individual Case (CAS), *Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), Mexico (ratification: 1950)* [online], Discussion 2018, publication 107th ILC session (2018); available from https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3953281; ILO CEACR, *Observation, Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), Mexico (ratification: 1950)* [online], adopted 2017, published 107th ILC session (2018); ILO CEACR, *Observation, Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Mexico (ratification: 1950)* [online], adopted 2014, published 104th ILC session (2015); available from http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3190235.
[83] Secretariat of Labor and Social Welfare, *Protocolo del Operativo Sobre Libre Contratación Colectiva.*
[84] ILO, Individual Case (CAS) Discussion: 2018, Publication: 107th ILC session (2018), Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); available from https://www.ilo.org/dyn/normlex/es/f?p=1000:13100:0::NO::P13100_COMMENT_ID,P13100_LANG_CODE:3953281,en:NO.
[85] Maquila Solidarity Network, Labor Justice Reform in Mexico- Briefing Paper, July 2017.
[86] *FLL*, Articles 390 Bis, 523, and 590-A; available from http://dof.gob.mx/nota_detalle.php?codigo=5559130&fecha=01/05/2019. As of the date of this report, an official version of the FLL reflecting the new labor reform has not been published. Henceforth, references to labor reform provisions can be found in this link.
[87] Ibid., Article 390 Bis.

has the support of at least 30 percent of workers that would be covered by the CBA. The list must include the name, unique identity code, date of hire, and signature of covered workers that support the union.[88]

The Center will publish the Certificate request on its website and the employer will be required to post it inside the worksite in order to inform the workers and any other unions that want to request a Certificate. If only one union requests the Certificate, the Center will gather information from the relevant authorities to verify that the workers on the list represent at least 30 percent of the employed workers and issue the Certificate. If there is more than one union, the Center will issue the Certificate to the union that obtains majority support from voting workers at the enterprise through a personal, free, direct, and secret ballot vote administered by the Center. To hold the vote, the Center will first verify that each competing union can demonstrate that it has the support of at least 30 percent of the workers covered by the CBA, in which case it will gather the necessary information from the corresponding authorities to establish the voter list and administer the vote. To obtain a majority of votes, at least 30 percent of workers covered by the CBA must have voted.[89]

The 2019 labor reform requires that in order to register an initial CBA with the Center, the party registering the CBA must include the following: a) documentation demonstrating the legal personality of each contracting party, b) a copy of the CBA, c) the Certificate of Representativeness, and d) the scope of application of the CBA.[90] Upon receipt of this information, the Center will have 30 days to issue a registration determination.[91] Prior to registration of an initial CBA, or agreed upon revisions, the Center will verify that the CBA was approved by the majority of workers covered by the agreement through a personal, free, and secret vote.[92] At least ten days prior to the vote, the union must notify the Center of the vote, including the date, time, and place of the vote, and must provide a copy of the CBA subject to approval. The union must notify voters of the vote at least 10 days, and no more than 15 days, prior to the vote. The union must make available to the workers a complete copy of the CBA or the agreed upon revision that will be the subject of the vote.[93]

The union will publish the results of vote in a visible and easily accessible place at the worksite and the corresponding union premises within a period of two days after the vote. The union will give notice to the Center under oath of the results of the vote within three business days, so the Center can publish it on its website.[94] Voting records must be maintained for a period of five years for purposes of verification by the labor or registration authority. The Center may verify that the voting process was consistent with the FLL requirements. In case of inconsistency in the voting process, the Center will declare the results null and void and will order a new election.[95] If the CBA or agreed upon revision is approved by the majority of workers, it will be registered,

[88] Ibid.
[89] Ibid.
[90] Ibid., Article 390.
[91] Ibid.
[92] Ibid., Article 390 Ter.
[93] Ibid.
[94] Ibid.
[95] Ibid.

as long as the union has met all other FLL requirements for registration. Otherwise, the union may continue negotiations and carry out a new vote, or go on strike if a strike notice was filed.[96]

In addition to the aforementioned process for workers to approve CBA revisions, the amended FLL also specifies that, every two years, CBA revisions made upon request of either party will be subject to approval by workers covered by the CBA through the secret ballot process established in Article 390 Ter.[97] The 2019 reform also specifies that existing CBAs will be revised at least once within four years of the reform taking effect and that such revisions must be approved through a secret ballot process in accordance with Article 390 Ter.[98]

