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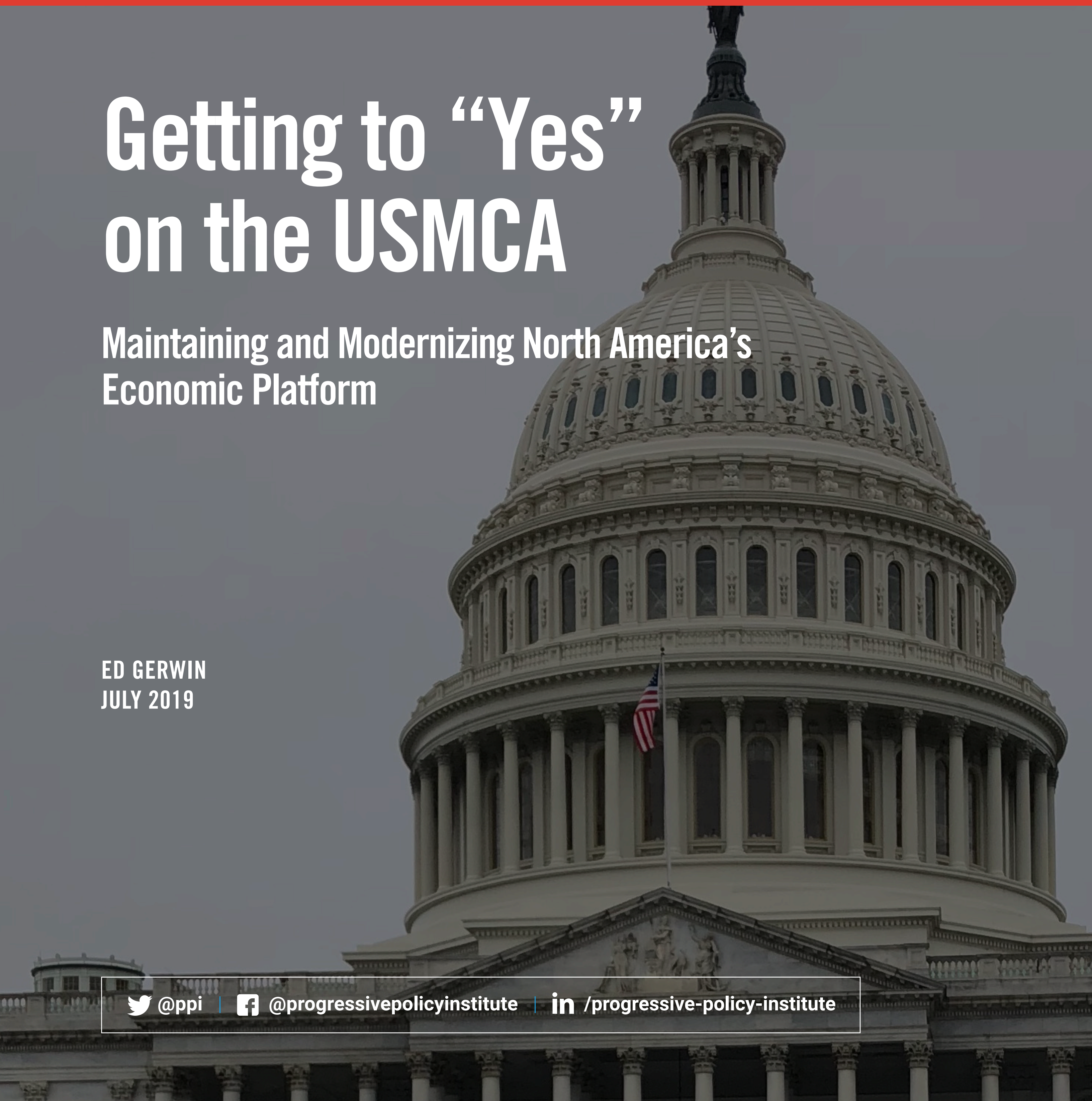

Getting to "Yes" on the USMCA

Maintaining and Modernizing North America's Economic Platform

ED GERWIN
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THE CHALLENGE OF UPDATING NAFTA

Is it possible that the Trump administration has developed a trade initiative that—with some necessary tweaks from congressional Democrats—can be a good thing for the United States and its North American neighbors?

