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FEATURED Q&A

What Are the Most Important Changes to the USMCA?



Canadian, Mexican and U.S. officials signed amendments to the USMCA trade accord last week in Mexico City. // Photo: Mexican Government.

Q The United States, Mexico and Canada on Dec. 10 signed amendments to the trilateral deal reached last year to replace the North American Free Trade Agreement. The U.S.-Mexico-Canada, or USMCA, pact now includes mechanisms to settle labor and environmental disputes and ensure compliance with labor standards, issues over which U.S. Democratic lawmakers had concerns. The latest changes also shorten intellectual property protections for biologic drugs, but legal protections for technology companies, which Democrats had tried to remove, remain in the deal. What are the most important amendments made to the USMCA? How will the changes affect the three North American countries, and which sectors are set to gain or lose the most from them? Is ratification in the U.S. Congress now guaranteed, and how soon can the USMCA's approval be expected?

A **Andrés Rozental, member of the Advisor board and president of Rozental & Asociados in Mexico City:** "It is still somewhat early to digest and explain all the changes made to the original USMCA text that was signed in Buenos Aires late last year. However, there appear to be some differences of interpretation between the Mexican chief negotiator and the U.S. trade representative's 27-page document, which purports to list all the changes that were incorporated into the addendum signed early last week. The USMCA, even as originally drafted and agreed, represents a less advantageous deal for Mexico than the NAFTA still in force, especially as related to rules of origin, labor content and specific measures designed to put Mexico at a disadvantage vis-à-vis the United States and Canada. The additional

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TODAY'S NEWS

POLITICAL

Prosecutors in Bolivia Seek Morales' Arrest

Prosecutors accuse the former Bolivian president, who is currently in Argentina, of "sedition, terrorism and financing of terrorism." He is accused of stirring up violence that led to dozens of deaths following the country's contested election in October.

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ECONOMIC

Argentina's Jobless Rate Rises in Third Quarter

The country's unemployment rate rose to 9.7 percent in the third quarter, up from 9 percent in the same period last year.

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POLITICAL

Panamanian President Fires Prisons Director

Panamanian President Laurentino Cortizo fired the country's prisons director and other officials following a deadly gunfight at a jail outside Panama City. Officials also raised the death toll to 15.

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Cortizo // File Photo: Panamanian Government.

POLITICAL NEWS

Bolivian Prosecutors Issue Arrest Warrant for Evo Morales

Prosecutors in the Bolivian capital of La Paz have issued an arrest warrant for former President Evo Morales, accusing him of "sedition, terrorism and financing of terrorism," the Financial Times reported Wednesday. Interior Minister Arturo Murillo posted the arrest warrant on Twitter, and local police confirmed its authenticity. Murillo alleges Morales stirred up violence that resulted in at least 35 deaths



Morales // File Photo: Bolivian Government.

during the weeks following the country's contested presidential election in October, The Guardian reported. Officials say the former president ordered his supporters to blockade cities in a bid to force out interim President Jeanine Áñez, who was eventually next in the line of succession after Morales resigned on Nov. 10 and fled to Mexico. Thousands of Morales' supporters took to the streets during the unrest, clashing with police, who used live ammunition and tear gas against them, the Financial Times reported. Morales, who is now in Argentina, has denied charges, instead repeatedly stating that he was the victim of a "coup." Morales led Bolivia for nearly 14 years and sought a fourth term in the October election, which the Organization of American States has said was rigged in his favor. Morales said on Tuesday that, from Buenos Aires, he would campaign for the presidential candidate of his Movement Toward Socialism party in the expected upcoming elections, for which a date has not yet been set, The Guardian reported.

Properties Raided in Case Involving Bolsonaro's Son

Prosecutors in Brazil's Rio de Janeiro state on Wednesday raided properties of a former aide of Flávio Bolsonaro, the son of President Jair Bolsonaro, as well as relatives of the president's former wife, Reuters reported, citing prosecutors and two sources familiar with the matter. The current case originated from an earlier probe into suspicious payments to staff from when Sen. Flávio Bolsonaro was a legislator in Rio. Brazil's Supreme Court froze the initial investigation earlier this year but later unshelved it, according to the report. The current operation is part of an embezzlement and money laundering investigation into allegations that Flávio Bolsonaro oversaw a corruption scheme during his 15 years as a Rio lawmaker, with the collaboration of Fabrício Queiroz, his then-security chief and aide, The Guardian reported. Officials from Rio's public prosecutor reportedly raided numerous addresses linked to Queiroz, who is a longtime friend of the president, as well as Jair Bolsonaro's former wife, father-in-law and sister-in-law, seizing documents and mobile phones. Another property that was reportedly raided was a chocolate shop in Rio that Flávio Bolsonaro partly owns. Flávio Bolsonaro has said he is innocent of any crimes. However, the investigation has tarnished his and his father's reputations, as Jair Bolsonaro was elected on promises to end political graft in Brazil, Reuters reported.

