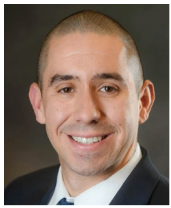


# NAFTA Watch

## Updates from Benesch on the North American Free Trade Agreement

### NAFTA Watch Vol. 20

### At the Last Minute, The Old NAFTA Becomes The New USMCA



Kevin Capuzzi



John Gentile

This publication is our twentieth installment in a series designed to provide our clients in the manufacturing, transportation and logistics, and related industries with monthly updates on any actions taken by the Trump Administration, Congress, and/or federal governmental agencies with respect to the North American Free Trade Agreement (“NAFTA”).

With a United States self-imposed deadline of September 30, 2018 to finalize an agreement on a “new NAFTA”, the United States, Mexico and Canada were able to come to terms on a new trade deal, named the United States-Mexico-Canada Agreement (“USMCA”). While the consensus appears to be that the USMCA is not that much different from NAFTA, there are still significant changes on the horizon that

could possibly affect a number of industries in all three countries.

The United States was able to use its leverage to extract changes to NAFTA in its favor, as the most valuable trading partner of the three countries, while Mexico and Canada sought to maintain more of the status quo. Most notably, USMCA requires automakers to produce 75% of a vehicle’s content, over time, to qualify for zero tariffs, compared to the previous 62.5% threshold. This provision is meant to force automakers to source fewer parts from Europe and Asia. There are increases in wages for workers of automakers in Mexico, up to \$16 an hour by 2023, and Mexican workers will be able to form and join labor unions. Canada and Mexico will be exempt from United States tariffs on the vehicles that they export to the United States. Additionally, USMCA calls for the opening of the Canadian market to more exports from the American dairy industry. Canada was able to keep in a “Chapter 19 provision” which provides a panel with representatives from all three countries to challenge each other on tariffs and other trade related actions.

Despite the announcement of USMCA, there is still a long way to go before the new trade agreement becomes law in the United States. While the USMCA will most likely be signed by all three countries prior to December 1, 2018, that does not make the USMCA law in the United States. The next United States Congress will vote to ratify USMCA, after being seated in January 2019. Given the contentious 2018 midterm elections that are shaping up in the United States, if the House and/or Senate were to flip to Democratic control, there remains a possibility that USMCA would not get through Congress. The belief is that Mexico and Canada are happy to maintain the status quo with NAFTA if USMCA does not become law in the United States. However, representatives from the Republican and Democratic parties in the United States have pledged to study the USMCA closely, to evaluate how the deal may affect their core constituents.

Benesch will continue to monitor the United States political landscape to provide updates to our clients in the manufacturing, transportation and logistics, and related industries of any developments.

**For more information**

Contact **KEVIN CAPUZZI** at [kcapuzzi@beneschlaw.com](mailto:kcapuzzi@beneschlaw.com) or (302) 442-7063, or **JOHN GENTILE** at [jgentile@beneschlaw.com](mailto:jgentile@beneschlaw.com) or (302) 442-7071.

**KEVIN CAPUZZI** is an associate with the firm's Litigation, Insolvency & Creditors' Rights, and Transportation & Logistics Practice Groups. He practices in the firm's Wilmington, DE and Hackensack, NJ offices. His practice includes advising and representing motor carriers and third party logistics providers in all stages of litigation in federal and state court matters. Kevin also has extensive experience representing parties in bankruptcy court proceedings, including defending motor carriers and third party logistics providers in avoidance action litigation and navigating unique claims and related issues arising in Chapter 7, 11, and 15 bankruptcies.

**JOHN GENTILE** is an associate in Benesch's Litigation and Transportation & Logistics Practice Group. He focuses his practice primarily on commercial litigation in state and federal courts. He is an experienced case manager responsible for all duties from pleadings to trial. John's experience in the transportation and logistics area focuses on representing motor carriers, third party logistics providers, ocean transportation intermediaries, national shippers and private corporations.