The United States-Mexico-Canada Agreement (USMCA)[1] is the Trump administration's proposed replacement for NAFTA, which the president, with typical hyperbole, has called the "worst trade deal ever."[2] Trump describes the USMCA as a "brand new" trade deal.[3] In reality, however, the USMCA preserves NAFTA's essential core—including, most importantly, duty-free treatment for virtually all regional trade in qualifying goods.[4] It also borrows liberally from the Trans Pacific Partnership, a deal derided by Trump as "a potential disaster." Among other improvements, the USMCA updates the decades-old NAFTA by adding modern, enforceable labor and environmental rules, promoting the digital economy, and cutting red tape for small business.[5]

The new deal isn't perfect. Some analysts believe, for example, that while the USMCA's managed trade rules for the auto sector should raise regional auto wages, they could also increase prices for American consumers and make U.S. auto plants less competitive globally.[6] Additionally, as we explain below, there are still significant questions about how the agreement would be enforced in practice, and concerns that Trump could still use other laws to bypass the USMCA's tariff rules.

The new NAFTA also poses significant political challenges, especially for congressional Democrats whose votes are essential for passing the agreement. Opposition to NAFTA has long been a rallying point for many on the Democratic left. With anti-trade leaders like Bernie Sanders urging the president to take the USMCA "back to the drawing board," controversy among Democrats will no doubt continue.[7] Other Democrats face an understandable dilemma—whether to give a seeming "win" to a president who is extraordinarily unpopular with the Democratic base.

The Progressive Policy Institute (PPI) believes that, on balance, the USMCA would be good for the United States and its neighbors because the new deal would both preserve NAFTA's essential core and add significant new provisions. We applaud Speaker Pelosi, the New Democrat and Blue Dog Coalitions, and other congressional leaders for their constructive approach to the USMCA. We urge them to continue to work with the administration to resolve outstanding issues—especially the vital need for stronger enforcement—and, ultimately, to support the new deal.

If Congress can address concerns with the USMCA, building support might not be as challenging as it appears. According to Pew, 72 percent of Democrats already believe NAFTA has generally been good for America.[8] For Democratic members representing trade-dependent purple and red districts, supporting the USMCA could also underscore their independence from tired anti-trade orthodoxy. And, recent polling finds that once likely voters learn more about the USMCA, they strongly support the new deal.[9]

In this Policy Brief we explain why it's important to "get to 'yes'" on the USMCA.

First, we highlight the unified North American production platform that has become deeply embedded in America's economy under NAFTA and explain its crucial importance for U.S. businesses, local communities, and American workers.

Second, we explain how, by preserving NAFTA's commercial rules of the road, the USMCA would help maintain the region's shared economic platform and the significant U.S. production, trade, and jobs that it supports.

PPI believes that, on balance, the UMSCA would be good for the United States and its neighbors.

Third, we explore a number of key ways in which the USMCA would modernize NAFTA, particularly the deal's enforceable labor and environmental rules and chapters on digital and small business trade.

Finally, we detail a number of key areas—especially enforcement and abuse of presidential tariff authority—in which Congress should insist on improving the USMCA's operation and impact.

THE IMPORTANCE OF THE NORTH AMERICAN ECONOMIC PLATFORM

Any discussion of NAFTA and its replacement must begin by recognizing a powerful economic reality. Twenty-five years after NAFTA, open regional trade has created an integrated, $22 trillion North American economy woven together by longstanding relationships, extensive supply chains, robust transport networks, and $3 billion in daily two-way trade.[10]

Trading Together

Canada and Mexico are, respectively, the top two destinations for American exports and America's second and third largest partners for trade overall. A third of U.S. goods exports are destined for our North American neighbors—more than the United States exports to the next ten countries combined.[11] Canada and Mexico are by far the biggest buyers of American manufactured goods. They also purchase almost a third of U.S. farm exports and imported almost $100 billion in U.S. services in 2018.[12]

> **Canada is the #1 goods export market for 33 states, while Mexico is the top export destination for seven more.**

This extensive trade is vital for every U.S. state. Canada is the #1 goods export market for 33 states, while Mexico is the top export destination for seven more, including California and Texas.[13] And this trade benefits businesses of all sizes. Over 120,000 American small and medium enterprises (SMEs) export to Canada and Mexico, the top two export destinations for U.S. SMEs.[14]

