U.S. Chamber of Commerce

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Daniel Watson
Assistant U.S. Trade Representative for the Western Hemisphere
Office of the U.S. Trade Representative
600 17th St NW
Washington, DC 20508

RE: "Notice of Request for Public Comments and Notice of Public Hearing Relating to the Operation of the Agreement Between the United States of America, the United Mexican States, and Canada," Federal Register Docket Nos. USTR-2025-0004 and USTR-2025-0005.

Dear Mr. Watson,

The U.S. Chamber of Commerce ("the Chamber") greatly appreciates the opportunity to provide comments on behalf of our members to the Office of the U.S. Trade Representative (USTR) regarding the notice cited above. The administration has stated it intends to use these comments as part of a public consultation process to inform the joint review of the United States-Mexico-Canada Agreement (USMCA), concluding on July 1, 2026.

The USMCA has provided substantial benefits to American workers, farmers, ranchers, and companies across the breadth of the U.S. economy. More than 13 million American jobs depend on trade with Canada and Mexico, and the agreement has fostered U.S. economic growth in ways that support many additional high-wage jobs. U.S. manufacturers export more made-in-America manufactured goods to our North American neighbors than they do to the next 12 largest export markets combined, and the two countries purchase one-third of all U.S. agricultural exports. Canada and Mexico are also the top two export destinations for U.S. small and medium-sized businesses, more than 100,000 of which sell their goods and services to the two countries.

Canada and Mexico are also the source of critical imports—including basic materials, parts, and components—that are essential to the competitiveness of U.S. industry. Many of these inputs are unavailable from domestic sources at reasonable prices or in sufficient quantities, and other imports are low-value consumer goods that a high-wage economy such as the United States cannot and should not attempt to produce domestically. To illustrate, President Trump supported this point recently when he commented that his administration is not seeking to onshore the production of t-shirts and socks.

In light of these facts, the Chamber urges the administration to focus on the following objectives in the course of the joint review:

- Maintain and strengthen U.S. trade ties with Canada and Mexico by upholding and refining trilateral rules that support American jobs and enhance our industries' global competitiveness;
- Secure a renewed commitment to full compliance with the terms of the USMCA and swift action by the parties to enforce its terms in the areas where compliance has fallen short; and
- Lend certainty to investors by expediting a transparent and orderly joint review that provides the confidence businesses need to expand their investments in the United States and across North America.

In addition to the three private sector USMCA review priorities listed above, we will also address the following areas of input relevant to the specifications of information requested in the Federal Register Notice:

- Recommendations on limited updates to the agreement;
- A discussion of challenges to the investment climate across North America, particularly in Mexico;
- A discussion of strategies for strengthening the North American Competitiveness Committee (NACC); and
- Annexes addressing compliance challenges in Canada and Mexico.

Priority 1: Maintain and Strengthen U.S. Trade Ties to Canada and Mexico

Thanks in large part to the USMCA, trade growth between the United States, Canada, and Mexico has expanded significantly in recent years to nearly $2 trillion. In addition to providing duty-free access to nearly all goods that are traded between the three countries, the USMCA established state-of-the-art rules to facilitate trade and investment, eliminate non-tariff barriers, and establish effective dispute settlement mechanisms.

As noted above, the USMCA has enhanced U.S. export opportunities for American manufacturers, farmers and ranchers, and service providers. Roughly one-third of all U.S. exports go to these two countries, which, on a per capita basis, purchase far more American-made goods and services than any other region.

The USMCA also brings substantial benefits by facilitating co-production in agriculture and manufacturing, especially the automotive, aerospace, medical goods, textiles and apparel, and forest products sectors. These partnerships leverage complementarities between the three economies, creating efficiencies that help American companies produce high-quality products at a low cost. It cannot be overstated that lower costs are the foundation of higher living standards and enhanced global competitiveness. Some examples follow:

- Agriculture provides compelling examples of how companies are able to leverage these country-specific strengths. Some foods and ingredients simply cannot be sourced locally in sufficient quantities because they are not grown at scale in the United States. For example, oat acreage in the United States has been in steady decline since the 1940s, as farmers have opted to plant other crops. There is no longer a viable system for growing, storing, and transporting U.S. oats from farms to mills at the scale needed for conventional foods. At the same time, Canada is the world's largest producer and exporter of oats, with more than 90% of oats milled for food in the U.S. sourced from its northern neighbor. Thousands of U.S. jobs depend on oat imports to make food products. Similar examples arise from pulp, fiber, cansheet, and more.

- The rail equipment industry supports good jobs across the North American railcar manufacturing and maintenance supply chain, which is maintained and strengthened through benefits from the USMCA. With nearly 40% of freight rail traffic tied to international trade, it's crucial for rail companies across the United States to maintain positive relations with Canada and Mexico. This will ensure healthy and steady growth across the rail industry, using U.S.-made products to support thousands of jobs in all three countries. Every day, the U.S. rail manufacturing workforce and tens of thousands of U.S. workers move 543.5 million tons of goods through ports and across borders via rail, helping deliver the highest quality products and services that support America's railway system.
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- U.S. energy dominance is enhanced by the ability to draw on integrated supply chains across North America and on natural resources from Canada and Mexico, such as crude oil from Canada. Growth in our neighboring markets benefits U.S. exports and supports American jobs. Expanding the market for oil and gas and related products benefits all consumers, since it encourages the development of new technologies, new business models, and the efficient production and distribution of goods at scale. It's in our collective best interest to guarantee regional energy security that boosts economic growth, social well-being, and our global competitiveness. Strengthening our regional energy integration, streamlining processes while reducing administrative costs, should be front and center of the USMCA joint review.

Building on this enhanced industrial competitiveness, the USMCA greatly strengthens the position of the United States and its North American neighbors as an export platform to service the 95% of the world's consumers living elsewhere. For many U.S. companies, one out of every five jobs support overseas sales, including but not limited to those in Canada and Mexico.

Retaining the trilateral character of the USMCA is also essential. Business benefits substantially from trade rules that apply broadly and consistently across the breadth of the North American economies; compliance costs soar when inconsistent rules apply in different relationships. In an era when the United States and other governments are demanding unprecedented supply chain transparency and sourcing information, limiting this kind of unnecessary and duplicative complexity is imperative.

Related benefits of the USMCA's rules chapters are significant. Some USMCA provisions, such as simpler certification of origin, have reduced costs for businesses and customers, while disciplines under the agreement have steered policies in Mexico and Canada toward more pro-growth policies that in turn have benefited American exporters and investors and the workers they employ. Notably, the agreement has delivered concrete gains for U.S. small and medium-sized enterprises (SMEs). According to the 2025 FedEx Trade Index, SMEs across all three countries overwhelmingly support the USMCA, with 91% expressing approval.

The agreement also supports digital services exports, which are an important driver of U.S. economic growth with the potential for continued growth. According to the Bureau of Economic Analysis (BEA), U.S. information and communication technology (ICT) services exports to Canada and Mexico in 2024 reached $10.4 billion and $3.45 billion respectively, and digitally tradeable services exports to Canada and Mexico reached $55.3 billion and $19.8 billion respectively.

Priority 2: Secure a Renewed Commitment to Full Compliance with the USMCA

The Chamber has long argued that a trade agreement is not worth the paper it is written on without meaningful enforcement, and our members appreciate the administration's focus on this important body of work worldwide. In keeping with this view, the joint review represents an essential opportunity to focus on compliance with the terms of the USMCA. It is imperative that the three governments hold each other accountable to full implementation of the USMCA in order to secure the full breadth of its benefits.

Canada continues to present compliance challenges that threaten to undermine the full potential of the USMCA. Canada has faced criticism for not fully implementing its obligations, particularly regarding Canada's agricultural commodity supply management system (in particular, regarding enhanced market access for U.S. dairy products); intellectual property protections, notably patent term adjustment and patent term extension, among other commitments; and discriminatory policies, in areas like digital (e.g. Online Streaming Act) and healthcare (e.g., PMPRB pricing policies). For a comprehensive list of compliance issues and recommendations, please review Annex I.

Mexico also presents compliance challenges in a manner that undermines trade and investment opportunities. Mexico's constitutional reform poses significant challenges to judicial independence and regulatory autonomy, directly conflicting with critical provisions of the USMCA. These include requirements for independent labor dispute judges and autonomous regulatory bodies in key sectors and areas such as antitrust, energy, and telecommunications. As the Chamber has previously stated, absent adjustments, these legal and regulatory changes risk undermining the rule of law and the guarantees of protection for business operations in Mexico, including the minimum standard of treatment under the USMCA. The reforms are at odds with Mexico's obligations under the USMCA and other international treaties to provide all with the right to a competent, independent, and impartial judicial system. Additionally, Mexico presents significant compliance-related challenges in areas including agriculture, digital trade, energy, financial services, intellectual property, regulatory and government procurement, and trade facilitation—including several non-tariff barriers. For a comprehensive list of compliance issues and recommendations, please review Annex I.

With regard to the United States, the extensive new tariffs imposed on goods from Canada and Mexico in the year to date are not compliant with the USMCA. Indeed, the core commitment of the agreement is to maintain the tariff-free trade within North America—with limited exceptions relating to trade remedies and a few other areas—that has prevailed for decades. Many of these new tariffs have been applied under Section 232 of the Trade Expansion Act of 1962, under which tariffs are imposed on imports that "threaten to impair the national security." However, imports of Canadian and Mexican steel, aluminum, autos, commercial vehicles, copper, and lumber, and their derivatives products do not threaten U.S. national security; on the contrary, these duties impose a heavy burden on U.S. manufacturing and consumers, notably imposing significant costs on the U.S. auto manufacturing sector, the nation's largest manufacturing subsector. The administration is reportedly considering tariff relief for the sector in response to the widespread economic pain.

