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The USMCA: Carryover Provisions from NAFTA

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INTRODUCTION

This report discusses several provisions of the North American Free Trade Agreement (NAFTA) that in large part have been carried over to the United States–Mexico–Canada Agreement (USMCA). In some instances, significant changes have been made to the NAFTA provisions that have found their way into the USMCA. For example, a considerable change was made with the addition of pharmaceutical industry–related provisions to the more generally applicable provisions for publication and administration. Other aspects of the USMCA discussed in this report include regulations for government procurement, trade remedies, temporary entry for business visitors, and general exceptions or limitations on the application of the trade agreement.

GOVERNMENT PROCUREMENT

The NAFTA provisions on government procurement were drafted at a time (1991–92) when the World Trade Organization's (WTO) Government Procurement was still in draft form, but when the General Agreement on Tariffs and Trade (GATT) Tokyo Round Government Procurement Code was in force among a limited group of GATT parties.[1] NAFTA's Chapter 10 contains the usual elements of government procurement, which are designed to ensure a high degree of transparency in the bidding process and the national treatment for goods and services procurements that exceed certain minimum thresholds.[2] NAFTA also includes detailed tendering and bid-challenging procedures[3] along with mechanisms for technical cooperation and programs for small businesses.[4] As with most such agreements, governments agree to apply the agreement only to a positive list of government entities. Perhaps the greatest shortcoming of NAFTA's procurement provisions was its failure to include Canada's provinces and the U.S. states.[5] Among the benefits for the United States under the NAFTA procurement chapter was the success of U.S. insurance providers in providing coverage for about two-thirds of Mexican government employees.[6]

However, the results of the USMCA negotiations were unfortunate. The USMCA chapter on procurement applies only to the United States and Mexico.[7] Procurements between the United States and Canada are thus governed by the WTO's Government Procurement Agreement (GPA),[8] of which the United States and Canada are among the current 48 members to which the agreement is applicable (Mexico is not among them).[9] Under the GPA, 37 American states and the Canadian provinces and territories are (voluntarily) covered.[10] For Mexican and Canadian procurement in each other's territories, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) procurement rules are applicable.[11] They include lower thresholds carried over from NAFTA that are not entirely replicated in the WTO's GPA. For example,

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The USMCA chapter on procurement applies only to the United States and Mexico. Procurements between the United States and Canada are thus governed by the WTO's Government Procurement Agreement (GPA), which the U.S. administration is now threatening to terminate.

> *$25,000 for goods . . . and $80,000 for services. For the procurement of goods and services by its government enterprises, Canada applies a threshold of $492,000 under the GPA and $400,000 under NAFTA.*[12]

It should also be noted that NAFTA used a negative list approach where no agencies are excluded unless listed, while the GPA used the positive list approach, where only the entities listed in a party's annex are included.

Thus, as observers have rather caustically noted, "Government procurement contracts in North America will be dictated by a 'hodge-podge' of international agreements that could make things complicated for businesses and potentially raise costs for taxpayers."[13] As usual, these complications pose a greater challenge for small and medium-sized enterprises (SMEs) than for larger multinational enterprises. Given that SMEs seeking to take advantage of government procurements internationally are most likely to begin with procurements in neighboring Canada and Mexico, the potential complications are unfortunate. It is difficult to know at this time whether Mexican bidders will have competitive advantages in bidding on Canadian procurements. More generally, since government procurements are financed by national or local taxpayers, steps which may decrease competition from Canada for U.S. procurements are unfortunate if minimizing costs is an objective.[14] Of course, for those who prefer to "buy American" under all circumstances, if the USMCA provides even a slight disincentive for foreign competitors, that could be considered a benefit.