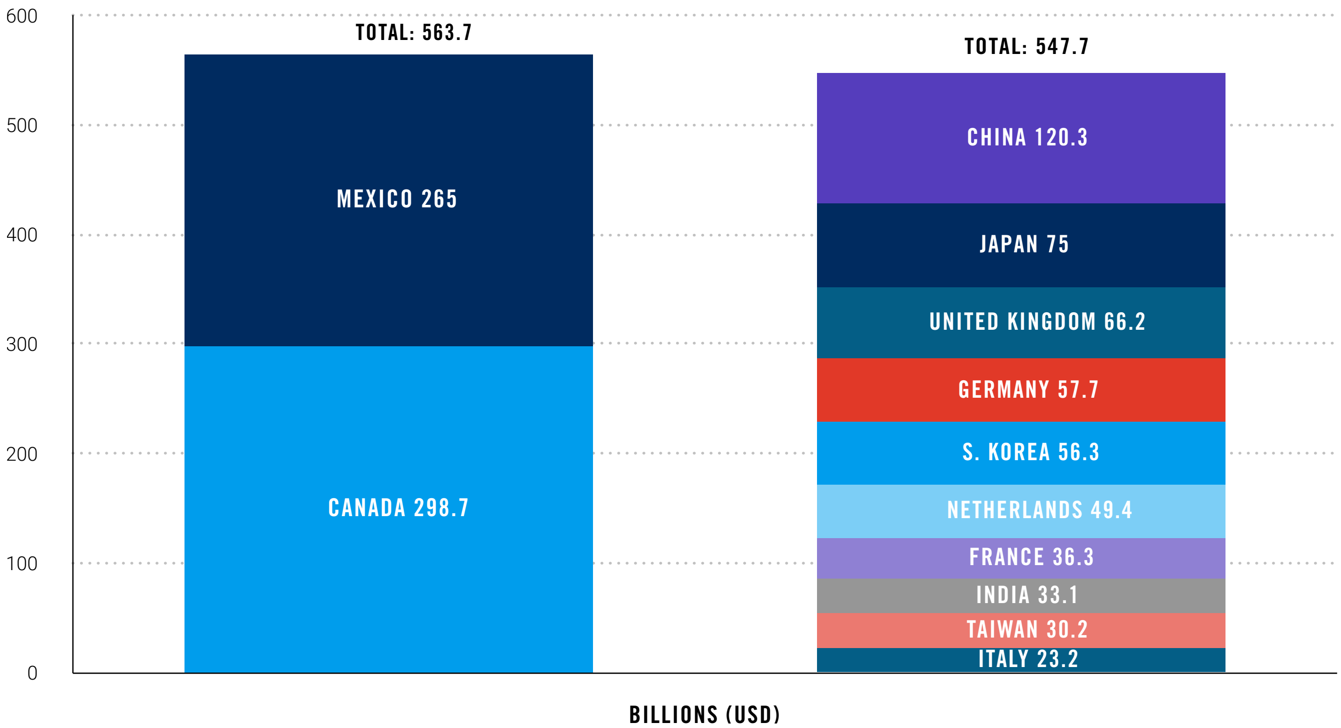
Building Together

Canada, Mexico, and the United States not only trade with each other, but make things together—in complex supply chains that produce aircraft, electronics, energy, food, machinery, vehicles, and other goods. Fifty percent of America's goods imports from Canada and Mexico are "intermediate goods" used in the production of final products by American workers in American factories. The shares of intermediate goods from other key trade partners, including the European Union (37 percent) and China (28 percent), are significantly lower.[15]

At the same time, Canadian and Mexican producers are key consumers of American-made inputs. Seventy-five percent of U.S. exports to Mexico, for example, are intermediate goods.[16] According to one study, 40 percent of the value of U.S. imports of final goods from Mexico was U.S. content, while the U.S. content of imports from Canada was 25 percent. The American content of imports from other major partners was far less—for imports from China, it was only four percent.[17]

The extent of North America's industrial integration is further illustrated by the fact that 63 percent of U.S. trade with Canada and 53 percent of U.S. trade with Mexico is between businesses in the same industry, the highest rates of U.S. intra-industry trade among America's top trade partners.[18]

U.S. GOODS EXPORTS 2018



SOURCE: U.S. CENSUS BUREAU

Competing Globally Together

A solid and shared North American trade platform—and ready access to the region's half billion consumers—is also vital in an increasingly competitive global economy. America needs strong trade partners as competitors like Europe and Japan forge preferential trade deals with each other and as China aggressively captures markets and resources through programs like its "Belt and Road Initiative."[19] And, as U.S. multinationals increasingly consider strategically decoupling from China, Mexico should be an attractive landing spot for their operations, especially given Mexico's proximity and its extensive use of U.S. inputs.[20]