The reform also calls for election of union leaders to be carried out through a personal, free, direct, and secret vote, with established rules for carrying out the vote.[99] It also establishes that the Federal Center or STPS may verify that elections comply with the established requirements at the request of the union leaders or at least 30 percent of union members.[100] The Center may also verify compliance with the FLL on its own initiative if the election documentation submitted to the Center raises a reasonable doubt about the veracity of the information. In those cases, the Center may call for and run a new election.[101]

b. Transparent procedures and expedited timelines for union representation elections

Previously under Mexican law, workers seeking to challenge an existing union to obtain control and ultimately renegotiate a collective bargaining agreement that has been deposited with the CABs have had to initiate a CAB-run *recuento* process to demonstrate that they have majority support of workers covered by the existing agreement.[102] The filing of a request for a *recuento* launched a pre-election period during which workers often reported facing intimidation, threats and pressure from their employer, and, as a result, workers abandoned organizing efforts in many instances.[103] Additionally, as a result of protection contracts, employers and unions that control existing CBAs at a work site have been able to use delay tactics, including introducing third unions aligned with the existing union into the *recuento* process, changing the union's name and address, challenging the competing union's legal personality, and filing repeated, largely

[96] Ibid.
[97] Ibid., Article 400 Bis.
[98] Ibid., Transitional Articles, Article 11.
[99] Ibid., Articles 358 and 371.IX.
[100] Ibid., Article 371 Bis.
[101] Ibid.
[102] Ibid., Articles 388, 389, 893, 895.III, and 931.
[103] See U.S. Department of State, "Country Reports – 2017: Mexico."; ILO Individual Case (CAS), *Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), Mexico (ratification: 1950)* [online], Discussion 2015, publication 104th ILC session (2015); available from https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3241939; see also The Labor Advisory Committee on Trade Negotiations and Trade Policy, "*Report on the Impacts of the Renegotiated North American Free Trade Agreement*;" ILO CFA, *Interim Report 359 (March 2011)*, para. 739-740; available from http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2911806.

procedural, objections to the *recuento* process.[104] These tactics have caused delays at times lasting years and undermined workers' independent organizing efforts.

Under the 2017 Constitutional Reform, the *recuento* process is established as a judicial labor function that would be administered by new state or federal labor courts, as appropriate, presided over by specialized labor judges.[105] In the case of *recuento* elections, the USMCA Labor Chapter Annex calls for the legislation to provide that union representation challenges are carried out by the labor courts through a secret ballot vote, and are not subject to delays due to procedural challenges or objections, including by establishing clear time limits and procedures.[106] In addition, the USMCA Labor Chapter commits signatory parties to take measures to address violence or threats against workers exercising their labor rights.[107]

The 2019 labor law reform implementing the 2017 Constitutional reform establishes that union representation challenges be carried out by the labor courts through a secret ballot vote and establishes a timeline for carrying out *recuentos* and for filing and resolving objections.[108] The reform establishes a period of five days for the respective labor court to gather the necessary information to establish a voter eligibility list and seven days for the parties to the *recuento* to file objections to the information that will be used to develop the voter list.[109] The court will then set a hearing within three days to hear the evidence related to the objections. After the hearing, the court will have seven days to establish the voter list and set the date, time, and place for the *recuento*.[110] The reform does not require the court to set the date for the *recuento* within a certain time, but Article 735 of the FLL provides that "when the realization or practice of a procedural act or exercise of a right has no fixed time limit, the period shall be three working days."[111]

c. Independence and impartiality in the administration of labor justice

Prior to the 2017 Constitutional reform, Mexico's Constitution designated tripartite federal and local CABs for the adjudication of all labor justice matters. The CABs were empowered to resolve individual and collective disputes between workers and employers;[112] determine strike

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[104] See U.S. Department of Labor, *Public Report of Review of NAO Submission No. 2015-04*, 7 and 13 Washington, D.C. (July 8, 2016); available from https://www.dol.gov/ilab/reports/pdf/070816-Chedraui-report.pdf; U.S. Department of State, "Country Reports – 2015: Mexico;" available from http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=253027#wrapper; Worker Rights Consortium, "Violations of International Labor Standards at Arneses y Accesorios de Mexico, S.A. DE C.V. (PKC Group: Findings, Recommendations and Status (June 18, 2013); available from http://www.workersrights.org/Freports/WRC%20Findings%20and%20Recommendations%20re%20Arneses%20y%20Accesorios%20de%20Mexico%2006.18.13.pdf.

