NAFTA out, USMCA in: What's in the Canada, Mexico, US trade deal?

By Heather Gies
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Canada, Mexico, and the United States ushered in NAFTA 2.0 late on Sunday, just before an end-of-weekend deadline set by the US to salvage the 24-year-old trilateral deal.

Renamed the US-Mexico-Canada Agreement (USMCA), the deal updates the 1994 North American Free Trade Agreement, promising to lead "to freer, fairer markets, and to robust economic growth" in the three-country free trade area.

In a joint statement, US Trade Representative Robert Lighthizer and Canadian Foreign Minister Chrystia Freeland hailed USMCA as a "modernized" agreement that "will strengthen the middle class, and create good, well-paying jobs".

Mexican Economy Secretary Ildefonso Guajardo called it "a state-of-the-art instrument that will bring great economic benefits to Mexico, Canada and the US".

Canadian Prime Minister Justin Trudeau tweeted after a conversation with his US counterpart that USMCA will "enhance competitiveness & prosperity, while creating new jobs". Mexican President Enrique Pena Nieto dubbed the deal a "win-win-win" agreement. US President Donald Trump tweeted: "The USMCA is a historic transaction!"

Hadrian Mertins-Kirkwood, a researcher with the Canadian Center for Policy Alternatives described the agreement as "a mashup between the old NAFTA and the new TPP", the Trans-Pacific Partnership, the 12-country multilateral trade deal from which Trump withdrew the United States.

"While issues like dispute settlement, dairy access and auto rules are dominating news coverage, there may be far more consequential details that emerge as analysts pore over the text in the coming days and weeks," Mertins-Kirkwood told Al Jazeera.

Here's a look at the key points of USMCA:

Sunset clause

While NAFTA had an indefinite lifespan, USMCA will expire in 16 years.

Mexico City, Ottawa, and Washington will conduct a joint review six years after the deal enters into force, with an option to extend the deal beyond the 16-year term.

The so-called "sunset clause" setting a shelf life for the deal was a priority for Trump, who initially wanted the deal to be recertified every five years.

Canada makes concessions on dairy

USMCA is set to significantly open up Canada's dairy market through changes to milk pricing. The deal scraps a Canadian category of milk products, called Class, that was created to manage domestic dairy surplus with a pricing structure that kept US diafiltered milk products out of the Canadian market.

According to Sylvain Charlebois, professor of food distribution and policy at Dalhousie University in Halifax, Canada, the ability of dairy processors in Canada to buy diafiltered milk from the US will come with a cost for Canadian dairy farmers.

"Canadians may get cheaper dairy products down the road, and more variety. But most importantly, our dairy sector will become more competitive and may create jobs," Professor Charlebois told Al Jazeera.

"But one has to feel for dairy farmers. Canada will lose dairy farms, and we still don't have a strategy for the sector," he added.

In a statement, president and CEO of the Washington-based International Dairy Food Association, Michael Dykes, said USMCA will "allow the US dairy industry to seek more export opportunities" by "maintaining dairy market access in Mexico and improving market access into Canada."

On the agricultural front, the original NAFTA deal has faced criticism for flooding Mexico with cheap, subsidised US products, squeezing local small farmers out of the market. Charlebois says USMCA is unlikely to solve these challenges.

"USMCA is really about America increasing its agricultural footprint in both Mexico and Canada," he said. "Mexico and Canada made significant gains in many other sectors and resolved important issues, but both Mexican and Canadian agricultural sectors have not been spared, if this deal is ratified."

Canada, Mexico dodge car tariffs, new minimum wage for car workers

Mexico and Canada's car industries dodged threats from Trump that the sector could face new tariffs like those slapped on aluminium and steel earlier this year.

USMCA allows the two countries to continue exporting vehicles to the US with a cap that had previously been put in place. However, Canada and Mexico could be impacted if Washington opts for global car tariffs in the future.

The new deal is also expected to help ease outsourcing in the car industry by requiring 40 to 45 percent of vehicle parts to be manufactured by workers earning at least $16 an hour, which is well above the average rate for Mexican car workers.

The deal also strengthens made-in-North-America rules by increasing the percentage of car parts that must be manufactured in North America from 62.5 to 75 percent.

Jerry Dias, national president of Unifor, Canada's largest private sector union, told local media that Ottawa succeeded in holding its ground when negotiating car provisions in the deal despite concessions on dairy.