The results also do not bode well for an increasingly global procurement market. As the Advisory Committee for Automotive and Capital Goods observed, "U.S. exporters to Canada would enjoy less access to Canadian government tenders than potential bidders in the European Union or Trans Pacific Partnership (TPP) member countries (including major competitors like Japan, Singapore, and Australia) enjoy."[15] If the United States ultimately decides on the basis of "buy American" views, as recently proposed by the Trump administration,[16] and decides to withdraw from the WTO GPA, the United States would lose access to the Canadian government market. Such access would have been preserved if the USMCA procurement provisions had applied to Canada.

Insofar as Mexico and the United States are concerned, the USMCA chapter incorporates many of the updates in CPTPP, changes which could apparently not be achieved in the broader WTO GPA negotiations that took place a few years ago. One addition of possible significance, particularly to SMEs, is the requirement that notices of procurement opportunities be offered through a single electronic portal.[17] However, the general agency coverage does not appear to vary much from the TPP or NAFTA.

At a minimum, some American providers of goods and services to government entities will face additional administrative costs because different systems will be used for submitting bids to Mexico (USMCA) and to Canada (GPA). While the similarities in procedures are substantial, details and bidding thresholds differ as noted above. Also, to the extent that a prime contractor in one USMCA party (e.g., Canada) desires to use a subcontractor from another USMCA party (e.g., Mexico) for a project in the United States, the bidding process could be considerably more complex than it was under NAFTA. To some extent, the problem would be mitigated if Mexico was to become a party to the GPA, but this seems highly unlikely given that Mexico is not even one of the 34 WTO members that have sought observer status under the GPA.[18] If anything, the López Obrador administration appears to be moving in the opposite direction, reducing the opportunities for private enterprise, foreign or domestic, in government contracts.[19]

TRADE REMEDIES

NAFTA's Chapter 19 mechanism, which provided for review of national antidumping and countervailing duty decisions by binational panels, has been discussed in detail in an earlier report.[20] However, other mechanisms and principles relating to regional trade contained in the USMCA also merit brief mention.

NAFTA, like virtually all prior U.S. trade agreements and GATT, contains so-called "safeguard" measures or "emergency actions" to protect domestic producers against unexpected increasing imports.[21] As far as I am aware, no trade agreement concluded by the United States between 1947 and 2019, including the TPP,[22] omitted safeguard provisions applicable to trade in industrial products.[23] NAFTA contemplated both bilateral and global safeguard actions. For global actions, NAFTA generally preserved the rights of the parties to bring safeguard actions under GATT and the WTO Safeguards Agreement.[24] However, when applying global safeguards, a NAFTA party could not include other NAFTA parties unless that party "account[s] for a substantial share of total imports" and "contribute[s] importantly to the serious injury or threat thereof" as a result of the imports. If a NAFTA party was not among the top five suppliers of the product it exports to the other NAFTA party, they were also excluded.[25]

NAFTA incorporated separate safeguard provisions.[26] However, those safeguards were applied only once against broom corn brooms imported to the United States, which resulted in one of only three cases litigated under NAFTA's Chapter 20 provisions.[27] These bilateral safeguards were limited to use during the transition period to duty-free trade, where it could be shown that the imports were a "substantial cause of serious injury."[28] Since the transition period to duty-free treatment expired for essentially all products no later than January 1, 2008,[29] the bilateral action safeguards in NAFTA have long since become irrelevant.

In the USMCA, the parties retain their rights under GATT and the WTO Safeguards Agreement.[30] The USMCA also retains the NAFTA party exclusions noted above.[31] This contrasts with the CPTPP safeguard provisions, where similar exclusions for other CPTPP parties were not included, although the non-global safeguards under the CPTPP were only applicable during the transition period.[32]

The USMCA also preserves the rights of the parties to bring antidumping and countervailing duty cases under the GATT/WTO rules and their own unfair trade laws, as was the case under NAFTA and the CPTPP, among most other regional trade agreements.[33] One innovation in the USMCA that does not exist in either NAFTA or the CPTPP is a requirement for cooperation in preventing evasion of trade remedy laws and several provisions focused primarily on duty evasion cooperation.[34]