[105] *Constitución Política de los Estados Unidos Mexicanos,* Article XX.

[106] USMCA, Annex 23-A, section 2(d).

[107] Ibid., Article 23.7.

[108] *FLL*, Articles 388, 389, 897-C, 897-F, and 897-G.

[109] Ibid., Article 897-F.

[110] Ibid.

[111] Ibid., Article 735.

[112] Ibid., Article 604 and 698.

legality;[113] register collective bargaining agreements;[114] and administer the *recuento* process described above.[115] In worksites under federal jurisdiction, unions had to register with STPS, and in industries and enterprises outside federal jurisdiction, with local CABs.[116] Any changes to union rules and bylaws defining the union's scope of representation (*radio de acción*) had to be communicated to the registration entity.[117] The U.S. Government, the ILO, and labor stakeholders in Mexico and globally have expressed concerns regarding the CAB structure for many years.

STPS and local CABs also granted official recognition for newly elected union leaders (*toma de nota*), after verifying that their election processes conform to union rules and FLL criteria.[118] Unions in industries or enterprises that fall under federal jurisdiction had to register or amend their rules and bylaws and petition for *toma de nota* for their leaders directly with STPS's General Directorate of Registry of Associations (*Dirección General de Registro de Asociaciones,* DGRA), not with the federal CABs.[119]

The federal and local CABs were established as executive branch entities, outside the judiciary and only nominally under the authority of STPS and state labor authorities, respectively.[120] They were composed of one government representative and equal numbers of business and labor representatives.[121] Worker representation on the CABs was determined at CAB election conventions held every six years, attended by union delegates from the corresponding geographic area, sometimes further divided by subject matter.[122] The number of votes allotted to each union delegate was based on the number of workers covered by collective bargaining agreements controlled by the delegate's union. Thus, the unions whose agreements covered the most workers had the most votes and, correspondingly, had the greatest representation on the CABs.[123] Employer representatives were elected at similar CAB election conventions.[124] Alternates to worker and employer representatives were also elected through this process. The government representatives that led the "special boards" were appointed by STPS for the federal CABs and by a state minister of labor for the local CABs.[125]

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[113] Ibid., Articles 929-34.
[114] Ibid., Article 390.
[115] Ibid., Articles 389 and 931.
[116] Ibid., Article 365.
[117] Ibid., Article 377.II.
[118] *FLL*, Article 377(II); Supreme Court of Mexico, Full Chamber, *Tesis Jurisprudencial 32/2011,* (June 20, 2011); available from https://suprema-corte.vlex.com.mx/vid/jurisprudencial-pleno-jurisprudencia-327887527, citing a 2000 Supreme Court decision (86/2000), which had interpreted STPS's analogous authority to review *toma de nota* petition.
[119] *FLL*, Article 365; Supreme Court of Mexico, Full Chamber, *Tesis Jurisprudencial 32/2011*, citing Supreme Court decision (86/2000).
[120] *FLL*, Articles 614, 621-623.
[121] Ibid., Articles 605 and 623.
[122] Ibid., Articles 648 and 651.
[123] Ibid., Articles 648 and 660.
[124] Ibid., Article 648.
[125] Ibid., Article 633.

In particular, due to the geographic nature of the CABs' jurisdiction, employers' and workers' representatives were often parties to the labor matters or disputes at issue before the CABs. Additionally, the matters before the CABs could directly or indirectly challenge the status quo, including by deciding control and potential renegotiation of existing protection contracts. Therefore, there are long-standing concerns that the tripartite composition of the CABs undermined the independence, objectivity, and impartiality of the system of labor justice administration.

Specifically, the CABs' treatment of independent unions' petitions, particularly with regard to requests for union registration, registration of bylaws, official recognition of newly elected leadership, administration of the *recuento* process, and strikes, resulted in several cases of well-documented allegations of CAB bias and lack of impartiality. Documented accounts of CAB bias include the U.S. Department of State's Human Rights Reports, various U.S Department of Labor (DOL) submission reports of review under the NAALC, the ILO, published reports by experts, and stakeholder communications. For example, the CABs have rejected registrations of independent unions, their bylaws, and their leadership (*toma de nota*) on highly technical grounds (e.g., misspellings) and subsequently delayed notifying unions of these decisions.[126] CABs have also delayed or denied union representation to workers by narrowly interpreting the scope of *radio de acción* to exclude the workers the union is attempting to represent, and requiring the union to amend its bylaws and resubmit them.[127] Further, bias by the CABs has been reported in decisions that declared strikes unlawful on technical grounds, with the result that there have been very few lawful strikes.[128]