Supporting Communities

North America's unified economic platform drives economic growth and supports business and good jobs in communities throughout America:

- Spurred by NAFTA, the San Diego/Tijuana mega-region has become a $230 billion economy—larger than Vietnam's—and the largest hub of medical device manufacturing in the world. Most of these goods are co-produced by U.S. and Mexican facilities and cross the border several times before they are fully assembled. More than 110,000 San Diegans have jobs due to international trade and investment. **San Diego** actively works to help international companies expand in Baja—rather than Bangladesh or Beijing—because that growth supports San Diego's economy.[21]

- Before NAFTA, **Texas** border cities like Brownsville, El Paso, Laredo, and McAllen had long struggled with chronic, double-digit rates of unemployment. Today, robust cross-border trade has transformed these communities, providing good jobs in trucking, warehousing, and logistics; supporting thousands of small businesses; and slashing unemployment rates. The McAllen Economic Development Corporation works with the neighboring Mexican city of Reynosa to attract global manufacturers to Reynosa, because this investment supports additional growth and jobs in McAllen.[22]

- North American trade is vital for America's heartland. Over half of all exports from the **Kansas City** region are destined for Canada or Mexico, and this trade significantly supports the main drivers of the region's economy—including jobs in chemicals, food, machinery, and electrical and transportation equipment.[23] Roughly 40 percent of the business of KC-based Kansas City Southern Railroad crosses the border with Mexico, and the railroad provides a vital link to farmers throughout the heartland to ship their corn and soybeans to Mexican customers.[24]

Supporting Jobs

Perhaps most importantly, trade with Canada and Mexico supports jobs for over 12 million American workers—in every region of the country. Trading with America's NAFTA neighbors supports good jobs in border states (California-1,470,700, Texas-948,900, New York-799,300), northern industrial states (Illinois-491,700, Pennsylvania-477,900, Ohio-428,400, Michigan-338,300), the southeast (Florida-750,400, Georgia-387,400, North Carolina-376,400), and the heartland (Tennessee-248,700, Missouri-234,600, Colorado-221,600, Iowa-130,000).[25]

Trade with Canada and Mexico supports jobs for over 12 million American workers.

AMERICA'S BEER DRINKERS—AND FARMERS—TOAST INTEGRATED REGIONAL TRADE

Each day, the Union Pacific Railroad transports 100 carloads of beer from Mexico to the United States—enough to provide a thirsty American consumer with a daily brew for almost 250 years.[26] Mexico is the largest exporter of beer to the United States, accounting for 64 percent of U.S. beer imports by volume in 2018.[27] Although America also exports beer to Mexico, the United States ran a "beer trade deficit" with Mexico of over $3 billion in 2018—a fact that might bother President Trump, but not patrons at the local bar[28] But, beer trade is only part of the story.

Mexican brewers also use lots of American barley and hops to brew their beer. Mexico is a top export destination for both American barley and American hops, which annually account for about three-quarters of Mexico's total imports of each of these key ingredients.[29] And importing Mexican beer (and exporting American barley and hops) supports good jobs for U.S. workers in the rail, trucking, warehousing, distribution, and retail sectors.[30]

MAINTAINING NAFTA'S RULES OF THE ROAD

Preserving NAFTA's Core

The North American economic platform—and the U.S. trade and jobs that it supports—depends significantly on key rules of the road established by NAFTA. By far the most important of these is NAFTA's assurance of duty-free treatment of virtually all regional trade in qualifying products.

Without this critical assurance, U.S. exporters would face average tariffs of 4 percent in Canada and 7 percent in Mexico.[31] Tariffs on many products would be considerably higher. For example, Mexico's tariffs on U.S. dairy products would average 42 percent and its tariffs on meat and poultry would be as high as 150 percent.[32] Tariffs would be a potential disaster for regional manufacturing and supply chains, which often require products and inputs to cross borders multiple times.[33]

Thankfully—despite President Trump's claim that the USMCA is a "brand new" deal—the USMCA retains the main structure of NAFTA and, in many regards, looks "remarkably similar" to the older deal.[34] Both agreements, for example, share the common goal of supporting "mutually beneficial trade leading to freer, fairer markets, and to robust economic growth in the region."[35] And, critically, while the USMCA does make significant changes in areas like rules of origin for vehicles and auto parts, the new deal would preserve NAFTA's core commitment to virtually duty-free regional trade in originating goods.

