

NAFTA Watch Vol. 20 – At the Last Minute, The Old NAFTA Becomes The New USMCA

OCTOBER 2, 2018

Authors: [John C. Gentile](#), [Kevin M. Capuzzi](#)

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 a member of the firm's Transportation & Logistics Practice Group.

Kevin Capuzzi at kcapuzzi@beneschlaw.com or 302.442.7063.

John Gentile at jgentile@beneschlaw.com or 302.442.7071.