Through the NAALC submission review process, reports by the DOL found that federal and local CAB proceedings and decisions raised questions about the impartiality of the boards and whether Mexico was meeting its obligations under NAALC Article 5 to ensure that labor tribunal proceedings were "fair, equitable and transparent" and that labor tribunals were "impartial and independent" and did not have substantial interest in the outcome of the matter.[129]

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[126] See e.g., U.S. Department of State, "Mexico" in *Country Reports on Human Rights Practices* - 2017, Washington, D.C., April 2018; available from http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dlid=277345; Graciela Bensusán and Arturo Alcalde, *El sistema de justicia laboral en México: situación actual y perspectivas*,", Mexico, D.F.: Friedrich Ebert Foundation (June 2013), 12-13; available from http://library.fes.de/pdf-files/bueros/mexiko/10311.pdf.

[127] The ILO CFA has recommended that the Government register such bylaw changes in the past after delays and rejections by the CABs. See ILO CFA, *Report 335, (November 2004)*, para. 104; available from http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2908355; ILO CFA, *Report 330 (March 2003)*;), para. 907; available from http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2907168.

[128] U.S. Department of State, "Country Reports – 2017: Mexico"; The Labor Advisory Committee on Trade Negotiation and Trade Policy, "Impacts of the Trans-Pacific Partnership, December 2, 2015; available from https://ustr.gov/sites/default/files/Labor-Advisory-Committee-for-Trade-Negotiations-and-Trade-Policy.pdf.

[129] U.S. Department of Labor, *Public Report of Review of NAO Submission No. 9702*, 14 and 25; U.S. Department of Labor, *Public Report of Review of NAO Submission No. 9703*, 69-70; U.S. Department of Labor, *Follow-up Report: NAO Submission # 940003*," Washington, D.C., December 4, 1996, 5; available from http://www.dol.gov/ilab/reports/pdf/US_940003_Sony_followup.pdf.

To address these concerns, Mexico's 2017 Constitutional reform eliminates the tripartite CABs and transfers responsibility for adjudicating all judicial labor matters, such as ruling on unjust dismissal and discrimination cases and overseeing and administering the *recuento* process, to newly created labor courts in the state and federal judiciaries,[130] overseen by specialized labor judges. As discussed above, the reform also creates a new, independent decentralized Federal Center to carry out all registrations of CBAs and unions, as well as any related administrative labor functions, including responding to requests under the Federal Law on Transparency and Access to Information. The 2017 reform also established that before going to the labor courts, workers and employers must take part in conciliation proceedings.[131] At the federal level, the conciliation functions are to be carried out by the Federal Center and at the state-level, by specialized Conciliation Centers.[132] Conciliation Centers will only carry out conciliation functions and not registrations of unions or CBAs.[133] Pursuant to the Constitutional reform, the conciliation phase will consist of only one mandatory hearing, with subsequent conciliation hearings held only by agreement of the disputing parties.[134] Conciliation processes should not exceed 45 calendar days.[135] Labor disputes involving the following issues will be exempt from this conciliation requirement: employment and job discrimination based on sex, race, religion, ethnicity, and social condition; designation of beneficiaries upon death; social security benefits; the protection of fundamental rights, such as freedom of association and collective bargaining, and prohibitions on trafficking and forced labor, and child labor; challenges to union representativeness; and challenges to union statutes or their modifications.[136]

The new Federal Center is to be responsible for implementing the heightened transparency provisions of the 2012 labor law reform that require that information related to CBAs and union registration materials be made publicly available, including by publishing full union bylaws on line and preferably publishing full CBAs online, as well.[137] The Center is required to be objective, impartial, and transparent; have autonomy with respect to technical, operational, financial, and budgetary matters, as well as in decision-making; and be led by a director confirmed by the Mexican Senate to help ensure sufficient independence from the Executive Branch.[138]

The USMCA Labor Chapter Annex requires the enactment of labor reform that abolishes the CABs as contemplated in the 2017 Constitutional reform. The Annex also requires each CBA to be made available in a readily accessible form to all workers covered by the CBA through enforcement of Mexico's General Law on Transparency and Access to

[130] *Constitución Política de los Estados Unidos Mexicanos*, Article 123(A)(XX).
[131] Ibid.; *FLL*, Articles 590-F and 684-B.
[132] *Constitución Política de los Estados Unidos Mexicanos*, Article 123(A)(XX); *FLL*, Articles 590-A, 590-E and 590-F.
[133] Ibid.
[134] *Constitución Política de los Estados Unidos Mexicanos*, Article 123(A)(XX); *FLL*, Article 684-E.VIII.
[135] *FLL*, Article 684-D.
[136] *FLL*, Articles, 684-B and 685 Ter.
[137] *Constitución Política de los Estados Unidos Mexicanos*, Article 123(A)(XX).
[138] *FLL*, Article 590-B.