**Additional Information**

For additional information, please contact:

**Transportation & Logistics Practice Group**

**Michael J. Barrie** at (302) 442-7068 or [mbarrie@beneschlaw.com](mailto:mbarrie@beneschlaw.com)  
**Dawn M. Beery** at (312) 212-4968 or [dbeery@beneschlaw.com](mailto:dbeery@beneschlaw.com)  
**Marc S. Blubaugh** at (614) 223-9382 or [mblubaugh@beneschlaw.com](mailto:mblubaugh@beneschlaw.com)  
**Kevin M. Capuzzi** at (302) 442-7063 or [kcapuzzi@beneschlaw.com](mailto:kcapuzzi@beneschlaw.com)  
**Kristopher J. Chandler** at (614) 223-9377 or [kchandler@beneschlaw.com](mailto:kchandler@beneschlaw.com)  
**Justin P. Clark** at (216) 363-4616 or [jclark@beneschlaw.com](mailto:jclark@beneschlaw.com)  
**Emily C. Fess** at (312) 624-6326 or [efess@beneschlaw.com](mailto:efess@beneschlaw.com)  
**John C. Gentile** at (302) 442-7071 or [jgentile@beneschlaw.com](mailto:jgentile@beneschlaw.com)  
**Matthew D. Gurbach** at (216) 363-4413 or [mgurbach@beneschlaw.com](mailto:mgurbach@beneschlaw.com)  
**Jennifer R. Hoover** at (302) 442-7006 or [jhoover@beneschlaw.com](mailto:jhoover@beneschlaw.com)  
**Trevor J. Illes** at (312) 212-4945 or [tilles@beneschlaw.com](mailto:tilles@beneschlaw.com)  
**Thomas B. Kern** at (614) 223-9369 or [tkern@beneschlaw.com](mailto:tkern@beneschlaw.com)  
**Peter N. Kirsanow** at (216) 363-4481 or [pkirsanow@beneschlaw.com](mailto:pkirsanow@beneschlaw.com)  
**David M. Krueger** at (216) 363-4683 or [dkrueger@beneschlaw.com](mailto:dkrueger@beneschlaw.com)  
**Charles B. Leuin** at (312) 624-6344 or [cleuin@beneschlaw.com](mailto:cleuin@beneschlaw.com)  
**Michael J. Mozes** at (614) 223-9376 or [mmozses@beneschlaw.com](mailto:mmozses@beneschlaw.com)  
**Kelly E. Mulrane** at (614) 223-9318 or [kmulrane@beneschlaw.com](mailto:kmulrane@beneschlaw.com)  
**Margo Wolf O'Donnell** at (312) 212-4982 or [modonnell@beneschlaw.com](mailto:modonnell@beneschlaw.com)  
**Steven A. Oldham** at (614) 223-9374 or [soldham@beneschlaw.com](mailto:soldham@beneschlaw.com)  
**Lianzhong Pan** at (86 21) 3222-0388 or [lpan@beneschlaw.com](mailto:lpan@beneschlaw.com)  
**Martha J. Payne** at (541) 764-2859 or [mpayne@beneschlaw.com](mailto:mpayne@beneschlaw.com)  
**Stephanie S. Penninger** at (312) 212-4981 or [spenninger@beneschlaw.com](mailto:spenninger@beneschlaw.com)  
**Joel R. Pentz** at (216) 363-4618 or [jpentz@beneschlaw.com](mailto:jpentz@beneschlaw.com)  
**Richard A. Plewacki** at (216) 363-4159 or [rplewacki@beneschlaw.com](mailto:rplewacki@beneschlaw.com)  
**David A. Rammelt** at (312) 212-4958 or [drammelt@beneschlaw.com](mailto:drammelt@beneschlaw.com)  
**Matthew J. Selby** at (216) 363-4458 or [mselfy@beneschlaw.com](mailto:mselfy@beneschlaw.com)  
**Peter K. Shelton** at (216) 363-4169 or [pshelton@beneschlaw.com](mailto:pshelton@beneschlaw.com)  
**Verlyn Suderman** at (312) 212-4962 or [vsuderman@beneschlaw.com](mailto:vsuderman@beneschlaw.com)  
**Clare R. Taft** at (216) 363-4435 or [ctaft@beneschlaw.com](mailto:ctaft@beneschlaw.com)  
**Jonathan Todd** at (216) 363-4658 or [jtodd@beneschlaw.com](mailto:jtodd@beneschlaw.com)  
**Joseph P. Yonadi, Jr.** at (216) 363-4493 or [jyonadi@beneschlaw.com](mailto:jyonadi@beneschlaw.com)  
**Eric L. Zalud** at (216) 363-4178 or [ezalud@beneschlaw.com](mailto:ezalud@beneschlaw.com)

[www.beneschlaw.com](http://www.beneschlaw.com)

*As a reminder, this Advisory is being sent to draw your attention to issues and is not to replace legal counseling.*

UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 DISCLOSURE: TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, WE INFORM YOU THAT, UNLESS EXPRESSLY STATED OTHERWISE, ANY U.S. FEDERAL TAX ADVICE CONTAINED IN THIS COMMUNICATION (INCLUDING ANY ATTACHMENTS) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF (i) AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE, OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TRANSACTION OR MATTER ADDRESSED HEREIN.