Death Toll in Gun Battle at Panama Prison Rises to 15

Panamanian authorities said Wednesday that the death toll from a gunfight on Tuesday in a prison near the capital rose to 15, La Estrella de Panamá reported. At the same time, President Laurentino Cortizo fired prisons director Walter Hernández, deputy prisons director Luis Gordón and José Melamed, the chief commis-

NEWS BRIEFS

Brazilian Authorities Raid Maersk Offices in Brazil in Corruption Probe

Denmark's A.P. Moller-Maersk, the world's largest shipping company, on Wednesday confirmed that police raided its offices in Brazil as part of the massive Car Wash corruption investigation, The Maritime Executive reported. Brazilian prosecutors allege that Maersk paid nearly \$3.4 million in bribes to employees of state-run oil company Petrobras in exchange for the procurement of 11 shipping contracts, which were collectively worth approximately \$140 million.

Argentina's Jobless Rate Rises to 9.7 Percent in Third Quarter

Argentina's unemployment rate hit 9.7 percent in the third quarter, up from 9 percent in the same period last year but a slight improvement from the second quarter, when it stood at 10.6 percent, official statistics agency INDEC said Wednesday, Reuters reported. INDEC said on Tuesday that the economy contracted 1.7 percent in the third quarter, as compared to the same period a year earlier, after markets and the peso currency took a hit in response to the unexpected win of then-candidate Alberto Fernández in the August primary vote.

Chilean Policymakers Unanimously Agreed to Hold Key Rate Steady

Board members of Chile's central bank earlier this month unanimously agreed to hold their benchmark interest rate steady at 1.75 percent, according to minutes of the meeting released today, Reuters reported. The decision came despite months of protests that have led to uncertainty about the country's economy from consumers and investors. Recently announced stimulus measures could help boost growth in the coming year, policymakers said.

sioner of external security at the La Joya jail, where the violence broke out on Tuesday, Cortizo said in a tweet. "This is an unacceptable situation, and we will make the decisions that are necessary!" he added. Cortizo, who took office in July, gave the country's Interior and Public Security departments two weeks to compile a report on the incident, the Associated Press reported. He also ordered the departments to come up with a plan to keep weapons out of the inmates' hands. "I want to have actions and actions that must be taken," Cortizo told reporters. Panama's Interior Department said nine prisoners remained hospitalized on Wednesday following the gunfight, in which members of the same gang were pitted against each other in a cellblock that housed more than 500 inmates. Cellphone videos posted on social media showed prisoners shooting and running through the prison complex. Numerous handguns and Kalashnikov rifles had apparently been smuggled in, and police later seized the weapons, the AP reported. Arms smuggling has long been a problem at the prison, and weapons have been used before in disputed among inmates, the wire service reported, adding that Tuesday's incident was the prison's worst-ever outbreak of violence.

BUSINESS NEWS

Frontier Adding Flights to Central America, Caribbean

Denver-based Frontier airlines is adding several flights to Central America and the Caribbean, USA Today reported Wednesday. The new routes include the airline's first service to Guatemala and El Salvador, as well as an increased number of flights out of Miami, the newspaper reported. Frontier previously had service to Central America with flights to Costa Rica, but that route was suspended. Frontier, which already serves Punta Cana in the Dominican Republic, is now also adding flights to Santo Domingo and Santiago in the Caribbean nation.

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changes negotiated under pressure to complete a package before the end of 2019 are even more onerous for Mexico, and in the case of the 'supervisory' functions given to the United States—and to a lesser degree to Canada—on compliance with Mexican labor and environmental laws represent a frankly interventionist agreement by Mexico to have foreign 'attachés' keep Mexican companies under surveillance for possible violations of our own laws. This should be a responsibility for Mexican authorities, not foreign ones. President López Obrador and the Mexican private sector have been under tremendous stress to agree on any text as quickly as possible under the dubious argument that the absence of agreement in the United States was impeding domestic and foreign investment in Mexico. Succumbing to this pressure, Mexico accepted changes that are clearly not in our interest. Notwithstanding the above, the Mexican Senate has already overwhelmingly approved the addendum. I foresee that the U.S. House of Representatives will act in the coming couple of weeks, while the Senate majority leader has said that no action on USMCA would come before the end of the impeachment process against President Trump. Canada's approval will also be in the early months of 2020."