Further, Congress recognized Canada as an integral part of the U.S. defense industrial base under the Defense Production Act in 1993. Canada is also one of the four countries deemed to be a formal part of the U.S. national technology and defense industrial base (NTIB). It is not reasonable to claim that imports of these goods from a close ally somehow pose a threat to U.S. national security when these imports are essential to the competitiveness of U.S. industry. The U.S. tariff on Canadian aluminum is a vivid case in point: Replacing Canadian aluminum with domestic production—as is the apparent objective of the present 50% tariff—would take decades, cost tens of billions of dollars, and require additional electricity production equivalent to that of the state of Nevada.

It is worth noting that the United States also has a significant manufactured goods trade surplus with Canada that is undermined by these tariffs, which raise costs for U.S. manufacturers and undermine their products' price competitiveness in the Canadian market. While the U.S. relationship with Mexico is different, the complementary nature of our southern neighbor's economy and factor endowment also makes it critical to U.S. economic and national security, including in the context of America's strategic competition with China. To seize that opportunity, however, we must guarantee North America's energy integration and energy security. Mexico's current lack of compliance with the USMCA in the energy sector is hindering its manufacturing productivity and competitiveness. Only with reliable, affordable and sustainable energy will Mexico continue to play the critical complementary role it has played for the last thirty years.

In sum, the USMCA joint review should focus attention on compliance and enforcement. As allies and partners, it is essential that Canada, Mexico, and the United States meet our commitments under the USMCA.

Priority 3: Provide Certainty and Confidence to Investors by Expediting a Transparent and Orderly Joint Review

Among the chief benefits of the USMCA for the U.S. business community are clear and stable rules of the road. The USMCA provides job creators—farmers and ranchers, manufacturers, and service providers—with the certainty they need to invest, hire, grow, and contribute to our shared prosperity.

The agreement has already established strong measures that preserve duty-free trade; streamline customs procedures and commitments on risk assessment and science-based regulation, among other good regulatory practices; and facilitate digital trade, among other areas. These areas should, at a minimum, be preserved.

The following discussion of disciplines included in the USMCA and specific industry implications underscores the imperative of expediting a transparent and orderly review that maintains the agreement's basic framework.

Duty-Free Access

The USMCA's duty-free access must be maintained, and U.S. negotiators should unwind the Section 232 tariffs imposed to date on goods from Canada and Mexico. Doing so would mark a positive step forward in mitigating rising U.S. energy, transportation, construction, and other costs, without jeopardizing national security. Additionally, tariffs on commodities that are not available domestically in sufficient quantities hinder U.S. manufacturers' abilities to meet consumer demand. Future

Section 232 undertakings, including pending investigations, should not impose tariffs on goods imported from Canada and Mexico, as discussed above.

Technical Barriers to Trade (TBT)
Sanitary and Phytosanitary Measures (SPS)

In addition to securing outstanding market access, the USMCA established state-of-the-art TBT rules that guard against non-tariff barriers to trade as well as science-based SPS rules that are the strongest achieved in any trade agreement. The agreement provides transparency and information sharing on measures impacting trade in related biotechnology products.

It is essential to maintain such commitments, which are based on comprehensive risk assessments and science and do not create excessively onerous requirements for trade in related products. These chapters improve upon disciplines incorporated in the World Trade Organization's similar agreements, promoting non-discrimination, transparency, and regulatory coherence among the member countries.

Digital Trade

The USMCA's Digital Trade chapter (Chapter 19) established a high-standard, pro-innovation framework that has supported North American competitiveness, job creation, and small business participation in digital markets. The Chamber urges governments to maintain the core disciplines of Chapter 19; ensure full, faithful implementation across the agreement; and avoid reopening settled text in ways that would weaken existing commitments or introduce uncertainty.

First, the agreement's non-discrimination principle for digital products and services should be preserved and vigorously enforced. Companies that deliver software, cloud, digital content, and other online services across borders should not face discriminatory measures based on nationality, business model, or mode of delivery. This includes avoiding measures that target digital services for unique taxes or levies, or that otherwise treat digital offerings less favorably than domestic or non-digital counterparts. These rules have provided essential certainty for small and medium-sized and larger firms alike and should not be diluted.

Second, the USMCA's commitments enabling cross-border data transfers and prohibiting data localization requirements remain foundational to modern commerce. Maintaining the free flow of commercial data is indispensable for supply chain visibility, secure operations, compliance, and innovation. The prohibition on requiring the use or location of computing facilities in a Party's territory should be preserved and applied consistently, including in sectors with heightened regulatory oversight.

Third, the USMCA's protections against forced disclosure of source code and related proprietary information must be maintained and modernized in implementation: Firms should not be required, as a condition of market access or operation, to transfer or provide access to source code, algorithms, model parameters, or encryption keys. Any limited exceptions should remain narrow, transparent, and accompanied by robust safeguards for confidentiality, intellectual property, due process, and judicial review. These protections are critical to safeguarding innovation across software, AI, advanced manufacturing, and cybersecurity.

Finally, the Chamber supports retaining the prohibition on customs duties on electronic transmissions contained in Chapter 19. Duties on data flows or digital content would be a step backward for North American competitiveness, particularly for small businesses that rely on digital channels to reach customers across borders. The Parties have an opportunity to build on the USMCA's foundation through practical implementation workstreams. The Chamber recommends doing so via the establishment of a Committee on Digital Trade in the areas of artificial intelligence and trusted technology; government access to data, post-quantum cryptography; and financial sector coordination.

Energy

North America's energy resources have made the United States, Canada, and Mexico a collective powerhouse in trade, investment, and economic growth, resulting in thousands of jobs for small and large companies alike. Earlier this year, the Business Council of Canada (BCC), the Consejo Coordinador Empresarial (CCE), and the U.S. Chamber of Commerce released a report highlighting the importance of continental energy security and calling for enhanced coordination to solidify the continent's long-term role as the world's foremost energy powerhouse. Consistent with the administration's Energy Dominance objectives, and as the following excerpt from that report illustrates, opportunities exist to build on this critical competitive advantage:

> "North America produces more oil and gas than any other region in the world. The combined power of North America's energy sector places it as the top global producer of oil and natural gas, the top exporter of liquified natural gas (LNG), and the third-largest exporter of crude oil. Moreover, integrated energy markets and substantial cross-border trade in oil, natural gas and key minerals and materials provide the continent with a competitive advantage unrivaled by any other region of the world and reduce dependence on less reliable foreign actors.
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> "North America is uniquely positioned to leverage its natural resources and deeply integrated energy markets to enhance energy security and the economy in the years ahead. Enhanced and formalized cross-border collaboration under

the auspices of a North American energy alliance would provide an enduring framework to cement the continent's role as a global energy powerhouse.

"These benefits go beyond generating strong returns for capital markets. They underscore what can be achieved when North American policy agendas are aligned rather than fragmented. In this case, North America has proven it can lead the world in production and exports by accessing the largest capital markets in the world and developing new energy sources and technologies. Importantly, North America's resources and export capacity can also offer a near-term solution to global challenges concerning energy security and lower emissions energy…

"Today, however, cooperation on energy is dispersed across numerous government task forces and memorandums of understanding led by multiple departments and agencies with varying mandates and expertise. While the USMCA includes important provisions related to energy trade, continental collaboration has languished, with the last North American Energy Ministers meeting taking place in 2017."

It is essential to prioritize the enhancement of the North American energy trade relationship by eliminating tariffs and non-tariff barriers to energy trade. The free flow of Canadian and Mexican crude, energy products, and equipment between the U.S. and our North American neighbors should continue to be the norm. Efforts should also focus on pursuing the development of a North American energy alliance aimed at maximizing the shared energy security, economic, and geopolitical interests of the United States, Canada, and Mexico.

To strengthen regional energy cooperation and ensure long-term reliability, the Parties should prioritize cross-border electricity integration and modernize transmission permitting to enhance reliability and efficiency of continental transmission networks. Incorporating electricity and transmission infrastructure into the North American Energy Alliance concept would expand the alliance's scope from production to delivery, ensuring that the continent's energy system remains reliable and competitive for decades to come.

Automotive Rules of Origin

The automotive manufacturing sector is one of the strongest examples of how the USMCA has provided tremendous benefits to industry and workers. The United States is the world's second largest auto-manufacturing country, and Canada and Mexico are the top two markets in the world for U.S. auto exports. For decades, the ability of automakers and their suppliers to leverage continental supply chains has enhanced their competitiveness and kept costs low. More than half of U.S. imports today are inputs for manufacturers—raw materials, intermediate goods, and capital equipment—which are essential to advanced manufacturing, and this is true of the auto sector as well.

However, the auto sector has been subjected to a host of public policy challenges in recent years. Successive administrations have made dramatic on-and-off shifts in the regulatory environment for the auto sector, including emissions rules, incentives for the adoption of EVs, the USMCA's extensive and complex rules of origin and the related compliance burden, and most recently the Section 232 tariffs on autos, auto parts, commercial vehicles (trucks and buses), commercial vehicle parts, steel, and aluminum. These shifts have imposed burdens on industry at a time of intense global competition and rapid technological change. Policymakers should reflect on these dramatic twists and turns and engage with industry to chart a path forward that will allow the U.S. industry the certainty and transparency needed to invest and compete.