This positive outcome was hardly assured. Candidate Trump threatened to impose an across-the-board 35 percent duty on imports from Mexico and President Trump came perilously close to terminating NAFTA entirely.[36] And, during the USMCA negotiations, Trump's team pursued various "poison pills" that would have severely undercut NAFTA's core—such as a five-year automatic sunset of the deal—and would have created great uncertainty for U.S. producers, traders, investors, and workers.[37]

Leaders in business, Congress, state and local government, Canada, and Mexico deserve significant credit for resisting these destructive ideas and helping to ensure that the USMCA would preserve the core rules—and certainty—that open regional trade requires. It's noteworthy that even Trump, NAFTA's most vocal critic, was eventually persuaded to sign off on a deal that would save NAFTA's essential core and preserve the region's shared economic platform.

Terminating NAFTA without a replacement would lead to the loss of up to 3.6 million American jobs.

The Costs of NAFTA Termination

The significance of maintaining NAFTA's core rules in the USMCA is underscored by considering the significant damage to the U.S. economy that would result from terminating NAFTA—a step that President Trump has repeatedly threatened and could still pursue.[38]

According to detailed economic modeling by The Trade Partnership, terminating NAFTA would, within the first five years:

- Reduce U.S. exports to the world by up to 5 percent;
- Reduce U.S. GDP by up to 1.2 percent;
- Lead to the net loss of up to 3.6 million American jobs, two-thirds of which would be in production and lower-skilled occupations; and
- Result in the net loss of up to 157,000 American manufacturing jobs.[39]

Terminating NAFTA without a replacement would hit some regions especially hard. According to

Fitch Ratings, Michigan—which sends two-thirds of its exports to Canada and Mexico, accounting for over 7 percent of the state economy—would be particularly vulnerable.[40] At the same time—by increasing import costs and by reducing the global competitiveness of American producers—disrupting NAFTA would be a boon to America's competitors. China, for example, would gain some 2 million new jobs from NAFTA termination.[41]

Other costs from terminating NAFTA would be harder to measure, but equally significant. Terminating NAFTA would, for example, damage broader relations with Canada and Mexico in areas like border security and further undercut America's global reputation as a reliable trading partner and a stable and attractive place to invest and manufacture.

MODERNIZING NORTH AMERICAN TRADE FOR THE 21ST CENTURY

The USMCA's Major Revisions to NAFTA

While the USMCA retains NAFTA's core provisions, the new deal would also make a number of significant changes to NAFTA rules.[42] Some of the USMCA's major changes include:

- Greater access for U.S. producers to Canada's highly regulated **dairy** market, particularly for products like milk protein concentrates, skim milk powder, and infant formula;[43]
- Enhanced protections and enforcement rights for **copyrights, industrial designs, patents, trademarks, and trade secrets,** including for biotech, financial services, and domain names;[44]
- Expanded and modernized commitments on **financial services** trade, including updated provisions on cross-border data transfers and provisions to ensure transparency and good regulatory practices;[45] and
- Reduced ability of foreign investors to use **investor-state dispute settlement** rules to challenge decisions by governments.[46]

The USMCA also makes extensive changes to NAFTA's already-complex rules of origin for **cars and trucks.** Under the new deal, to qualify for duty-free treatment, a car or truck must have 75 percent North American content, up from 62.5 percent under NAFTA. Additionally, starting in 2020, 30 percent of the work on a vehicle must be done by workers earning at least $16 an hour, increasing to 40 percent by 2023.[47] While these rules should increase wages for auto workers in the region, many economists believe that they will ultimately decrease North American auto production and make North American vehicles less competitive globally.[48]

We highlight some of the most constructive modernizing provisions of the USMCA below—its new chapters and rules on labor and the environment and digital and small business trade.

Establishing Modern Labor and Environmental Rules

NAFTA's text does not include rules on labor rights and environmental protection. To address congressional concerns, the Clinton administration negotiated separate "side-letters" on labor and the environment, outside the main body of NAFTA and subject to separate enforcement mechanisms. Unfortunately, these side agreements have been largely ineffective in enforcing and improving labor rights in Mexico and environmental conditions at the border.[49]

In response to these and other concerns, congressional Democrats insisted in the "May 10th Agreement" of 2007 that strong labor and environmental provisions be incorporated in the core of U.S. trade agreements and be fully enforceable under the disputes provisions of those agreements.[50] The USMCA's Labor and Environment chapters adopt this approach.