Public Information and establishment of a centralized website that provides public access to all CBAs in force and is operated by an independent entity charged with registration of CBAs.[139]

The 2019 Mexican labor law reform implements the provisions from the 2017 reform that eliminated the CABs, replacing them with new federal and state-level labor courts, a Federal Center with state offices or delegations, and Local Conciliation Centers in each of the states. The reform establishes a transitional period of two years from the time of enactment, where the CABs and STPS will continue their registration function.[140] The state-level courts, which will have jurisdiction over non-federal matters, and Local Conciliation Centers are to initiate adjudication and conciliation functions, respectively, within three years of the law's enactment, and the Federal Center and federal labor courts will initiate conciliation and adjudication functions within four years.[141] During this time, the CABs will continue to resolve pending labor disputes and to accept new cases, and STPS and the CABs will continue their registration functions accordingly.[142]

The reform also requires the Center to provide certified copies of the most recent version of a CBA upon payment of a corresponding fee.[143] It also calls for the Center to make public for consultation, the information related to the registered CBA, to issue copies in accordance with Mexico's transparency law, and to make available on its website the complete set of registration documents.[144] The legislation also adds a requirement for employers to provide workers with a free printed copy of an initial CBA, or its revisions, within 15 days after the CBA is deposited with the Center.[145]

3. Other Issues of Note

3.1. Child Labor

Under the USMCA, Mexico commits to adopt and maintain in its statutes and regulations, and practices thereunder, the effective abolition of child labor and a prohibition of the worst forms of child labor.[146] Children must be protected from working before a minimum legal age,[147] and they must be protected from hazardous work and other worst forms of child labor.[148]

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[139] USMCA, Annex 23-A, section 2(g)(i)-ii).
[140] *FLL*, Transitional Articles 3.
[141] Ibid., Transitional Articles 5 and 6.
[142] Ibid., Transitional Articles 7 and 8.
[143] Ibid., Article 391.
[144] Ibid., Article 365 Bis.
[145] Ibid., Articles 132.XXX.
[146] USMCA, Article 23.3.1(c).
[147] See ILO, *General Survey on the Fundamental Conventions Concerning Rights at Work in Light of the ILO Declaration on Social Justice for a Fair Globalization*, para. 327.
[148] See Ibid., paras 541-42.

Enforcement of child labor laws

On June 12, 2015, Mexico amended the FLL to increase the minimum age for employment to 15 years subject to certain restrictions, increase the minimum age for hazardous work to 18 years, and expand the list of prohibited hazardous occupations or activities for children.[149] In addition, on April 8, 2015, the GOM ratified ILO *Convention 138 on Minimum Age*. In 2017, STPS updated its inspection protocol to eradicate child labor and protect adolescents of permitted working age.[150] However, concerns remain with Mexico's enforcement of laws governing the minimum age for employment in rural areas or at small and medium enterprises. Children from impoverished indigenous communities are more vulnerable to the worst forms of child labor due to lack of education opportunities, linguistic barriers, and discrimination.[151] DOL includes products from Mexico in its *List of Goods Produced by Child Labor or Forced Labor*.[152]

3.2 Forced Labor

Under the USMCA, Mexico commits to adopt and maintain in its statutes and regulations, and practices thereunder, the elimination of all forms of forced or compulsory labor.[153] In addition, Mexico commits to prohibiting the importation of goods from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.[154] Forced labor includes services or other labor obtained through force or the threat of force. It includes forms of exploitation such as "bonded labor," where a worker takes a loan or wage from an employer or labor recruiter in return for which the worker pledges his or her labor and sometimes that of family members in order to repay the debt. Indicia of forced labor also include other more subtle forms of worker control and coercion, such as the retention of identity papers and threats of denunciation to immigration authorities.[155]

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[149] Government of Mexico, *Decreto por el que se reforman y derogan diversas disposiciones de la Ley Federal del Trabajo, en materia de trabajo de menores,* (2015); available from http://www.dof.gob.mx/nota_detalle.php?codigo=5396526&fecha=12/06/2015

[150] Secretariat of Labor and Social Welfare, *Protocolo de Inspección del Trabajo en Materia de Erradicación del Trabajo Infantil y Protección al Trabajo Adolescente Permitida*, Second Edition; available from: https://www.gob.mx/cms/uploads/attachment/file/318327/Protocolo_de_Inspeccio_n_para_Trabajo_Infantil.pdf.