Further restricting the USMCA's automotive rules of origin—which are by far the most restrictive of any global trade agreement—would add to the burdens on industry. The USMCA introduced high Regional Value Content (RVC) and Labor Value Content (LVC) thresholds as well as mandatory requirements to purchase steel and aluminum and produce core parts in the region. These changes have taken time and resources for companies to implement. According to the U.S. International Trade Commission's 2025 report on the USMCA's rules of origin, annual investments in vehicle manufacturing in the U.S. increased by 164% in the four years after the agreement was announced.

Making these rules even more restrictive puts at risk this growth and the global competitiveness of the U.S. auto industry. Automotive rules of origin should be clear and implementable and should minimize trade disruptions.

Aviation

U.S. aerospace is essential for innovation, economic growth, and national security, with its technologies playing a critical role in supporting these areas. North America's leadership in civil aviation manufacturing is bolstered by the zero-for-zero tariff environment established under the Agreement on Trade in Civil Aircraft. This framework has consistently driven a positive U.S. trade surplus, job creation, workforce development, investment, and global competitiveness for the industry. As the USMCA review progresses, we encourage the Administration to adopt civil aircraft provisions similar to those in the U.S.-Japan, U.S.-EU, and U.S.-UK framework agreements reached in the year to date, ensuring the continuation of a trade regime that has secured the U.S. civil aircraft industry's global competitive edge.

Investment

Investment in foreign markets is critically important for U.S. companies to compete globally. In fact, most U.S. investments abroad are in sectors that cannot be served by means of exports from the United States, and forgoing these opportunities would be costly. This includes a wide range of services as well as many manufactured goods, such as detergent, which generally cannot be exported due to high transportation costs. Such investments help boost U.S. exports and make U.S. companies and their workers more competitive.

A stable, transparent and predictable investment climate is not always guaranteed, and the USMCA's investment obligations (Chapter 14) offer the bare minimum, necessary legal protections. The USMCA's investment rules ensure that U.S. investors are not subject to discrimination, are treated fairly, and are compensated in the event of expropriation.

Unfortunately, U.S. companies making investments in Mexico have experienced discrimination and expropriation in recent years and have needed to avail themselves of core investment protections found within the agreement. The USMCA joint review must support, at a minimum, the current level of investment protection (ISDS and SSDS), and the administration should consider strengthening their enforcement measures. Enhancing protections is especially necessary in the wake of Mexico's aforementioned judicial reform, which has generated significant uncertainty about the extent to which U.S. companies can rely on the country's legal system to act as a guardrail against executive or legislative overreach. Allowing our trading partners to backslide on investment protection commitments would signal that the United States accepts discriminatory treatment by foreign governments against American companies.

SOEs and Competition Policy

The USMCA established groundbreaking rules (Chapter 22) to ensure that state-owned enterprises (SOEs) do not distort competition as they compete with the private sector. These obligations restrict financial support, combat regulatory favoritism, and ensure the purchase and sales decisions of SOEs are commercial in nature and free from government interference. The USMCA provisions related to procurement by SOEs are particularly important for U.S. companies operating in Mexico because Mexico is not a signatory of the WTO Government Procurement Agreement (GPA) and has a large number of SOEs.

It is essential that the agreement protect U.S. companies from unnecessary or discriminatory process and review clauses, official or unofficial, that could serve as an impediment for access to SOE procurements. This is especially important for services and energy companies, which are often subject to discrimination and regulated in a manner lacking impartiality. Too often, Mexican state-owned competitors receive treatment inconsistent with the USMCA provisions specific to the sector and governance of state-owned enterprises.

The USMCA also ensures that competition policy and antitrust law (Chapter 21) advance economic efficiency and consumer welfare. Under the USMCA, enforcement proceedings are to be conducted in a non-discriminatory manner, based on sound economic analysis, and are required to afford transparency and due process to those targeted in investigations. The provisions are fully aligned with U.S. law and U.S. constitutional protections and therefore do not present any conflicts for either the Department of Justice or the Federal Trade Commission. Unfortunately, these provisions are necessary as too often antitrust proceedings remain opaque in foreign jurisdictions, and safeguards to ensure due process can be limited.

Government Procurement

The opening of foreign procurement markets through the USMCA and other agreements benefits U.S. manufacturers, service providers, and the agricultural sector. Exports tied to foreign government procurement support many good-paying American jobs and increase production and services sales from the United States. The agreement's government procurement obligations related to national treatment, transparency, and fairness should therefore be preserved and more vigorously enforced, especially with respect to Mexico's commitments involving the Comisión Federal de Electricidad (CFE) and proposed offset requirements for medicines. Moreover, beneficiary countries should take further steps to enshrine non-discriminatory and other obligations outlined in the World Trade Organization's Government Procurement Agreement.

Financial Services

The USMCA ensures a level playing field for U.S. financial institutions, investors, and investments in financial institutions as well as cross-border trade in financial services on a nondiscriminatory basis. It is essential that the agreement's provisions in this space be preserved, and, given the speed and pace of technological changes in the digital payments industry, there is also an opportunity to ensure U.S. leadership in electronic payment services. Any adjustments to the agreement should be modest and focus on delivering outcomes that support market access, increase trade facilitation, and drive cost-efficiency.

Small and Medium-sized Enterprises (SMEs)

The USMCA included a novel chapter (Chapter 25) recognizing the significant role of SMEs in the North American economy. This chapter includes commitments to facilitate job creation and enhance overall competitiveness of SMEs. Such language remains integral for main street businesses operating across all three countries to bolster investment opportunities and information sharing, among other objectives. SMEs' abilities to leverage USMCA benefits enable U.S. manufactured exports to be more competitive upon delivery to customers in Mexico and Canada.

To strengthen commercial opportunities in services for SMEs, and further to Chapter 25, the USMCA also included first-ever language supporting "the development of SME trade in services and SME-enabling business models, such as direct selling services, including through measures that facilitate SME access to resources or protect individuals from fraudulent practices." It is critical that such language remains intact, especially given mounting challenges smaller businesses face as a result of the recent termination of the de minimis exemption or potentially more restrictive rules of origin.

Recommendations for Action: Limited Updates to the USMCA

In addition to the issues above, the Chamber recommends that the administration consider a number of modest steps to update some provisions in the USMCA. These "light touch" changes, which would fall below the threshold of changing U.S. law, could enhance benefits for the United States in a number of ways, without advocating for re-opening the agreement:

Trade Facilitation: The Chamber recommends the administration act to improve transparency and operational efficiency in customs administration by including a formal mechanism for public participation in the USMCA Trade Facilitation Committee, with a special focus on streamlining import permits and customs processes. Such mechanisms are already mandatory in other agreements such as the U.S.-Taiwan trade agreement that entered into force in December 2024.

Digital Trade: The United States, Canada, and Mexico have an opportunity to build on the USMCA's foundation through practical implementation workstreams. Article 19.4.2 proposes that the Parties consider the establishment of a forum to address digital issues. The Chamber recommends the creation of a Committee on Digital Trade to focus on artificial intelligence and trusted technology; government access to data, post-quantum cryptography; and financial sector coordination. Private sector participation would be beneficial.

Rules of Origin: While the Chamber is not recommending steps to modify the USMCA's rules of origin, any changes should be implemented in a manner that ensures the rules are clear, implementable, minimize trade disruptions, and maintain North American competitiveness. Additionally, the efficacy of any new provisions should be reviewed periodically, with such processes including comprehensive impact assessments and opportunities for industry engagement.

Duty Drawback and Duty Deferral Program: The USMCA's duty drawback and duty deferral program have benefited many companies conducting business across North America's borders. It is essential that the program remains intact and improves upon certain processes, including by removing the "lesser of the two rule" (in Article 2.5), which disincentivizes supply chain integration and hinders exports that strengthen manufacturing.

Regulatory Cooperation: There are opportunities to further strengthen regulatory cooperation by fully implementing the existing sectoral commitments under the USMCA, especially where there is strong industry alignment. For example, all three governments should engage with the chemical industry on their proposed trilateral sectoral initiative to address common challenges including regulatory simplification, import competition and promotion of innovation including advancement of waste management/recycling models.

Additionally, the vast majority of infant formula consumed in Canada is exported from the United States, the supply for which has been significantly impacted by substantial delays in the regulatory approval process. These delays put Canadian families and their infants at a significant disadvantage, result in fewer clinically supported options for healthcare providers, expose Canada to future supply chain shortages, and unjustifiably limit access of U.S. infant formula innovations and advancements in pediatric nutrition science to the Canadian market. A regulatory cooperation commitment should be prioritized for infant formula to allow for expedited review and approvals, enable U.S. infant formula innovations and clinically supported pediatric nutrition options that are widely available in U.S. retail outlets and hospitals to be allowed timely entry to the Canadian market, and to address access constraints that limit U.S. competitiveness and stifle U.S. innovations.

Restoring Intellectual Property Commitments: When the USMCA was originally negotiated in the first Trump Administration, it contained critically important IP protections for pharmaceuticals, particularly 10 years of data protection for biologics. Unfortunately, these provisions were removed at the insistence of a small contingent of House lawmakers prior to Congressional approval. We urge the administration to restore these important protections as originally negotiated. These provisions will bring Canada and Mexico closer to the high standard already set in U.S. law.