A **Carlo Dade, director of the Trade and Investment Centre at the Canada West Foundation:** "Ratification of the new North American trade agreement (referred to as such or 'the new NAFTA' in Canada) will not be an issue north of the border, even with a minority government. In Canada, trade agreements are approved not by Parliament, but rather by a vote of the cabinet. Parliament is not required to vote on the treaty, and any vote it may take is advisory and nonbinding. With the U.S. AFL-CIO backing the agreement, and agricultural interests other than the protected dairy lobby on side, it is hard to find opposition in Canada except for academic critics of some of the intellectual

property measures. Canada largely won in this agreement by not losing. Parts of the cattle industry, which is as cross-border as the auto sector, faced a potential 10-percent U.S. tariff if NAFTA tariff cuts were eliminated. The auto sector gained protections from U.S. section 232 national security tariffs on autos, and even the dairy and other supply managed sectors gained by giving access to only a measly 3.5 percent of their protected market, or about twice Prince Edward Island (PEI)'s share of the national dairy market. (PEI is about the size of two good-sized counties in Wisconsin). One big loser, though, were firms that depend on movement of people to support trade in services. The new agreement failed to update the more than 20-year-old provisions in NAFTA, leaving North America and especially U.S.-based companies less competitive than those with access to new trade blocs such as Canada-E.U. and Canada/Mexico-CPTPP. But the biggest loss was in Canada and Mexico failing to gain greater protection from idiosyncratic unilateral tariff threats from the U.S. president. Without that protection, the agreement only offers certainty until the president's next tweet. Issues over labor enforcement are seen as U.S.-Mexico issues, and Canadians largely just want this whole episode/nightmare to end."

A **Tamara Kay, associate professor at the University of Notre Dame's Keough School of Global Affairs, and Kimberly A. Nolan García, assistant professor at FLACSO México:** "The USMCA, President Trump's much touted replacement of NAFTA, appeared dead in the water until early last week when new labor rights amendments were announced at a trinational ceremony in Mexico City. It seemed progressive activists had won their year-long battle to improve the agreement, with Speaker Pelosi reportedly proclaiming of the GOP, 'We ate their lunch.' But the tide may have turned over the weekend when Mexican lead negotiator Jesús

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Seade claimed the deal Mexico signed on Dec. 10 included key labor provisions that Mexico had not actually agreed to in negotiations, specifically a new procedure that allows U.S. labor diplomats to monitor Mexico's progress upholding labor standards. Although it is unclear how this will play out, it is important to highlight how lopsided the amendments appear to be. Only Mexico is required to have stringent monitoring and be subject to possible trade sanctions for labor rights violations, and especially those related to freedom of association and collective bargaining. And labor rights protections for workers in the public sector—where unions in the United States have fought hard to remove barriers to union affiliation, collective bargaining and right-to-work laws—are excluded from protection under the amendments. The amendments' focus on Mexico is quite ironic given the greatest threat to U.S. jobs and workers does not come from Mexico, but from corporations and government efforts to undermine labor rights and unionization. Mexican workers will therefore gain the most from USMCA labor provisions—and decades-long pressure from the Mexican left—forcing the government to restructure its labor regime and enforce its laws that, on the books at least, are vastly superior to U.S. labor laws."

A **Andrew Rudman, managing director at Monarch Global Strategies:** "Beginning with President Trump's inauguration in January 2017, the threat of a NAFTA withdrawal weighed heavily on firms operating in North America. With the completion of the Protocol of Amendments to the USMCA, and the expected ratification in early 2020 by the U.S. Congress and Canada, this uncertainty should be removed. Firms will again be able to base their North American investment and production decisions on a clear set of rules (albeit with some important changes). Of greatest import is surely the support

from much of organized labor for the revised USMCA. Not only should this ensure passage within the U.S. Congress, but it also marks an important shift toward a more protectionist and interventionist U.S. trade policy. The strengthened labor enforcement mechanism is consistent with the objectives

“ Firms will again be able to base their North American investment and production decisions on a clear set of rules.”

— Andrew Rudman

of the López Obrador administration in Mexico. How Mexico implements its new labor commitments and how alleged violations are addressed through the new labor panel system remain to be seen. The commitment from all parties to improve labor conditions in Mexico is a promising start. From a political perspective, the innovative pharmaceutical industry is probably the biggest loser in the negotiations between USTR and House Democrats. The Dec. 10 protocol stripped out virtually all of the gains achieved in the original negotiation; some of which, such as the length of regulatory data protection for innovative biologic drugs, exceeded the terms of the TPP. In practical terms for innovative pharma, USMCA provides no significant improvement over NAFTA. Indeed, the Dec. 10 agreement recalls the May 10, 2007 deal when agreed-upon provisions to enhance intellectual property rights protections were removed from the Colombia and Peru free trade agreements in return for strengthened labor and environmental provisions to gain the support of House Democrats."

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