TEMPORARY ENTRY FOR BUSINESS VISITORS

NAFTA provided no broad rights for workers who are citizens of one of the NAFTA parties to work in either of the others. The USMCA follows the same approach, although in some areas the language is different, and it does provide for temporary entry for business persons, with many limitations. As with the General Agreement on Trade in Services, the movement of natural persons (so-called "Mode 4") is effectively limited to persons of one party entering the territory of another party to supply professional services (e.g. accountants, lawyers, doctors, or teachers). In this respect, WTO members are free to impose measures regarding citizenship, residence, or access to the employment market on a permanent basis.[35]

The USMCA temporary entry chapter thus must be read in conjunction with the USMCA's cross-border services Chapter 16, discussed in an earlier report.[36] Overall, the USMCA services chapter makes few substantive changes to its NAFTA counterpart. Not surprisingly, given the enormous sensitivity of immigration issues in North America (and elsewhere), the scope of the USMCA chapter consists of limitations rather than authorizations:

1. *This Chapter applies to measures affecting the temporary entry of business persons of a Party into the territory of another Party.*
2. *This Chapter does not apply to measures affecting natural persons seeking access to the employment market of another Party, nor does it apply to measures regarding citizenship, nationality, residence or employment on a permanent basis.*

As with the WTO's General Agreement on Trade in Services, the USMCA applies to the movement of natural persons and primarily to persons of one party entering the territory of another party temporarily to supply professional services.

3. *Nothing in this Agreement prevents a Party from applying measures to regulate the entry of natural persons of another Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that those measures are not applied in a manner as to nullify or impair the benefits accruing to any Party under this Chapter.*[37]

Also, the range of business visas available under the USMCA, as under NAFTA, closely resembles the structure of U.S. immigration law.[38] Thus the covered categories include business visitors, traders and investors, intra-company transferees, and professionals.[39] While all of these are non-resident visas, some visa holders, such as treaty traders and investors, may remain in the host country, e.g., the United States, as long as their trader or investor status remains valid, which could be years or decades.

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Similarly, visas for professionals such as lawyers and accountants, among others ("1B visas"), are usually valid for three years, renewable for another three years, and are often a route to permanent residence. Thus, the "temporary" aspect must be taken with a grain of salt. Detailed requirements are set out for professionals; the list in the USMCA was not expanded from NAFTA. For example, to qualify for a USMCA visa as a lawyer (including as a notary in Quebec), an individual must hold a "LL.B., J.D., LL.L., B.C.L. or Licentura Degree (five years); or membership in a state/provincial bar."[40] In most cases a baccalaureate or similar degree, licentura degree, or state/provincial license is required, in some cases with three years' experience.[41]

The USMCA, like NAFTA, provides for a "Trade National" (TN) visa for professionals who have a job offer in the United States. It is estimated that in 2017, some 30,000-40,000 Canadian citizens were working in the United States on a TN visa.[42] For Canadian citizens, the visa may be obtained with the necessary job offer and proof of citizenship at the U.S./Canada border or the airport port of entry; for Mexican citizens, application at a U.S. consulate is required. The TN visa is not available for permanent residents, only citizens, and remains available for three years.[43] Nor does it apply to those who are self-employed. It is suggested that continuation of the TN visa program was a significant victory in the negotiations for Mexico and Canada, given the U.S. Administration's "Buy American, Hire American" policies, but the provisions are of course a boon to Americans who wish to pursue professional employment in Canada or Mexico.[44] As the U.S. government advises, eligible persons for TN visas should: a) be citizens of Canada or Mexico, b) be in a profession that qualifies under the regulations (and annex 16-A section D professionals list), c) have a job offer for a U.S. position that requires a professional, d) be accepted for a full or part-time job that has been prearranged with a U.S. employer, and e) possess the necessary professional qualifications.[45] One of the major advantages of the TN visa is fewer administrative burdens for both visa applicants and their prospective employers in all three USMCA parties.