Dias said the deal met the "major objectives" for the car industry, including creating a framework for continued investment in Canada, doing away with the threat of car tariffs, and limiting further outsourcing. He said the deal is not perfect, but an improvement from NAFTA.

Richard Trumka, president of AFL-CIO, the largest federation of trade unions in the United States, said in a statement that more details are needed to be able to "make a final judgement" on USMCA.

"Added protections for working people and some reductions in special privileges for global companies is a good start, but we still don't know whether this new deal will reverse the outsourcing incentives present in the original NAFTA," Trumka said.

Intellectual property

USMCA strengthens intellectual property regimes by establishing 10-year biologics pharmaceuticals patents, 15-year industrial designs patents, 10-year agricultural chemicals patents. The deal also extends copyright by 20 years.

Washington-based nonprofit Public Citizen has warned that monopoly privileges for pharmaceutical companies written into trade agreements undermine efforts to make medicines more affordable by limiting access to generic drugs.

Dispute settlement changes

Controversial investor-state dispute settlement (ISDS) mechanisms that allow companies to sue governments for infringing on potential future profits have been scrapped between Canada and the US.

According to the Canadian Center for Policy Alternatives, Canada has been the most-sued country under NAFTA with 41 cases brought against it by foreign investors as of the beginning of 2018. Mexico has faced 23 investor-state claims, and the United States has faced 21.

CCPA's Mertins-Kirkwood told Al Jazeera the elimination of the investor-state dispute settlement for Canada was the best news for the country in USMCA.

"ISDS fundamentally undermines government sovereignty for corporate gain at the expense of the public interest. It had been used dozens of times under NAFTA to challenge environmental regulations and other public interest measures in Canada," Mertins-Kirkwood explained.

"Canada's business lobby will be unhappy with the elimination of ISDS, but it's a positive change for the Canadian public."

The state-to-state dispute settlement mechanism was preserved in the new deal and seen as another win for Canada.

No mention of climate change, indigenous rights, gender

Despite heralding itself as a "21st-century" agreement, USMCA does not mention climate change.

The environment chapter addresses issues including biodiversity, air quality, and ship pollution, but remains without any mention of global warming or the Paris climate accords.

"There are no enforceable labour or environmental standards. No relief for Mexican farmers," Mark Weisbrot, co-director of the Washington-based Center for Economic and Policy Research, told Al Jazeera, highlighting that nearly five million Mexican farmers were displaced after NAFTA was introduced. "Incentives for outsourcing, especially for toxic pollution, remain."

The agreement also lacks provisions to safeguard indigenous rights through consultations processes. It also fails to include a gender chapter.

Lori Wallach, Director, Public Citizen's Global Trade Watch, also argued the deal doesn't go far enough to remedy NAFTA's shortcomings.

"Unless there are strong labour and environmental standards that are subject to swift and certain enforcement, US firms will continue to outsource jobs to pay Mexican workers poverty wages, dump toxins and bring their products back here for sale," Wallach said in a statement.

Winners and losers

Although it remains to be seen who will be the overall winners and losers of USMCA, analysts say big corporations stand to gain the most.

"The winners will, as usual, be some big corporations at the stake of others," Sujata Dey, trade campaigner with the Council of Canadians, told Al Jazeera.

Dey applauded the scrapping of ISDS for Canada as a victory, but pointed to a "whole series of opaque rules" investors can use to challenge governments as a cause for concern.

She also cautioned that, like the original NAFTA, the deal will likely threaten small farmers, though there could be wins for Mexican workers and car workers with better wages and collective bargaining rights.

"So, there has been a lot of rearranging of the deal," Dey continued, "but it still benefits big business in the three countries."

According to Weisbrot of the Center for Economic and Policy Research, Mexico will also lose by continuing NAFTA's status quo.

"Most people don't know how bad a deal NAFTA was for Mexico," he said. "But a quarter-century after NAFTA, Mexican wages are about the same as they were in 1980, some 20 million more people are in poverty, five million were displaced from agriculture because of NAFTA tariff policy, and economic growth in Mexico ranks about 15 of 20 Latin American countries."

What's next?

Mexico City, Ottawa, and Washington are expected to sign the deal before the end of November, before outgoing Mexican President Enrique Pena Nieto leaves office.

Then the legislatures of each country must ratify USMCA before it can enter into force, and write legislation to implement it.

If ratified, most of the new agreement's provisions are expected to go into effect in 2020.