[151] ILO, *El trabajo infantil y el derecho a la educación en México*, April 2014; available from https://www.uam.mx/cdi/pdf/redes/trabajo_infantil.pdf; and UNICEF, *Diagnóstico sobre la condición social de las niñas y niños migrantes internos, hijos de jornaleros agrícolas,* 2006; available from https://www.unicef.org/mexico/spanish/mx_resources_diagnostico_ninos_jornaleros.pdf

[152] U.S. Department of Labor, List of Goods Produced by Child Labor or Forced Labor, Washington, D.C., September 20, 2018; available from https://www.dol.gov/sites/default/files/documents/ilab/ListofGoods.pdf

[153] USMCA, Article 23.3.1(b).

[154] USMCA, Article 23.6.1.

[155] See ILO, *General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization*; ILO-Special Action Program to Combat Forced Labor, *A Handbook for Employers & Business*.

Eradication of forced labor

The 2019 labor reform requires each company to implement, in agreement with its workers, a protocol to prevent discrimination, address violence and sexual harassment cases, and eradicate forced labor and child labor.[156]

In January 2018, the GOM amended the General Law to Prevent, Sanction, and Eradicate Human Trafficking and for the Protection and Assistance of Victims, which criminalizes trafficking-related offences such as slavery, debt bondage, forced labor, and exploitative labor. The amendment aims to harmonize the Mexican legal framework related to human trafficking with international standards and clarifies the roles and responsibilities among federal, state, and local authorities to improve law enforcement efforts on trafficking-related offences.[157] In 2017, STPS developed a new inspection protocol to prevent and detect cases of human trafficking and forced labor in the workplace.[158] However, concerns still exist as to implementation of the law, particularly among vulnerable groups such as women, children, and migrant populations.[159] According to recent U.S. Government and media reports, there are thousands of forced labor victims in Mexico, particularly in small and medium farm enterprises.[160] Many of these victims work under conditions that can evince forced labor, such as deceptive recruitment practices regarding working and living conditions; illegally withholding workers' wages in escrow to prevent workers from leaving their jobs; wage payments below the legally required amount and unlawful wage deductions; providing unsafe living arrangements for workers and their families; induced or inflated indebtedness; and restriction on movement, including confinement, isolation, threats of violence, and detention.[161] In 2018, DOL included products from Mexico in its *List of*

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[156] *FLL*, Article 132.XXXI.

[157] Government of Mexico, Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos, (2018); available from https://www.gob.mx/cms/uploads/attachment/file/310904/LEY_GPSEDM_TRATA_19-01-2018.pdf

[158] Secretariat of Labor and Social Welfare, *Protocolo para Prevenir y Detectar la Trata de Personas en los Centros de Trabajo*, available from https://www.gob.mx/cms/uploads/attachment/file/200998/Protocolo_Trata_en_centros_de_trabajo.pdf

[159] See U.S. Department of State, "Country Reports – 2017: Mexico."

[160] Ibid. See Patricia Muños Rios, "En semiesclavitud, más de 2 millones de jornaleros," La Jornada, [online], April 6, 2015; available from http://www.jornada.unam.mx/2015/04/06/politica/016n1pol. See also Agence France, "Mexico Rescues 275 Workers From 'Slavery' At Tomato Plant In Toliman," AFP, [online], June 12, 2013; available from http://www.huffingtonpost.com/2013/06/12/mexico-workers-slavery-toliman_n_3427120.html. See also Patricia Munos Rios, "Rescatan a 200 tarahumaras víctimas de explotación laboral en BCS", La Jornada, [online], March 16, 2015; available from http://www.jornada.unam.mx/ultimas/2015/03/16/rescatan-a-mas-de-200-tarahumaras-de-explotacion-laboral-en-bcs-8990.html; see also Alejandro Suarez, "Rescatan a 48 jornaleros indígenas de explotación laboral en Colima."; Richard Marosi. Product of Mexico: Los Angeles Times, December. 7, 2014. http://graphics.latimes.com/product-of-mexico-camps/; Polaris Project. Landscape Analysis: Human Trafficking for the Purpose of Labor Exploitation in Mexico. 2017; Associated Press. Mexico frees 81 farm workers from 'inhuman' conditions. November 26, 2016; available from http://www.foxnews.com/world/2016/11/26/mexicofrees-81-farm-workers-from-inhuman-conditions.html.