The USMCA incorporates strong and enforceable labor and environmental rules.

According to the U.S Trade Representative, the USMCA's new Labor chapter includes "the strongest, most advanced, and most comprehensive set of labor obligations in any U.S. trade agreement."[51] Among other things, the new chapter would:

- Require countries to adopt and maintain in law and practice core labor standards recognized by the International Labor Organization, including free association and the right to strike;[52]
- Require countries to effectively enforce these laws and not waive or derogate from them;[53]
- Expand guarantees for labor law enforcement, including due process through independent tribunals;[54] and
- Require countries to prohibit the importation of products produced by forced and child labor and ensure the protection of migrants under labor laws.[55]

Importantly, the Labor chapter includes an annex on worker representation and collective bargaining in Mexico, which requires Mexico to take a series of specific legislative actions to overhaul its ineffective system of labor justice and to provide for secret ballot votes and real collective bargaining rights.[56] Mexico enacted the required labor legislation earlier this year and is taking other steps to implement its obligations.[57]

The new Environment chapter[58] commits the three countries to strong, advanced, and enforceable environmental obligations, including, among other things:

- Requiring countries to effectively enforce their environmental laws and not weaken them to attract trade;[59]
- Protecting the marine environment by prohibiting certain fish subsidies, preventing illegal fishing, prohibiting commercial whaling and shark finning, and reducing marine litter;[60]
- Improving the enforcement of illegal trafficking in wildlife, fish, and timber;[61]
- Enhancing cooperation in improving air quality;[62] and
- Ensuring market access for environmental technologies, goods, and services.[63]

Promoting Digital Commerce and Connections

The USMCA's new Digital Trade chapter[64] would establish the most comprehensive set of rules on digital commerce of any international trade agreement. This new chapter is one of the new agreement's most significant improvements.[65]

Digital technologies are key drivers of America's comparative advantage in trade. Digital tools enable U.S. businesses of all kinds to reach new markets, track supply chains, and create and deliver new products, all while providing American consumers with greater choice and value. As PPI has detailed, digital platforms can also play a game-changing role in making trade more inclusive by empowering diverse small businesses to prosper through trade. And digitally powered trade is growing rapidly—it's estimated, for example, that cross-border business-to-consumer e-commerce will reach $1 trillion globally in 2020.[66]

When NAFTA was signed in 1992, few people used email, and web search engines and web-based e-commerce didn't exist. Not surprisingly, NAFTA makes no mention of the internet, but does refer to "telegrams" multiple times.[67]

The USMCA's Digital Trade chapter would bring North American trade rules into the digital age.

In an era when countries like China are increasingly restricting digital connections, the USMCA governments recognize the free flow of data across borders is both essential to the continued growth of the global digital economy and a significant benefit to their economies, citizens, and societies. To promote digital commerce and connections in North America, the USMCA's Digital Trade chapter would, among other things:

- Largely prohibit discriminatory treatment of cross-border data transfers;
- Largely prohibit requiring the forced localization of computing facilities in particular countries, a practice that can make digital commerce more expensive and less secure;
- Ban customs duties and other discriminatory measures on digital products like e-books, movies, software and games; and
- Protect firms from the being forced to transfer source codes and algorithms, which can be among the most significant assets of U.S. tech firms.[68]

Additionally, the USMCA's new rules would make cross-border digital trade easier and more secure for businesses and consumers by, among other things:

- Requiring governments to adopt measures to protect against on-line fraud and protect consumers' personal information and data;
- Promoting cooperative approaches to cybersecurity; and
- Facilitating the use of electronic authorizations and signatures for e-commerce, electronic payments, and other on-line applications.[69]

According to the United States International Trade Commission (USITC), the USMCA's digital rules would provide some of the agreement's most significant positive contributions to the American economy. The USITC found that these rules would not only benefit e-commerce and data-intensive, internet-based firms, but also boost the many U.S. firms in traditional "services, manufacturing, and agricultural industries that rely on data and information flows in their business models and have strong competitive advantages globally."[70]

The USMCA's digital rules would provide some of its most significant contributions to the American economy.