PUBLICATION AND ADMINISTRATION

The NAFTA negotiators appear to have been desirous of achieving greater transparency generally in the publication, notification, and administration of laws at a time before the internet, where Mexico in particular had not established a solid record of publication of laws and regulations.[46] Lack of transparency has been an endemic problem for many years for the U.S. government and stakeholders involved in overseas trade and investment. It is, for example, a major problem for U.S. economic relations with China. As one study (concerning China) noted, "In general, the absence of clear and transparent rules and policies—in financial markets, as well as for activities such as commerce, capital investment, and trade—is a major problem because it dissuades participation, adds uncertainty, and can even foster corruption."[47] Arguably, the same could have been said about Mexico at the time of the NAFTA negotiations in 1991-92.

NAFTA's short, three-page chapter on "Notification and Administration of Laws," (Chapter 18) focused on establishing contact points among the parties and prior notification of actual or proposed measures that "the Party considers might materially affect the operation of this Agreement or otherwise substantially affect that other Party's interests under this Agreement."[48] Equally significantly, NAFTA required a form of administrative due process, whereby persons of another party receive reasonable notice when an administrative proceeding affecting their interests is initiated and are afforded, with some limitations, "a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action."[49] Also significant is an obligation for each party but aimed primarily at Mexico (since both Canada and the United States had the necessary courts and administrative procedures in place) to:

> *establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.*[50]

Chapter 29 of the USMCA builds upon this foundation in somewhat greater detail, with a new focus on the pharmaceutical products and medical device industry. Requirements for notice, the availability of administrative proceedings conducted in accordance with generally recognized principles of procedural due process, and review and appeal requirements closely resemble those in NAFTA.[51]

The most significant addition, compared to NAFTA and to other U.S. free trade agreements (FTAs) with provisions like those in NAFTA, is a separate section devoted to transparency and procedural fairness (TPF) for pharmaceutical products and medical devices. The reasons the U.S. pharmaceutical industry sought (and received) such additional protections are summarized as follows:

> *The purpose of a TPF chapter for medical technology is to give the manufacturer the opportunity to understand the basis for a reimbursement decision and to provide evidence to the government body making the reimbursement decision . . . [W]e should seek provisions that are designed to provide transparency to the process by which national (but not state or provincial) health care authorities in the NAFTA countries set reimbursement rates for medical devices at the national level. In the case of Mexico, these provisions should also apply to the Government's decisions about which products to list on its national formulary . . .*"[52]

The chapter has the stated objectives of protecting public health, promoting research and development, providing timely and affordable access to pharmaceuticals, and recognizing the value of pharmaceuticals and medical devices through "the operation of competitive markets."[53] Procedural fairness requirements emphasize timely action by national healthcare authorities, full disclosure of procedural rules, opportunities for applicant comments, and provision of sufficient written information to understand the authorities' listing of new products for reimbursement. Independent review processes are also required as is the provision of written information to the public, subject to protection of confidential information.[54]

Other provisions address dissemination of information and consultations.[55] A key exclusion, presumably sought by Mexico, Canada, or both, makes the procedural fairness section inapplicable to government procurement of pharmaceutical products and medical devices.[56] The parties also confirm that the purpose of this section is transparency and procedural fairness, "not to modify a Party's system of healthcare in any other respects or a Party's rights to determine health expenditure priorities."[57]

Despite the limitations and exceptions in the section, its obligations once again reflect the importance of the pharmaceutical sector to the U.S. export economy as well as its political power. It will be interesting to see how faithfully these provisions are implemented by Mexico and Canada, particularly now that biologic drug protection in the USMCA has been eliminated.[58]

GENERAL EXCEPTIONS

This section addresses many but not all exceptions placed by the drafters in Chapter 32 of the USMCA. Cultural industries exceptions for Mexico, which did not exist in NAFTA, are included in this report. The prohibition on FTAs with communist countries (e.g., China) and the USMCA's provisions on indigenous people's rights will be discussed in an upcoming report in this series, "Significant USMCA Innovations."