[161] Richard Marosi, "Product of Mexico," Los Angeles Times, [online], December 07, 2014; available from http://graphics.latimes.com/product-of-mexico-camps/; see also Yemeli Ortega, "Mexico rescues 129 workers abused by South Korean Firm," Agence France Press, [online], February 06, 2015; available from http://news.yahoo.com/mexico-rescues-129-workers-abused-korean-firm-212651990.html; U.S. Department of

Goods Produced by Child Labor or Forced Labor for the use of forced labor in violation of international standards.[162]

State, "Country Reports – 2017: Mexico"; U.S. Department of State, "Mexico,," in *Trafficking in Persons Report - 2018*, Washington, D.C., June 2018; available from https://www.state.gov/j/tip/rls/tiprpt/countries/2018/282708.htm; U.S. Department of Labor, List of Goods Produced by Child Labor or Forced Labor, Washington, D.C., September 20, 2018; https://www.dol.gov/sites/default/files/documents/ilab/ListofGoods;.Jo Tuckman, "Baja California farm workers demand better pay and working conditions," The Guardian, [online], March 25, 2015; available from http://www.theguardian.com/world/2015/mar/25/mexico-baja-california-farm-workers-strike. Many of these issues appear to be at the center of a recent large-scale strike involving thousands of agricultural workers in Baja California, during which workers sought higher wages, improved working conditions, and access to social security benefits to address their concerns.

[162] U.S. Department of Labor, List of Goods Produced by Child Labor or Forced Labor, Washington, D.C., September 20, 2018.

Plan to Implement and Enforce the United States-Mexico-Canada Agreement (USMCA)

Prepared by the Office of Management and Budget

This report fulfills the requirements of Section 105(e) of the "Bipartisan Congressional Trade Priorities and Accountability Act of 2015" ("the Act"). Section 105(e) requires that when the President submits a trade agreement to Congress under the Act, the President also must submit a plan for implementing and enforcing the agreement. Specifically, the plan must include the following:

Section 105(e)(2)(A)—Border Personnel Requirements: A description of the additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

Section 105(e)(2)(B)—Agency Staffing Requirements: A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of Homeland Security, the Department of the Treasury, and such other agencies as may be necessary.

Section 105(e)(2)(C)—Customs Infrastructure Requirements: A description of the additional equipment and facilities needed by U.S. Customs and Border Protection.

Section 105(e)(2)(D)—Impact on State and Local Governments: A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

Section 105(e)(2)(E)—Cost Analysis: An analysis of the costs associated with each of the items listed in subparagraphs (A) through (D).

The Office of Management and Budget (OMB) has requested appropriate agencies to provide information on any additional staffing and equipment that will be required to implement and enforce the USMCA and the costs associated with these needs. The Departments of Commerce, Labor, Treasury, Transportation, and Homeland Security and the Environmental Protection Agency estimate that by FY 2021, approximately 171 additional FTE are required to implement the USMCA.

The estimated cost associated with the personnel and equipment to implement and enforce the USMCA is approximately $28 million in FY 2020 and $31 million in FY 2021. For FY 2020, costs will be accommodated within existing budgetary resources and are not an indication of increased need. Cost requirements for FY 2021 will be incorporated in the FY 2021 President's Budget.

Sections 105(e)(2)(A)—Border Personnel Requirements and 105(e)(2)(B)—Agency Staffing Requirements

The following agencies have identified staffing needs to implement and enforce the USMCA.