Finally, the USITC particularly emphasized the new NAFTA's role in providing greater certainty that the three governments would not enact future restrictions on digital commerce, which it determined was one of the most significant drivers of its overall positive evaluation of the USMCA.[71]

Boosting Small Business Trade

Like digital trade, small business trade was largely an afterthought when NAFTA was signed in 1992. Back then, it was often difficult for America's smaller firms to trade. A small exporter, for example, would commonly need to hire lawyers and agents to navigate international markets and draft contracts and letters of credit, and would spend considerable resources dealing with the complexities of shipping and customs rules.

Today, trade is considerably easier for American small businesses. They can use digital services like Google to research and advertise globally,[72] eBay and Etsy to sell in foreign markets, and PayPal and Square to ensure they are paid, and can employ express delivery firms like FedEx and UPS to deal efficiently with shipping and customs clearance.[73]

The USMCA would cut customs red tape for U.S. small business.

Canada and Mexico are the two largest export markets for American small and medium enterprises. These countries are also the first foreign destinations that most U.S. SMEs target when they begin to export.[74] The new NAFTA includes a number of important innovations to help American SMEs further benefit from trade opportunities with our regional neighbors.[75]

The USMCA's chapter on SME trade—the first ever in a U.S. trade agreement—would:

- Promote robust cooperation among the three governments in increasing trade and investment opportunities for SMEs, with a special focus on helping SMEs owned by under-represented groups—including women, indigenous peoples, and youth—as well as startups and farm and rural SMEs;
- Provide on-line information tools to help SMEs better navigate regional trade requirements; and
- Establish a special SME Committee and a SME Dialogue with stakeholders to enable SMEs to raise implementation issues and further modernize the USMCA to their benefit.[76]

The USMCA's chapter on Customs Administration and Trade Facilitation would cut customs red tape for SMEs—particularly for small cross-border shipments— by:

- Modernizing and simplifying customs procedures;
- Leveraging on-line information and digital tools;
- Reducing customs paperwork for express shipments under $2,500; and
- Raising the *de minimis* values for Canada and Mexico, so that more small shipments from American SMEs are exempt from duties and/or taxes in those countries.[77]

Finally, the USMCA contains a number of "cross-cutting" provisions to boost opportunity for regional small business. The three governments agree, among other things, to facilitate SME participation in government contracts, to consider impacts on SMEs in setting regulations, and to encourage the participation of SMEs and underserved communities in regional commerce.[78] And, given the transformative role of digital platforms and e-commerce in facilitating SME exports, the USMCA's Digital Trade chapter is especially important to smaller firms.

SMALL BUSINESS EXPORTING CAN "DEMOCRATIZE" TRADE

By boosting the ability of U.S. SMEs to export, the USMCA's digital and small business trade provisions would help a more diverse group of Americans share in the higher returns that trade generates. Digital tools have significantly "democratized" trade for smaller exporters. According to eBay, 96 percent of U.S. small businesses on its platform are exporters—compared to only one percent for traditional businesses—and the number of eBay-enabled small businesses in America's disadvantaged and distressed communities is growing at double-digit rates.[79] Diverse small businesses that export are also economic powerhouses. According to U.S. Census Bureau data, the average woman-owned exporting firm, for example, employs over five times more workers (42 vs. 8) and pays an average salary of almost $17,000 higher ($42,553 vs. $25,682) than non-exporting firms owned by women. Similarly, minority-owned exporting firms average three times more workers (21 vs. 7) and pay a wage premium of nearly $16,000 more ($42,899 vs. $27,292) than their non-exporting counterparts.[80]

IMPROVING THE USMCA'S OPERATION AND IMPACT

Criticisms and Proposed Changes

Despite its significant role in maintaining core trade rules and modernizing NAFTA, the USMCA has faced criticism from a variety of quarters. Supporters of open regional trade, for example, object to provisions that would manage and limit trade, including the new origin rules for vehicles and the normalization of threatened and abusive U.S. "national security" tariffs in the agreement's side letters.[81]

More significantly, congressional Democrats—who will ultimately decide the USMCA's fate—have highlighted a range of specific concerns about the agreement's provisions, including potential problems with language in the Labor chapter, the exclusion of climate change commitments from the Environment chapter, and fears that that agreement's IP rules for pharmaceuticals could limit the ability of Congress to pursue domestic reforms on drug access and pricing.[82] (As explained below, they and others also have significant concerns about the overall enforcement of the agreement.)