The Labor Rapid-Response Mechanism (RRM): Mexico's labor reforms undertaken as part of the negotiation and implementation of the USMCA were significant, and their implementation has been widely acknowledged as impactful. The reforms created a new labor agency and court structure as well as the novel Facility-Specific Rapid-Response Mechanism (RRM), which allows interested parties to petition the U.S. government to start a case on the basis of sufficient, credible evidence that workers' rights to organize—as guaranteed under both Mexican law and the terms of the USMCA—are being denied at a specific facility in Mexico.

Unfortunately, the RRM falls woefully short in terms of the transparency and due process it affords affected companies. At present, employers are unable to see claims filed against them; in fact, they may first learn about a claim when a Party formally requests that another Party initiate an investigation or when the issue is covered in the press. This is unacceptable. Better procedural guardrails must be established to ensure balance of interests.

Specifically, the Parties should establish an express procedure whereby the company that is the subject of a RRM petition is put on notice of the filing of the petition within 24 hours of the filing, apprised of the contents of the petition, and is given the opportunity to respond to the allegations of the petition within a reasonable time period.

Finally, the scope of the term "denial of rights" with regard to the United States must not be expanded. As the USMCA was negotiated, "denial of rights" occurs only where there is a failure to comply with an enforced order of the National Labor Relations Board. It is unacceptable to expand this definition in a manner that would allow labor unions to rewrite U.S. labor law.

Gold Bullion and Other Precious Metals: Trade in gold bullion (HTS 9903.01.10) presents peculiarities that call for accommodation in USMCA rules. While gold mined and refined in Canada will remain of Canadian origin if it is transported to another jurisdiction (and the same for Mexico), it will no longer be considered "originating" from Canada and will lose preferential treatment under the USMCA if it is moved to and clears customs in a non-USMCA country. Such gold would then be subject the 35% "fentanyl" tariff in force as of this writing.

However, if Canada-originating gold bars were further refined in a non-USMCA country, such that they accrued that country of origin, they could then be imported into the United States tariff-free as certain forms of gold are exempt from "reciprocal" tariffs. The inadvertent imposition of tariffs on USMCA trade would be costly given the significant role precious metals play in the global economy. The Chamber recommends that USMCA rules be adjusted to extend to all gold (and other precious metals) originating in North America the duty-free treatment just mentioned, even subsequent to its transportation to non-USMCA countries and clearing customs there (assuming it has not been transformed there such that it acquires that country of origin).

Factors Impacting the Investment Climate in North America

The robust adherence to the rule of law, premised on transparency, stability, predictability, accountability, and due process, is essential for supporting a healthy investment climate that promotes job creation and economic growth.

The deterioration of the investment climate in any one of our three countries harms the collective economic security and growth potential of North America as a whole and undermines the USMCA as a tool for legal certainty. To reinforce that legal certainty, the parties should reaffirm their commitment to the principles and obligations set forth in Chapter 14 (Investment). Transparent, predictable, and non-discriminatory treatment of investors is essential to sustain confidence in North America's markets and encourage the cross-border capital formation needed for long-term industrial and infrastructure development.

The business community is facing increased uncertainty that affects companies' ability to make long-term plans and investments. As previously stated, in Mexico, the recent judicial reform allowing for the direct election of judges has put at risk the government's obligations to provide to all the right to a competent, independent, and impartial judicial system and raised concerns about investment protections. The elimination of independent regulatory bodies has weakened transparency and regulatory oversight. Lengthy regulatory delays and burdensome procedures also pose significant market access barriers for U.S. companies operating in Mexico and Canada. In addition, the recent 'Ley de Amparo' reform limits the ability of individuals and companies to file injunctions against arbitrary and discretionary decisions from the Mexican State.

U.S. companies increasingly are subject to practices by Mexico's tax authority (SAT) that lack transparency and due process and are not consistent with Mexican law or international best practices. These actions create a significant level of uncertainty and risk of unfair penalties—a practice that SAT is using to extract additional revenues. Although the specifics of each case may vary, common practices include unreasonable timeframes for responding, differing or opposing views or criteria for the same issue, and unreasonable levels of documentary proof. In the digital sector, the proposed reform to the Código Fiscal de la Federación (CFF) would require U.S. companies to pay a deposit equivalent to the amount of the tax assessment in order to file an administrative appeal.

Furthermore, the tax issues in Mexico are creating significant challenges for U.S. companies, particularly in the insurance sector and broader tax enforcement practices. The SAT has retroactively reinterpreted the Value Added Tax (VAT) law, denying insurance companies the ability to claim tax credits for VAT amounts included in claims paid to third-party suppliers, a practice previously confirmed as permissible. This sudden policy shift, applied retroactively to 2015, poses financial risks to U.S. insurers operating in Mexico. Furthermore, some manufacturing companies report double VAT taxation by SAT for the same product, once during the component stage and once during the finished product stage, even though their IMMEX (Mexico's Manufacturing, Maquiladora, and Export Services Industry) program participation was supposed to preclude that outcome. Additionally, SAT's aggressive and inconsistent tax enforcement practices, including excessive audits, denial of intercompany payment deductions, and retroactive penalties, have created uncertainty and increased costs for U.S. businesses. These actions undermine compliance with international best practices and risk invalidating the benefits of the USMCA, necessitating urgent attention to ensure fair and transparent tax administration.

In Canada, there are concerns around government procurement, which is not covered under the USMCA. In particular, proposed Buy Canada policies may exclude U.S. companies from certain federal procurements. French language laws in Quebec are increasingly onerous and raising the cost of doing business, extending beyond labeling to requirements regarding correspondence with customers and suppliers, among other requirements.

The U.S. must prioritize fostering a conducive investment environment within the North American partnership, particularly in the energy sector, where permitting challenges have historically hindered progress. The termination of the Keystone XL pipeline serves as a stark reminder of the consequences of policy missteps, as it not only deprived North America of a critical infrastructure project but also strained the U.S.-Canada relationship and limited access to affordable, reliable energy. With regard to U.S.-Mexico cross-border infrastructure, delays and denials by the U.S. in permitting natural gas and related infrastructure have further exacerbated investment uncertainty, undermining the region's potential to lead in energy security and transition. Addressing these permitting obstacles in the three countries is essential to fostering a collaborative and competitive North American energy framework that supports economic and social growth, environmental goals, and regional stability.

Regarding the USMCA's effectiveness in promoting productive deployment of capital, the agreement has provided a framework to promote cross-border investments that strengthen U.S. competitiveness. Agriculture is one example. Both Canada and Mexico are important sources of foreign direct investment (FDI) in the U.S. food industry, supporting jobs, exports and R&D in the United States. At the end of 2023, Canada was the second largest source of FDI in the U.S. food industry, with a cumulative position of about $10.9 billion. Mexico was not far behind with a cumulative position of $6.3 billion of FDI in the U.S. food industry in 2023. U.S. FDI in Canada and Mexico contributes to U.S. competitiveness and enhances market access. Much of U.S. agricultural trade with Canada is intra-industry trade in sectors like grains and feed, beef and pork, while U.S.-Mexico agricultural trade is largely complementary.

Strategies for Strengthening North American Economic Security and Competitiveness via USMCA's North American Competitiveness Committee

The North American Competitiveness Committee (NACC), established under the USMCA's Article 26 with the aim of promoting further economic integration between the three countries and enhancing the competitiveness of North American exports, has proved to be a valuable component of the agreement. As the U.S. works to safeguard critical supply chains and enhance enforcement, increased cooperation with Canada and Mexico will accelerate these efforts. The USMCA has served as a launchpad for the creation of such supply chains, including by expanding coordination in critical minerals and facilitating regional investments into electric vehicles and semiconductors. The agreement—and the economic certainty it was designed to provide—plays a key geostrategic role in America's economic competition with China and others.

The Chamber commends the USMCA Free Trade Commission for adopting procedures (Decision 5) under the NACC to improve emergency preparedness between the U.S., Canada, and Mexico and welcomes the opportunity to provide further recommendations to strengthen the continent's economic competitiveness. We fully embrace the priority of boosting the competitiveness of the region in light of a changing and complex global economic and social landscape and support the establishment of trilateral mechanisms for cooperation including those designed to maintain trade flows during emergency situations. More generally, the Chamber believes that all committees established by the USMCA should include some form of public participation to ensure that the views of the private sector and other stakeholders are heard.

We support and encourage the need for a trilateral cooperation of the agreement and have identified several recommendations to strengthen North American competitiveness under the USMCA framework, building on the agreement's achievements over the past six years. These proposals aim to enhance supply chain efficiency, reliability, and accessibility, particularly benefiting small businesses that often face challenges navigating complex trade regulations. By streamlining customs procedures, promoting paperless trade, enhancing the benefits of Authorized Economic Operator or trusted trader programs, and improving cross-border interoperability, these measures would enable small exporters to participate in international trade more effectively and affordably, fostering a level playing field in the global marketplace. For an expanded list of recommendations on strategies for strengthening North American economic security and competitiveness, please review Annex II.

Conclusion

The United States-Mexico-Canada Agreement (USMCA) is a cornerstone of North American economic integration, providing a modernized framework that supports businesses, workers, and consumers across the region. By maintaining its trilateral structure, the agreement ensures that the United States, Canada, and Mexico can collectively leverage their shared strengths to remain competitive in the global economy. The importance of preserving the U.S.-Mexico-Canada Agreement (USMCA) cannot be overstated.