Estimated staffing needs, by agency

Agency	FY20 FTE	FY21 FTE	Description of activities
U.S. Customs and Border Protection	53	106	The DHS estimate includes personnel for reprogramming the automated commercial environment to account for tariff and quota adjustments; rewriting and promulgating uniform regulations; providing training and guidance to CBP field personnel; providing capacity building and technical assistance to Canadian and Mexican counterparts; providing outreach and external communications to the trade community; and enforcing new rules of origin. Includes 75 FTE for enforcement of new rules of origin through origin verification and audits.
Department of Labor	16	57	Supporting Labor Value Content (LVC) implementation; implementation and enforcement of labor chapter and related sections; development and management of technical assistance projects; research and reporting on child labor and forced labor issues in Mexico; monitoring and oversight of technical assistance and cooperation activities/grants; labor attaches; and administrative support for staff and resources.
Environmental Protection Agency	3	3	Monitoring and verifying provisions pertaining to global and national environmental requirements; coordinating with counterparts at other agencies; providing subject matter expertise.
Department of Commerce	2	2	Providing legal services on country specific laws/statutes for trade compliance; intellectual property rights training; and capacity building.
Department of Transportation	1.5	1.5	Supporting coordination of the Committee on Transportation Services and implementation/enforcement of USMCA in areas including cross-border trade in services, rules of origin, and government procurement.
Department of the Treasury	1	1	Monitoring implementation of financial services and macroeconomic policies and exchange rate matters commitments, including inter alia, participating in the macroeconomic committee and the financial services committee, and establishing a financial regulatory dialogue among the three Parties. The roles would be split among the offices for Trade, International Financial Markets, and Global Economics, but would total 1 FTE.
Total	**76.5**	**170.5**	

The Department of Agriculture, the Department of Justice, the Department of State, and the United States Agency for International Development have no additional resource requirements.

Section 105(e)(2)(C)—Customs Infrastructure Requirements

The Department of Homeland Security/U.S. Customs and Border Protection does not expect to need any significant additional equipment or facilities.

Section 105(e)(2)(D)—Impact on State and Local Governments

Please see the attached report on the impact of USMCA on state and local governments.

Section 105(e)(2)(E)—Cost Analysis

Affected agencies have indicated that, by FY 2021, approximately 171 staff will be necessary to implement and enforce the USMCA at a cost of approximately $31 million.

Estimated resource needs, by agency (USD, millions)

Agency	FY 2020 Estimate	FY 2021 Estimate	Additional notes
U.S. Customs and Border Patrol	$20,100,000	$20,200,000	The DHS estimate includes funding for reprogramming and maintenance of the Automated Commercial Environment, as well as staff training, travel, office space, and onboarding costs.
Department of Labor	$6,400,000	$9,000,000	
Environmental Protection Agency	$800,000	$900,000	Includes an increase to the Commission on Environmental Cooperation for implementation of the Environmental Cooperation Agreement, as well as the staffing needs identified above.
Department of Commerce	*	$600,000	
Department of Transportation	*	*	
Department of the Treasury	*	*	

* indicates cost is less than $500,000.

THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Michael Pence
President of the Senate
United States Senate
Washington, D.C. 20510

Dear Vice President Pence:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

I am also sending to the Chairman of the Committee on Finance the following documents: the Report on the U.S. Employment Impact of the USMCA; the Final Environmental Review of the USMCA; the Effect of the USMCA on State and Local Governments; the Mexico and Canada: Labor Rights Report; and the OMB Plan to Implement and Enforce the USMCA.

I look forward to working with you on approving this Agreement and implementing legislation. My staff and I are ready to assist you in any manner.

Sincerely,

Robert E. Lighthizer

Attachments

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2. Final Environmental Review of the USMCA
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THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, D.C. 20510

Dear Senator McConnell:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

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THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Chuck Grassley
President Pro Tempore
United States Senate
Washington, D.C. 20510

Dear Chairman Grassley:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

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THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Charles Schumer
Democratic Leader
United States Senate
Washington, D.C. 20510

Dear Senator Schumer:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

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THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Ron Wyden
United States Senate
Washington, D.C. 20510

Dear Senator Wyden:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

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THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

Dear Madame Speaker:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

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THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative McCarthy:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

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THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Steny Hoyer
Democratic Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Hoyer:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

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THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Kevin Brady
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Brady:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

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THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 13, 2019

The Honorable Richard Neal
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Neal:

In accordance with section 106(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and pursuant to authority delegated to me by the President, I am pleased to transmit the enclosed documents in connection with Congress' consideration of the United States – Mexico – Canada Agreement ("Agreement" or "USMCA").

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FOR CONTINUATION OF HOUSE DOCUMENT 116-86

LEGISLATION AND DOCUMENTS TO IMPLEMENT THE UNITED STATES-MEXICO-CANADA AGREEMENT

SEE PART 2