To advance the new NAFTA, it will be vital for the administration to address these specific concerns—as Ambassador Lighthizer has promised—ideally through implementing legislation and actions and commitments that do not require the reopening of the USMCA text.[83]

Ensuring Stronger Enforcement

Critics have long complained that key provisions of NAFTA—including its environmental and labor side deals—have been ineffective because they've been ineffectively enforced.[84] Similar concerns have been raised about whether the USMCA's more robust and modern obligations will be enforced in practice. The USITC, for example, has highlighted the significant potential of the USMCA's Labor chapter to boost regional wages and improve labor conditions in Mexico. At the same time, the USITC has repeatedly emphasized that the agreement's ability to drive these and other changes will ultimately depend on how well it is enforced.[85]

Enforcement concerns under the USMCA include, among other things:

- The continued ability of countries to unilaterally block the establishment of USMCA dispute panels;
- Inadequate funding and staffing of enforcement agencies; and
- Concerns about the effectiveness of the administration's proposed use of Section 301 tariffs (the tariffs driving the current trade war with China) to enforce the USMCA.[86]

For Congress and the Trump administration to get to "yes" on the USMCA, they must get to "yes" on stronger enforcement. To forge agreement on enforcement, they should explore new, more flexible approaches to enforcement, such as joint U.S.-Mexican investigations and audits of potential labor violations and company-specific sanctions, as well as enhanced funding for U.S. enforcement agencies and significant technical assistance for the extensive work required by Mexico to implement its promised reforms.[87]

> **For Congress and the Trump administration to get to "yes" on the USMCA, they must get to "yes" on stronger enforcement.**

Ideally, improving enforcement under the USMCA can be accomplished through implementing legislation and other actions and commitments. However, given the centrality of enforcement to the ultimate effectiveness of the USMCA, it may well be necessary to "strategically [re]open" the agreement itself to add targeted enforcement changes.[88]

Reining in Tariff Abuse by the President

As noted, one of the USMCA's most important contributions would be the greater certainty that it would provide to businesses and traders. This certainty is particularly important with regard to continued duty-free trade of virtually all originating goods in the region.

Nothing in the new pact, however, would prevent President Trump from making an end run around the USMCA by continuing to use—and abuse—congressionally delegated powers to impose new and arbitrary tariffs on regional trade.[89] Trump has already done this with since-recalled "national security" tariffs on metals imports from Canada and Mexico—which, in turn, led to Canadian and Mexican retaliation against U.S. farm and manufactured exports.[90] And the president continues to threaten unjustified "national security" tariffs on imported cars and across-the-board "emergency" tariffs on Mexican trade.[91]

To assure greater certainty for regional—and global—trade, Congress must rein in the president's abuse of delegated tariff powers.[92] There are a number of detailed, bipartisan proposals before Congress to do so. These bills would, among other things, tighten applicable standards, require more detailed justification for tariffs and the independent analysis of their impacts, and subject proposed tariffs to congressional resolutions of approval and/or disapproval.[93]

Congress should insist that, when it considers the USMCA and related implementing legislation, it also have the opportunity to debate and vote on one or more of these proposals. Unless Congress reasserts its authority over presidential abuse of tariff authority, the new NAFTA alone would not provide the commercial certainty and rationality around tariffs that American businesses, traders, investors, and workers need and expect.

GETTING TO "YES"

The USMCA isn't perfect, but it's crucial that Congress and the Trump administration get to "yes" on the deal.

The USMCA would preserve essential rules of the road on which North America's economic platform—and millions of American jobs—depend. It would also modernize NAFTA in significant ways by, for instance, adding enforceable labor and environmental rules and new provisions to promote digital and small business trade. For the USMCA to deliver its promised benefits, there must be stronger enforcement of the deal. Additionally, greater congressional authority over the president's use of tariffs is needed to ensure the USMCA's tariff benefits.

Finally, reaching agreement on the USMCA could at last put an end to America's interminable "Groundhog Day" debates on NAFTA. Instead of relitigating stale decades-old NAFTA disputes, America's leaders might, instead, focus on ensuring that global markets work better for America and more Americans. If our leaders can agree on a new NAFTA, perhaps they can also begin to make progress on constructive, forward-looking solutions to the challenges of the global economy, like improved education and training, modernized infrastructure, smart support for innovation, reformed global trade rules, and a renewed and aggressive commitment to opening foreign markets for America's farmers, manufacturers, innovators, and service providers.

ABOUT THE AUTHOR

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