The USMCA not only preserves critical market access for U.S. businesses but also fosters innovation, strengthens supply chains, and promotes investment in key sectors such as manufacturing, agriculture, energy, and digital trade. For the United States, the agreement represents an unparalleled opportunity to deepen economic ties with its closest trading partners, enhance regional competitiveness, and secure millions of American jobs that depend on cross-border trade.

The Chamber appreciates the opportunity to submit these comments and looks forward to working with the administration to address these important issues.

Sincerely,

Neil Herrington
Senior Vice President, Americas
U.S. Chamber of Commerce

Annex I: USMCA Compliance Issues

Canada

Agriculture

The U.S. government secured hard-won commitments in USMCA for Canada to marginally increase its dairy market access and establish disciplines on its artificially low-priced dairy protein exports that undercut U.S. producers. Unfortunately, Canada has failed to uphold their end of the bargain on both fronts. Since implementation, the Canadian government has administered its dairy tariff rate quotas (TRQs) in a manner that reserves the majority of the TRQs for Canadian processors who have little incentive to import and excludes retailers, restaurants and other stakeholders throughout the supply chain. Many of the TRQs go unfilled at the end of the year as a result despite strong demand. Canada has simultaneously attempted to circumvent its USMCA nonfat milk solid export disciplines by minimally processing the products subject to export thresholds and increasing export volumes via alternative dairy tariff codes.

More specifically, Canada has been accused of undermining U.S. market access by reserving the majority of tariff rate quota (TRQ) shares for dairy processors, effectively blocking access for retailers and food service operators. This practice contradicts the intent of the USMCA and has resulted in persistently low fill rates across several dairy product categories, such as whey powders, fluid milk, and skim milk powder. Additionally, Canada has exploited export surcharge loopholes by shifting dairy protein production processes to evade USMCA export surcharges, particularly through the creation of a new Class 4a pricing structure. This has allowed the export of products like milk protein isolates and skim milk powder blends under alternate tariff codes, negatively impacting U.S. dairy producers.

Recommendation: The Chamber urges the U.S. government to ensure that Canada upholds all its USMCA dairy trade commitments as the negotiators intended.

Digital

Online Streaming Act

Canada’s Online Streaming Act (Bill C-11), which entered into force in April 2023, updated Canada’s Broadcasting Act to regulate online streaming services and provided discretion to the Canadian Radio-television and Telecommunications Commission (CRTC) on how to implement it. On June 4, 2024, the CRTC issued a decision to require foreign, largely U.S.-based, music and audiovisual streaming service providers to pay 5% of their gross in-country revenue to certain Canadian cultural funds. In addition to the levy, the CRTC is designing additional discriminatory measures that target U.S. companies, including local content quotas and content discoverability mandates. The CRTC may also increase the financial levy to as high as 30%. In total, the Online Streaming Act could cost U.S. industry as much as $7 billion by 2030.

Recommendation: If full repeal of the Online Streaming Act is not possible, USTR should secure a reversal of existing discriminatory implementation decisions, such as the 5% financial levy, and a commitment that future decisions will not raise the levy or otherwise impose discriminatory obligations on U.S. companies, including local content quotas and discoverability requirements.

Intellectual Property

Patent Term Adjustment

As part of commitments made under the USMCA, Canada agreed to introduce a patent term adjustment (PTA) mechanism. The purpose of this mechanism is to compensate patent applicants for any undue delay in prosecuting the patent application. Canada's PTA system came into effect on January 1st, 2025. It has been assessed that due to Canada's implementation approach, PTA will be difficult, if not impossible, to obtain for most applicants. More broadly, any PTA granted is set to run concurrently with a separate and distinct form of term restoration, namely, supplementary protection for biopharmaceutical patents. Yet these are two completely different types of patent term restoration seeking to compensate rightsholders for different forms of regulatory delay. PTA is due to what is under the USMCA termed "unreasonable" delays in patent prosecution, in this instance by the Canadian Intellectual Property Office (CIPO). Certificates of supplementary protection (CSP) for biopharmaceutical patents are meant to restore time lost during the marketing authorization process for new medicines and biopharmaceutical technologies, in this instance by Health Canada. As such, these forms of patent term restoration are independent from each other which is reflected in the separate commitments of the parties to the USMCA under Articles 20.44 and 20.46. Additionally, the PTA application process lacks clear timelines for critical steps along the way, while also allowing for deducting delays that could not be avoided by the innovator despite their best effort (e.g. due to insufficient time offered to respond to information requests from CIPO). Moreover, where applicants are granted shorter patent term adjustments and wish to apply for redetermination, the Commissioner for Patents can only either shorten the adjustment term or dismiss the application. Therefore, the only meaningful remedy available is to initiate costly and lengthy judicial proceedings.

Recommendation: Canada should implement a PTA system satisfying the requirements of Article 20.44 of USMCA, independently from its separate CSP system. The PTA should have a clear and transparent calculation methodology, with reasonable timelines to allow cooperation with the patent office during the process, while also providing an effective redetermination procedure that can also result in upwards adjustments to the granted PTA, where duly justified.

Certificates of supplementary protection (CSP)

The Canadian government's interpretation and implementation of its commitments under the USMCA mirrors how the government chose to handle the introduction of the CSP mechanism under the earlier Comprehensive Economic and Trade Agreement (CETA) with the EU. The relevant amendments made to the Patent Act (Sections 106—134) and implementing regulations published in the Canada Gazette provide—on paper—a maximum restoration period of two years which is considerably shorter than the five-year maximum period that can be restored in the United States. However, the effective availability of this term of restoration was severely restricted through several technical carve-outs.

To begin with, under Section 116(4), the Canadian government retained the right to reduce the term of protection at its discretion. Second, the implementing regulations contained a non-treaty "Timely Submission Requirement" that limits eligibility to medicines for which a new drug submission is made within one year from the first regulatory submission in a set of "prescribed economies." (i.e. EU, UK, U.S., Australia, Switzerland and Japan). Thus, the availability of a CSP was made contingent on timely comparative market entry. Additionally, the eligibility for CSP excludes certain new drug submissions if they are based on a list of variations of medicinal ingredients, an exception that is absent from the U.S. system. Finally, the law also contained an export carve-out, with Section 115(2) effectively exempting the infringement of CSP protection if the activity is for the exclusive purpose of export. Such an exemption is not foreseen in the USMCA and results in the CSP not having an equivalent protection to the underlying patent to which it relates.

Recommendation: The CSP framework should be adjusted by the Canadian government to provide restoration of term up to five years and remove the limitations on eligibility tied to timely regulatory submission requirements or variations of medical ingredients. The CSP, as a sui generis right should provide the same level of protection as the underlying patent, eliminating the export manufacturing waiver.

Patent Enforcement System

Article 20.78 of the USMCA requires parties to ensure that their laws include enforcement procedures, including "expeditious remedies to prevent infringements and remedies that constitute a deterrent to future infringements". Canada's damages system under Section 8 of the PM(NOC) regulations provides for excessive damages and deters innovators from adequately enforcing their rights by seeking an order to prevent follow-on product manufacturers from obtaining a Notice of Compliance where they deem that the product is covered by a valid patent. Section 8 allows follow-on product manufacturers to seek damages for the lost profits due to the innovator's enforcement action where the patent is subsequently found invalid. The very principle of allowing for damages in such cases is flawed as damages would only be justified if the innovator did not act in good faith by initiating the action while knowing that the patent is invalid or is not infringed. Additionally, Canadian courts are interpreting the provisions of Section 8 in a way that allows for granting excessive damages that go beyond the damage actually incurred or the total value of the generic market.

Recommendations: The USTR should use the joint review to engage with Canadian counterparts and limit 1) the scope of the damage provisions to cases where the right holder willingly acts in bad faith, and 2) the amount of the damages so it cannot be higher than the actual profits lost, which should be established in relation to the generic market value.

Standard for Disclosure of Confidential Business Information (CBI)

In November 2014, Canada enacted legislation to update its Food and Drugs Act (Bill C-17). Provisions in that law granted the Health Minister discretion to disclose a company's CBI without notice to the owner of the CBI. Additionally, the disclosure of CBI in Bill C-17 is inconsistent with Canada's USMCA obligations, which requires that CBI be protected against disclosure except where necessary to protect the public. Under these provisions, it is not necessary that there be a serious risk of injury to justify the disclosure; rather the provisions merely require that the Minister believes the disclosure to be necessary. The Act allows the Minister to disclose CBI to individuals involved in "the protection or promotion of human health or safety of the public," though there is no necessity requirement for this disclosure to occur. USMCA does not refer to disclosure for the *promotion* of health, but rather to disclosure needed to protect the health of the public.

Recommendation: The Canadian government should ensure that the regulations and guideline documents to implement the Food and Drugs Act are consistent with Canada's USMCA obligations on confidential business information.

Pharmaceuticals

Market Access Barriers: Artificial devaluation of innovative medicines & regulatory delays

Despite being one of the largest and most advanced economies in the world, Canada maintains policies that artificially devalue innovative medicines developed in the United States and limit and delay patient access to these medicines. The Patented Medicines Prices Review Board (PMPRB) sets maximum prices for all patented medicines sold to public or private payers by referencing prices in other countries. In 2021, Canada removed the United States and Switzerland from the reference basket of countries, thereby artificially lowering prices and exacerbating the situation where Canada fails to pay its fair share for innovation.