NAFTA incorporated various general exceptions, most of which were based on GATT exceptions. It should be noted that GATT Article XXI has taken on great significance in recent years as the Trump administration has imposed tariffs or quotas on the grounds that they were necessary in order to maintain U.S. national (economic) security on imports of steel and aluminum from most countries.

NAFTA incorporated various general exceptions, most of which were based on GATT exceptions. These included the general exceptions in GATT Article XX and the national security exception in GATT Article XXI.[59] Both of these were incorporated in a somewhat modified form in the USMCA.[60] It should be noted that GATT Article XXI has taken on greater significance in recent years as the Trump administration has imposed tariffs or quotas on the grounds that they were necessary in order to maintain U.S. national (economic) security on imports of steel and aluminum from most countries[61] (although Mexico and Canada were later excluded because both countries were refusing to move forward on ratifying the USMCA as long as the tariffs remained in place).[62] It is perhaps for this reason that the "essential security" language in the USMCA does not incorporate the limitations of the exceptions in either GATT Article XXI or NAFTA, presumably to give the United States—the only USMCA party that has invoked the GATT clause—somewhat more flexibility in using "essential security" as a basis for unilateral actions.

Both NAFTA and the USMCA also include limitations on the application of the trade agreement to national taxation measures, largely to preserve the integrity of tax treaties and the parties' abilities to maintain domestic revenue policies and to cooperate internationally on tax matters through existing treaty mechanisms.[63] While NAFTA maintains an exception based loosely on GATT Article XII to safeguard the balance of payments,[64] the USMCA includes a broader "temporary safeguards measures" provision. There, the agreement explicitly "does not prevent a Party from adopting or maintaining a restrictive measure with regard to payments or transfers for current account transactions in the event of serious balance of payments and external financial difficulties or threats thereto" or for restrictions on capital movements in similar circumstances.[65] This concept of an exception for external financial difficulties appears to be derived, at least in part, from a trade agreement the United States concluded with Chile in 2003.[66]

Both NAFTA and the USMCA incorporate limitations on the parties' obligations to furnish information that would conflict with national law, impede law enforcement, be contrary to the public interest, or prejudice legitimate public or private commercial interests.[67] The language in NAFTA focuses more on personal privacy or personal financial information.[68] Reflecting the enormous changes that have taken place through the growth in digital trade, along with personal privacy concerns since NAFTA was concluded, the USMCA makes provisions for the protection of personal information, requiring each party to maintain legal frameworks for this purpose, taking into "account principles and guidelines of relevant international bodies."[69] Other procedural requirements are also discussed, along with soft obligations on promoting compatibility, information exchange, and cooperation among government agencies.[70] Parties are obligated to give non-discriminatory treatment to natural persons of any party who request records held by the central governments.[71]

CONCLUSION

While the USMCA provisions discussed in this report may seem relatively minor, that is not necessarily the case. For example, NAFTA's government procurement provisions have resulted in significant sales for American goods and service providers to both Mexico and Canada. While the absence of such provisions applicable to U.S.–Canada government procurement at present may be mitigated by the fact that both Canada and the United States are both parties to the WTO's Government Procurement Agreement, if the Trump administration follows through on its proposal to withdraw from the WTO agreement, providers on both sides of the border will suffer.

In the other areas, including trade remedies, temporary visitors for business, publication and administration, and general exceptions, there are few innovations, as the discussion above indicates. Still in some areas, as with the extension of the cultural industries' exceptions to Mexico, it is possible that some stakeholders will be directly impacted. Here, as elsewhere in the USMCA, a careful reading by individual stakeholders or their counsel is essential in order to take advantage of (or avoid problems arising from) even minor innovations.