Additionally, it takes approximately two years following regulatory approval for a medicine to reach patients insured on public drug plans. This is due to lengthy sequential administrative processes and federal-provincial pricing negotiations through the pan-Canadian Pharmaceutical Alliance (pCPA) before individual jurisdictional funding agreements.

These measures deprive U.S. innovators of revenue and market access and allow Canada to benefit from U.S. pharmaceutical innovations without paying its fair share for those innovations. USTR should use the Joint Review in a manner consistent with the President's May 12, 2025, directive to eliminate foreign government policies "forcing American patients to pay for a disproportionate amount of global pharmaceutical research and development, including by suppressing the price of pharmaceutical products below fair market value[.]"

Recommendations:

- Sunset the PMPRB or put the U.S. back in the reference country basket and continue to apply the PMPRB International Price Comparison Test using the Highest International Price standard.
- Reduce regulatory steps between national assessments and inclusion on public formularies of provinces and territories to accelerate patient access.
- Create Accelerated Access Pathway for new innovative medicines
- Ensure pCPA recognizes the value of innovation and reflects this in pricing decisions

Unfair Government Procurement Practices

Recent procurement practices may not align with Canada's obligations under Chapter 13 of the USMCA, particularly with respect to national treatment and non-discrimination requirements (Article 13.4.1). Concerns of unfair treatment to U.S. companies include potential preferences for locally produced vaccines, provincial preferences not considered in federal procurement process, price trumping recognized value, winner take all tenders, and lack of transparency and fairness in procurement processes.

Recommendation: USTR should urge the Canadian government to ensure future tenders adhere to government procurement obligations related to national treatment, fairness, and transparency.

Trade Facilitation

In Canada, the Canada Border Services Agency (CBSA) recently implemented the latest phase of the CBSA Assessment and Revenue Management System (CARM), which has increased the complexity and cost of compliance. For example, CARM eliminated the ability for importers to make blanket corrections to customs entries and instead requires individual corrections of entries.

Recommendation: Canada's CARM system presents challenges, requiring permanent modifications to remove bottlenecks for U.S. exporters.

Zero Plastic Waste Agenda

Industry supports policies that would align and grow a circular economy across the North American market, promote product and waste lifecycle management, and enable innovation in the collection, management and recycling infrastructure systems. However, Canada's Zero Plastic Waste Agenda—including compostability and recyclability labeling, bans on single-use plastics, and cross-border trade restrictions—create negative impacts on trade and restrict U.S. food and agriculture exports. Other policies, including consideration of listing certain essential chemistries on schedule 1 of the Canadian Environmental Protection Act as toxic are not aligned with current U.S. approaches and, if finalized could limit U.S. economic interests and access to key materials and prevent circularity in critical sectors, including automotive and aerospace.

For example, Canada's Federal Plastic Registry—which requires companies to report data on plastic packaging, electrical equipment, and single-use or disposable plastic products—introduces substantial administrative and compliance burdens, including increased costs, duplicative reporting, and reduced competitiveness for industry operating in all three economies. The next phase of the reporting, which will come into force in September 2026, would further exacerbate these concerns, with expanded reporting requirements for resin manufacturers and importers, plastic waste generated at facilities, and end-of-life plastic.

Recommendation:

- Review Canada's Zero Plastic Waste agenda and engage with private sector and across the trade relationship to ensure science- and risk-based approaches to address plastic pollution and access to essential chemistries that consider barriers to trade, the viability of alternatives, increased costs to consumers, restrictions on U.S. exports and ensures alignment for a circular economy across North America.
- Cancel or pause implementation of the Federal Plastic Registry's Phase 2 implementation to allow for meaningful stakeholder engagement as well as a full impact assessment—including a thorough evaluation of Phase I—to ensure any potential subsequent requirements are practical, effective, and in alignment with international best practices and USMCA trade obligations.

Mexico

Digital

Data Access Requirements in Mexico’s 2026 Package

A proposal (CFF Art. 30-B) in Mexico’s Economic Package would require digital service providers to grant the Tax Administration Service (SAT) permanent, real-time online access to their systems and records related to operations in Mexico. Non-compliance could result in the temporary blocking of digital—widely referred to as the “kill-switch” - as outlined under the Value-Added Tax Law (LIVA). Additionally, the SAT would coordinate with the newly created National Agency for Digital Transformation and Telecommunications to manage the technological infrastructure and data analysis associated with this obligation. These authorities have stated that the intention of this proposal is to capture Chinese ecommerce companies, but the language is broad and captures all providers. Both the new provision and the existing “kill-switch” provision raise serious concerns regarding Mexico’s USMCA commitments.

Recommendation: USTR should press Mexico to withdraw or narrowly tailor CFF Art. 30-B so that it does not apply to FTA partners, including the U.S. USTR should also secure agreement from Mexico that the network-blocking penalty, applied only to foreign suppliers, is disproportionate and discriminatory relative to conventional tax enforcement and is outside the USMCA tax exception (Art. 32.3).

Barriers for Cloud in Financial Services

Mexico continues to enforce a 2021 regulation that requires electronic payment fund institutions to maintain a business continuity plan in the case of disaster recovery that relies on either 1) a multi-cloud approach with at least two cloud service providers from two different jurisdictions, or 2) an on-premises data center in country that doesn’t depend on the primary (foreign) cloud provider. The approvals process run by the National Banking and Securities Commission that is required for financial services companies to use cloud services is resource intensive and is discriminatory towards foreign cloud providers, whereas existing local on-premises data centers need to complete a shorter notification process. This de facto data localization requirement is in addition to an already complex and time-consuming process that electronic payment fund institutions face to gain regulatory approval to use offshore cloud infrastructure whereas in country infrastructure enjoys a more expedited process. The United States has raised concerns with the Mexican government that the requirements relating to use of cloud service suppliers by electronic payment fund institutions have a negative competitive impact on the business of U.S. service suppliers.

Recommendation: USTR should press Mexico to revise/clarify the 2021 CNBV requirement so it is technology-neutral and outcome-based, eliminating de facto localization and prescriptive multi-cloud/jurisdiction mandates; allow single-cloud architectures that meet resilience, portability, and exit requirements (e.g., multi-AZ/region failover, cross-region backups). Seek a commitment that approval pathways are non-discriminatory and equivalent for offshore cloud and on-prem, with reliance on internationally recognized standards and third-party audits, and acceptance of supervisory cooperation arrangements in lieu of local presence.

Energy

The Mexican government's efforts to reverse the 2013 liberalization of the energy sector and tilt the playing field toward state-owned PEMEX (petroleum company) and the Federal Electricity Commission (CFE - electric utility) disadvantage U.S. companies and U.S.-sourced energy supplies. The current Mexican administration continued the constitutional counter reforms of the energy sector initiated by the prior Lopez Obrador government. Reforms were enacted in October 2024 to alter the legal status of CFE and PEMEX, making them public companies and no longer productive state companies. The Hydrocarbons and Electricity Industry laws were amended earlier this year, and regulations were published in early October 2025. These counter-reforms outline new rules to reestablish Mexico's State control over the sector, prioritizing PEMEX and CFE in detriment of private companies—with clear violations to Mexico's USMCA commitments. This is one of the four arguments that the U.S. government recently used to call Mexico for energy consultations.

CFE now has dispatch precedence over private sector companies in the electricity sector. Only the state is allowed to supply transmission and distribution services. Meanwhile, Mexico is implementing several non-tariff barriers to energy trade, including new import permits for energy products (lubricants, fuels, chemicals, etc.), traceability of products requirements, volumetric controls, customs inspections and audits, gas station and terminal inspections, and tax audits, triggering an unprecedented scrutiny and administrative burden on U.S. companies who are trying to compete on a level-playing field with PEMEX and CFE.

With the recent legal changes to Mexico's secondary legislation and regulations, the Mexican Government has significant discretionary powers to cancel, suspend or revoke an import permit from U.S. companies. Private companies are also required to hold inventories for five days; PEMEX is not. Moreover, private companies are forced to submit commercial confidential information to the Mexican Government that is ending up in PEMEX's hands.

The Mexican Government recently published a new QR and GPS requirement to trace all energy trucks and trains. This new requirement—which was published in

Mexico's Federal Registry without due process—leaves U.S. energy companies in a vulnerable situation as their confidential commercial information will be accessed through these QR codes. Meanwhile, PEMEX and CFE are not subject to these requirements or that level of scrutiny—creating an unlevel playing field in violation of USMCA.

In addition, reforms were passed to dissolve the autonomous energy regulatory agencies, the National Hydrocarbons Commission (CNH) and the Energy Regulatory Commission (CRE), and the Federal Competition Commission (COFECE) and incorporate them into the Ministries of Energy and Economy, respectively. These autonomous technical regulatory bodies used to guarantee a fair treatment for private companies.

President Sheinbaum presented an energy reform to Congress that potentially allows new partnerships with the private sector for the Upstream (Exploration & Production) which are unlikely to attract private investment as the Mexican State would hold a majority stake and control. Moreover, Mexico is blocking U.S. private sector access to the energy sector by delaying, rejecting, or failing to respond to requests for new permits or permit modifications for energy projects. Examples include renewable energy projects and the transshipment and storage of fuels, among others.

Mexico's recent non-tariff barriers, such as new import permits for energy products, excessive red tape and administrative burden, unjustified inspections, customs and fiscal audits, among other non-tariff barriers, should be eliminated. These non-tariff barriers are raising energy costs for manufacturers, small and medium enterprises, and consumers, creating bottlenecks and unnecessary inefficiencies for the Mexican government and private investors—limiting Mexico's economic and social growth while hindering North America's global competitiveness.

The Chamber understands the concerns of the United States and Mexico around the illicit fuels trade into Mexico (a.k.a., 'huachicol fiscal') and applauds the efforts both governments are conducting to crack down on illicit fuels smuggling into Mexico by the cartels. That said, this situation should not be used as an excuse to hinder legitimate energy trade.

Recommendation: The U.S. should request a formal State to State Dispute Settlement (SSDS) panel under USMCA to address Mexico's lack of compliance with its USMCA obligations.

Financial Services

USTR should seek to resolve Mexico's non-compliance with respect to the USMCA's Financial Services commitments on cross-border trade, including application of the national treatment and market access obligations for electronic payment services (EPS).

Specifically, Mexico is not upholding its commitments in Chapter 17 (Annex 17-A) related to EPS. U.S. EPS suppliers face significant barriers in Mexico, including regulations that require adherence to the domestic payment network's standards, limiting their ability to operate independently and offer value-added services. This regulatory framework hinders competition, innovation, and financial inclusion. Despite repeated calls from U.S. authorities and recommendations from Mexico's Economic Competition Authority (COFECE) to address these barriers, progress has been slow due to fragmented responsibilities among Mexican regulators.

Recommendation: To resolve these issues, Mexico should finalize and implement regulations ensuring a level playing field for U.S. EPS suppliers, including interoperability among networks and the ability for U.S. suppliers to operate under their own rules. We emphasize the need for transparent governance, harmonized technical standards, and public-private partnerships to foster innovation and address regulatory fragmentation. Additionally, we call for expedited authorization procedures for investments, particularly in mergers and acquisitions, to reduce uncertainty and delays that undermine investor confidence.

Intellectual Property

Implementation of Effective Patent Enforcement Mechanisms

Under the USMCA, Mexico is required to establish robust patent enforcement mechanisms to prevent the approval of generic or biosimilar products that infringe on existing patents before those patents expire. Annex 20-A of the agreement allows Mexico to continue using its current system, which involves coordination between the Mexican Institute of Industrial Property (IMPI) and the Federal Commission for the Protection against Sanitary Risk (COFEPRIS), to block the marketing of patent-infringing pharmaceuticals. Consequently, Mexico must notify patent holders when a third party applies for marketing approval of a follow-on product and give them a fair chance to present their case regarding the relevant patents before any such product is authorized.

Whereas COFEPRIS has stated that it would publish applications for follow-on products on its website and has recently taken steps to facilitate the listing of method of use patents through amendments to the Federal Law on the Protection of Industrial Property submitted to Congress on September 16, 2025, the Chamber and its members believes that these measures are insufficient and do not fully satisfy USMCA requirements. This is because it does not allow patent holders to present their case to IMPI concerning all relevant patents before the follow-on product receives authorization. Additionally, the secondary regulations to clarify practical elements of the patent linkage system have still not been finalized, creating uncertainty about the scope of the regime, including the relevant patents covered.

Also, recent court precedents have undermined patent usage by preventing their publication in the patent linkage gazette. As a result, COFEPRIS has issued numerous marketing authorizations for generic versions of patented protected products, occurring at least 10 times in 2023 and 2024 alone (PhRMA, 2025).

Recommendation: Mexico must implement effective patent enforcement mechanisms which (1) provide adequate notice to patent holders when third parties apply for marketing approval of follow-on products, including sufficient information enabling an adequate analysis of potential infringements; (2) make clear that any patent granted to an allopathic medicine product, including compound, formulation, and use patents, is covered under the “patent linkage” regime; (3) give patent holders adequate time and opportunity to provide relevant information to support the coordination between COFEPRIS and IMPI, as well as to seek provisional remedies (e.g., stays with sufficient duration and preliminary injunctions) prior to the marketing of the allegedly infringing products; and (4) facilitate timely resolution of patent disputes prior to the expiration of the provisional remedies.

Patent Term Restoration

Mexico is one of the few members of the OECD that does not provide patent term restoration for effective patent term lost during the lengthy regulatory approval process, as required under Article 20.46.2 of the USMCA. While the USMCA provides a transition period to grant Mexico additional time to implement patent term restoration, the transition period expired on January 1, 2025, when Mexico is obligated to be in full compliance with these measures. While on September 16, 2025, the Mexican Government submitted to Congress a bill amending the Federal Law for the Protection of Industrial Property and introducing a supplementary certificate extending the patent term for a maximum of five years, its provisions do not fully satisfy the requirements of the USMCA, and the bill remains to be adopted. In particular, the calculation method for the extension and the substantive and procedural requirements are not adequately covered by the law, requiring further clarification before the system can become operational.

Recommendation: Mexico must implement measures, which were due on January 1, 2025, to restore the patent term for inappropriate marketing approval delays consistent with USMCA provisions. Specifically, the bill currently under discussion should be further amended to provide clarity on how the term extension is calculated, the eligibility requirements, while also providing for an effective application process that supports the timely grant of supplementary certificates before the expiry of the underlying patent.

Regulatory Data Protection

The USMCA's Article 20.48 obligates Mexico to provide regulatory data protection, for at least five years, for both small molecule and biologic drugs. This provision is subject to a five-year transition period that **expired on July 1, 2025**—and thereby Mexico was expected to be in full compliance with these obligations at that time. Currently, Mexico only provides regulatory data protection in non-binding guidelines, but the protection is not automatically granted upon marketing approval and often requires litigation to obtain it.

Recommendation: Mexico must implement binding regulations, to provide regulatory data protection consistent with Article 20.48 that were supposed to be effective no later than July 1, 2025. To ensure the effectiveness of Article 20.48, the protection should be made available for both small molecules and biologics and should be granted automatically.

Clarification of the Bolar Exemption

The USMCA's Article 20.47 requires Mexico to ensure that its Bolar Exemption to patent rights is "solely for purposes related to generating information to meet requirements for marketing approval for the product."

Recommendation: Mexico should issue secondary regulations that ensure the exemption is limited to the sole purpose of securing marketing approval including by imposing limits on the volume of raw materials that can be imported under the exemption so that the follow-on product can be launched in Mexico after all relevant patents on the innovative product have expired.

Preliminary Injunctions

Injunctive relief against infringing products is a critical remedy for patent holders to protect the value of their innovation. In short, an injunction prevents further harm to the patent holder by prohibiting the infringer from continuing to sell its infringing product.

In Mexico, however, patent holders are unable to secure an effective preliminary injunction or a final decision regarding infringement within a reasonable time. Patent holders also have difficulty collecting adequate damages for past infringement. This is inconsistent with Article 20.78 of the USMCA, which says that "each Party shall ensure that enforcement procedures…are available under its law so as to permit effective action against an act of infringement of intellectual property rights covered by this Chapter, including expeditious remedies to prevent infringements and remedies that constitute a deterrent to future infringements." It is also inconsistent with TRIPS Article 44.1, which states that "judicial authorities shall have the authority to order a party to desist from an infringement."

Additionally, the Mexican government, including IMPI, has adopted the practice of lifting injunctions against products that infringe industrial property rights under the justification of access to medicines and the right to health. This goes against what is stipulated in USMCA articles 20.78 (1) and (2), 20.81 (2) and 20.82 (1) and (2).

Recommendation: We encourage the Mexican Government to accelerate patent infringement proceedings, enforce Mexican Supreme Court decisions through available legal mechanisms, and implement procedures necessary to provide timely and effective preliminary injunctions. Preliminary injunctions should remain valid and should not be lifted unless compelling evidence of lack of access and/or non-infringing evidence is filed by the defendant.

Copyright Implementation

In May 2024, Mexico's Supreme Court upheld critical amendments to the Federal Law on Copyright, introducing a notice-and-staydown system. This decision aligns with Mexico's commitments under the USMCA. Historically, Mexico has faced challenges in copyright enforcement, but this development marks a significant step forward.

While amendments to Mexico's Federal Law on Copyright clarify that ISPs are not liable for damages from copyright infringement if they act quickly and in good faith to remove infringing content, subsection V of the Law adds ambiguity by stating that failure to meet these requirements alone does not generate liability. For any notification system to be effective in addressing online infringement, it must be clear what the responsibilities and legal expectations are for each affected party. Despite the Supreme Court's positive ruling in 2024, no implementing regulations or further guidance have been issued on the issue, leaving responsibilities and legal expectations unclear. However, the 2024 ruling should provide a pathway for the necessary regulatory processes to make the notice-and-takedown mechanism operational, addressing a long-standing gap since the USMCA's conclusion.

Recommendation: To ensure the effectiveness of the notice-and-staydown mechanism, Mexican authorities should promptly issue clear implementing regulations and guidance on ISP responsibilities and legal expectations.

Regulatory and Government Procurement

Public Procurement System Changes and Offset Requirements

Since 2018, Mexico has made frequent and non-transparent changes to its public procurement system, often with unreasonable implementation timelines. These changes have rendered the system confusing and lacking in due process, creating substantial market access barriers that led to supply chain challenges and product shortages. These modifications could also lead to increased use of procurements with limited tenders, in violation of Mexico's commitment to open tendering procedures as outlined in Chapter 13 of the USMCA (Article 13.4.4).