ENDNOTES

1. Agreement on Government Procurement ("Tokyo Round Government Procurement Code"), 1979, http://bit.ly/3aZtve7.
2. NAFTA, art. 1002.
3. NAFTA, arts. 1008–17.
4. NAFTA, arts. 1020, 1021.
5. NAFTA, annex 1001.a–1.
6. "Report of the Industry Trade Advisory Committee on Services," USTR (Office of the United States Trade Representative), September 27, 2018, http://bit.ly/2IN1IBP.
7. USMCA, art. 13.2.3.
8. WTO (World Trade Organization), "Agreement on Government Procurement," Annex 4(b) to the WTO Agreement, April 15, 1994, as revised through April 6, 2014, http://bit.ly/2Wt9j0v.
9. WTO, "Agreement on Government Procurement: Parties, Observers and Accessions," http://bit.ly/33lS6r3.
10. WTO, "Agreement on Government Procurement: Coverage Schedules," http://bit.ly/3d1rhNf. See annex 2 for the United states and Canada.
11. See CPTPP, ch. 15. In the CPTPP, Canada's provinces and territories were covered; U.S. states were not included in the U.S. annex.
12. Jean Heilman Grier, "USMCA – Modernized NAFTA: Procurement," *Perspectives on Trade*, October 5, 2018, http://bit.ly/33k6PTq.
13. Megan Cassella, "'Buy American' Makes its Way into USMCA," *Politico*, October 29, 2018, https://politi.co/39V1VhX
14. See, e.g., Tori K. Whiting and Gabriella Beaumont-Smith, "An Analysis of the United States–Mexico–Canada Agreement," *Backgrounder*, The Heritage Foundation, no. 3379, (January 28, 2019): 24, https://herit.ag/33nRkd8. (This source comments on the potential USMCA impact on Canadian bidding for U.S. contracts).
15. "Addendum to the Earlier (September 28, 2019) Report of the Industry Trade Advisory Committee on Automotive Equipment and Capital Goods," USTR, October 24, 2018, 6, http://bit.ly/2WoHh5U
16. See "USTR Backs Withdrawal from WTO Procurement Agreement," *World Trade Online*, February 26, 2020, http://bit.ly/2ISAhGx.
17. USMCA, arts. 13.6.2(b), 13.20.3(b).
18. WTO, "Agreement on Government Procurement: Parties, Observers and Accessions."
19. Jude Webber and Michael Stott, "Mexico: López Obrador Makes a Big Bet on Oil," *Financial Times*, October 3, 2019, https://on.ft.com/2IRCnXe. For example, the administration's new gasoline refinery is to be "state-directed, centrally-drive, reliant on national production and free of foreign influence."

20. David A. Gantz, "The United States–Mexico–Canada Agreement: Settlement of Disputes." Baker Institute Report no.05.02.19. Rice University's Baker Institute for Public Policy, Houston, Texas, May 2, 2019, http://bit.ly/3bbmmYz.

21. NAFTA, ch. 8; GATT, art. XIX.

22. See TPP, ch.6, sec. A.

23. A recent exception is the United States–Japan Trade Agreement. This agreement, of very limited scope, only includes safeguards for agricultural trade in a side letter. No safeguards provision exists for industrial goods trade, although either party may terminate the agreement on four months' notice under Article 10. See "U.S.–Japan Trade Agreement Text," USTR, Oct. 7, 2019, http://bit.ly/2U3P4Dq.

24. GATT, art. XIX; WTO, "Agreement on Safeguards," Annex 1A of the Agreement Establishing the World Trade Organization, April 15, 1994, http://bit.ly/2WfPXLU.

25. NAFTA, art. 802.2. Exclusion of restrictions on imports of steel from Canada, Mexico, Israel, and Jordan (the latter two under free trade agreements with similar safeguard provisions) was challenged successfully by multiple WTO parties as being inconsistent with WTO safeguard rules because those imports had been used by U.S. authorities in determining whether serious injury had resulted. See WTO, "United States – Definitive Safeguard Measures on Imports of Certain Steel Products," WT/DS252/AB/R, adopted December 10, 2003, http://bit.ly/39VGQ7k.