In addition to these numerous changes to government procurement rules for medicines, the Mexican government issued a decree in June 2025 linking public sector pharmaceutical purchases to domestic production and/or investment. This policy, commonly referred to as an offset or performance requirement, also introduced a points-and-percentages system for evaluating bids in public tenders. This is inconsistent with several of its USMCA obligations, including a) Article 13.4.6 that prohibits offsets in covered procurement, including any requirement related to local content, production, investment, or technology transfer and b) Article 13.4.1 that reinforces the provision of national treatment. Federal legislation to codify these requirements was published in *Gaceta Parlamentaria* on September 26, 2025.

Recommendation: USTR should urge the Mexican government to categorically exclude U.S. and other international suppliers and products from any offset obligation, in compliance with USMCA obligations for procurement. In general, it should provide more clarity on its procurement process and requirements, allowing for appropriate lead times when changes are made, so companies can ensure supply continuity.

Uphold National Treatment Obligations

Proposed amendments to Mexico's marketing authorization procedures appear to undermine its national treatment obligations under the USMCA. Under the draft legislation, companies holding a sanitary license for a domestic manufacturing facility producing generic or biologic medicines would be granted access to an expedited marketing authorization process. By limiting this streamlined pathway exclusively to manufacturers that meet these criteria, the proposal introduces a discriminatory measure that undermines the principle of national treatment enshrined in the USMCA; specifically, Annex 12-F.5, which governs the application of regulatory controls. The legislation was published in the *Gaceta Parlamentaria* on September 26, 2025, and also includes provisions related to government procurement that may further contradict Mexico's USMCA commitments (see section below for details).

Recommendations: It is essential that marketing authorizations, recognition letters, and regulatory controls are administered equitably and without discrimination based on origin, in line with national treatment obligations.

Delays in Regulatory Approval and Market Access

Under Mexican law, products approved by the FDA, should receive an expedited review by COFEPRIS within 90 days. COFEPRIS has been inconsistent in its use of this review pathway, resulting in long approval delays that prevent market access.

These delays are inconsistent with Annex 12-F of the USMCA, which notes that "[e]ach party shall administer its marketing authorizations reasonably, including by…providing an applicant that requests marketing authorization for a pharmaceutical product with a determination within a reasonable period of time." This amounts to an unfair trade practice that prevents U.S. manufacturers from selling in the Mexican market.

Recommendation: USTR should urge the Mexican government to implement regulatory reliance mechanisms that ensure FDA-approved products receive expedited review from COFEPRIS, in line with Mexican law and USMCA obligations.

Barriers to Competition in the Telecommunications Sector

The government assesses a fixed fee for spectrum regardless of use, which distorts the market and results in an advantage to the preponderant agent. This affects the ability of smaller scale operators to compete and places the current U.S. player in the market at a disadvantage. Mexico's high spectrum fees, which exceed the international median by 60%, also hinder competition, as documented in a 2023 study by Mexico's Federal Telecommunications Institute (IFT). In November 2024, the Mexican Congress maintained the annual spectrum fees for 2025 at the same elevated levels as in 2024. In addition, the state-owned operator ALTAN has preferential terms and state-owned enterprise CFE, originally allowed to provide service to social beneficiaries, is now allowed to compete with private operators. The competitive landscape was further weakened by constitutional reforms passed in December 2024 that eliminated the autonomous regulatory agency IFT and other autonomous agencies. The government plans to create a new single economic competition authority that would absorb the functions of the IFT and the former Federal Economic Competition Commission (COFECE).

Recommendation: The Mexican government should ensure that the secondary laws on competition, telecommunications and broadcasting provide a fair and competitive market environment and are consistent with Mexico's international obligations, including the USMCA.

Trade Facilitation

The high-standard trade facilitation chapter has delivered benefits; however, compliance and enforcement challenges persist. Mexico's transition to a new customs agency (ANAM) and the inclusion of military personnel in customs operations have led to inconsistencies with USMCA Chapter 7. Coordination between ANAM and SAT has been hindered by technical and regulatory challenges, resulting in delays in routine clearances at the border. Issues such as unimplemented rules, like Mexico's General Rule of Foreign Trade 3.7.27, have exacerbated congestion and costs at key border crossings. Additionally, Mexico's failure to adhere to "communication with traders" provisions and other Good Regulatory Practices such as notice-and-comment rulemaking requirements has resulted in poorly conceived regulations with insufficient stakeholder input. For example, new rules are often introduced with less than 48 hours for implementation, creating operational inefficiencies, bottlenecks at the border, and unprecedented red tape.

Recommendation: We encourage Mexico to implement the USMCA provision allowing periodic payments for express shipments, which would reduce costs for U.S. exporters.

Annex II: *Strategies for Strengthening North American Economic Security and Competitiveness*

Economic Security

A comprehensive approach to ensuring continued access and coordination within critical minerals, semiconductors, and more will be essential to mitigating risks associated with global disruptions and/or strategic competition. Part of such an approach should be increased regulatory harmonization in key industries such as information and communications technology (ICT), pharmaceuticals, agriculture and food products, energy and clean technologies, automotives, and fintech. The governments should also enhance public-private partnerships by installing a formal and permanent mechanism for public participation in all of the USMCA committees' workstreams.

On the investment front, the countries should work to develop aligned screening mechanisms for both inbound and outbound investment activity similar to CFIUS. Coordinated efforts—including with respect to scope and implementation—will enhance regional security and economic interests.

Cross-Border Workforce Mobility

Recommendation: Establish a "Skills Corridor" initiative under the North American Competitiveness Committee (NACC). While broader immigration reform is the ultimate goal for the U.S. business community, the Skills Corridor initiative could facilitate entry for technicians, engineers, and other specialized personnel to support industrial operations and infrastructure projects across borders to enhance North America's competitiveness and project-delivery capabilities. The initiative may, for example, include enhancing and modernizing the TN visa's professions and occupations list. The TN visa was established originally under the North America Free Trade Agreement (NAFTA). The current list of eligible professions and occupations is in Appendix 1603.D.1 of the USMCA.

Digital

Recommendation: Strengthen cybersecurity cooperation. Implement cybersecurity commitments using a risk-based, outcomes-focused approach that avoids duplicative mandates. Leverage recognized frameworks and mutual recognition of standards to enhance regional security without forcing data localization or fragmenting incident reporting. Use the Committee on Digital Trade to coordinate practices, streamline reporting, and improve collective defense.

Regulatory Cooperation

Recommendation: We encourage expanding regulatory cooperation among the three countries and providing a mechanism for regular stakeholder engagement to identify and resolve potential regulatory barriers. This could include leveraging the Good Regulatory Practices Committee and re-opening and expanding bilateral mechanisms such as the U.S.—Canada Regulatory Cooperation Council, with the inclusion of Mexico's public and private stakeholders.

The Chamber believes that an ongoing trend of overregulation in North America and a lack of alignment and harmonization of regulations among the three nations is undermining North America's global competitiveness, with small and medium enterprises being particularly adversely impacted. Using these already established mechanisms for cooperation could improve the regulatory environment in the region and foster more transparent and predictable frameworks, rules, and regulations. To start, trilateral cooperation should prioritize attention on streamlining import and infrastructure permits and license applications before regulatory agencies for their approval; for example, by sharing best practices on how to balance the needs for clarity, speed, and compliance with regulatory requirements.

Trade Facilitation

One key recommendation is to implement in Mexico the existing USMCA provision that allow the periodic payment (i.e., weekly or monthly) of all duties, fees, and taxes imposed on express shipments. Furthermore, in light of recent trade policy changes, the countries should reinvigorate the implementation of another USMCA provision that requires fewer customs formalities for shipments valued under USD$2,500 for Mexico and the United States and under CAD$3,300 for Canada. These changes would preserve the benefits of simplified processes, increasing supply chain efficiency, while ensuring governments receive all revenue they are due. We also recommend paperless trade as a standard practice, with mutual recognition of electronic documents, invoices, and signatures. Simply put, paper forms and physical signatures at the border must be totally removed from USMCA trade. This would expedite prearrival analysis and release procedures, supported by pilot programs leveraging technologies like AI—including the expanded use of AI by governments and the private sector alike—to enhance customs functions.

To increase transparency and foster continuous improvement, we advise including a provision for publishing statistics and performance metrics, such as clearance times and resolution rates for claims. Additionally, regulations for low-value express shipments should be enforced in a way that does not hinder their flow, ensuring these shipments are not impacted by rules designed for higher value commercial goods.

Further recommendations include enhancing the interoperability of single window systems across borders, including with non-customs government agencies, and expanding preclearance and pre-inspection programs between all three countries. Aligning customs inspections, hours of service, and shared facilities would improve supply chain security and efficiency while reducing costs for businesses and consumers.

These recommendations collectively aim to build on the existing USMCA framework, ensuring it continues to drive economic growth, strengthen supply chains, and enhance North America's position as a global leader in trade and investment.

Trusted Trade Programs

Expanding the use of trusted trader programs, pre-arrival processing, and advance data mechanisms is essential to enhancing the efficiency, security, and competitiveness of North American trade. These systems streamline cross-border trade processes, reduce delays, and foster greater collaboration between governments and the private sector.

Recommendation: The three governments should prioritize investments in technology, provide more and better incentives for businesses to participate in trusted trader programs, and engage in regular dialogue with the private sector to address challenges and identify opportunities for improvement. By doing so, the USMCA can fully realize its potential to drive economic growth, innovation, and regional integration.