26. NAFTA, art. 801.

27. NAFTA Secretariat, "Decisions and Reports" http://bit.ly/2IctBE3. See "In the Matter of the U.S. Safeguard Action taken on Broom Corn Brooms from Mexico," (USA-97-2008-01), Final Panel Report, January. 30, 1998.

28. NAFTA, art. 801.1.

29. NAFTA, annex 302.2.1(d).

30. USMCA, art. 10.2.

31. USMCA, arts. 10.2.1, 10.2.2.

32. CPTPP, art. 6.3. Under CPTPP, the length of the transitional period varies considerably among parties. See CPTPP art. 2 and various annexes.

33. USMCA, art. 10.5; NAFTA, art. 1902; CPTPP, art. 6.8. The United States–Japan Agreement explicitly preserves the parties' rights to impose global safeguards but incorporates no specific language on antidumping or countervailing duty actions. See art. 5.2.

34. USMCA, arts. 10.6, 10.7.

35. See WTO, "General Agreement on Trade in Services," Annex 1b of the WTO Agreement, April 15, 1994, http://bit.ly/2WiQCfS; WTO, "The General Agreement on Trade in Services (GATS): Objectives, Coverage and Disciplines," http://bit.ly/2wWLof9.

36. David A. Gantz, "USMCA Provisions on Intellectual Property, Services, and Digital Trade." Baker Institute Report no. 01.17.20. Rice University's Baker Institute for Public Policy, Houston, Texas, January 17, 2020. http://bit.ly/3aVvsls.

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38. USMCA, annex 16-A.

39. Ibid.

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41. Ibid.

42. Morgan, "USMCA Immigration to US: USMCA TN Visa for Canadians 2020," *VisaPlace* (blog), December 20, 2019, http://bit.ly/38UW2QT.

43. See USMCA, annex 16-A, section D; para. 1. See also, "Skilled Workers and Professionals Keep Visa Rights under NEW USMCA Trade Deal," *Foreign Worker Canada*, http://bit.ly/33kS3vA.

44. Ibid.

45. "TN NAFTA Professionals," U.S. Citizenship and Immigration Services, updated March 7, 2017, http://bit.ly/38YL1h7; USMCA, annex 16-A, section D.

46. NAFTA, ch. 18.

47. Ben S. Bernanke and Peter Olson, "China's Transparency Challenges," *Brookings*, March 8, 2016, https://brook.gs/2QhHqEI.

48. NAFTA, art. 1803:1.

49. NAFTA, art. 1804.

50. NAFTA, art. 1805.1.

51. USMCA, arts. 29.2, 29.3, 29.4.

52. "Report of the Industry Trade Advisory Committee on Chemicals, Pharmaceuticals, Health/Science Products and Services," USTR, September 25, 2018, 9, http://bit.ly/38Wj61k.
53. USMCA, art. 29.6.
54. USMCA, art. 29.7.
55. USMCA, arts. 29.8, 29.9.
56. USMCA, ch. 29, footnote 5.
57. USMCA, ch. 29, footnote 1.
58. "Protocol of Amendment to the Agreement between the United States of America, the United Mexican States, and Canada," USTR, December 10, 2019, para. 7E (deleting USMCA art. 20.49), http://bit.ly/3b2fFa0.
59. USMCA, arts. 2101, 2102.
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62. Bill Chappell, "U.S. Will Lift Tariffs on Steel and Aluminum from Canada and Mexico," *NPR*, May 17, 2019, https://n.pr/39QjCzn.
63. NAFTA, art. 2103; USMCA, art. 32.3.
64. NAFTA, art. 2104.
65. USMCA, art. 32.4.2.
66. "United States–Chile Free Trade Agreement," USTR, Chapter 10, annex 10-C, June 6, 2003, http://bit.ly/38WaCaK.
67. USMCA, art 32.7.
68. NAFTA, art. 2105.
69. USMCA, art. 32.8.
70. USMCA, arts. 32.8.6, 32.8.7.
71. USMCA, art. 32.9

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