

Intellectual Property

The **United States-Mexico-Canada Agreement (USMCA)** is the most comprehensive and high-standard trade agreement ever negotiated. It fully updates, modernizes, and rebalances the NAFTA to meet the challenges of the 21st century economy and to ensure that American workers, farmers, ranchers, and businesses, including small- and medium-sized enterprises, share in the benefits of the agreement. It will help drive economic prosperity, promote fairer and more balanced trade, and help ensure that North America remains the world’s most competitive region.

The USMCA Establishes the Most Comprehensive Rules on Intellectual Property to Date

The USMCA sets the highest standard of any U.S. trade agreement for strong, effective protection and enforcement of intellectual property (IP) rights, which are critical to driving innovation, creating economic growth, and supporting American jobs. **Although the USMCA IP Chapter is a significant upgrade from the NAFTA, nothing in the Chapter requires changes to U.S. law.**

NAFTA	USMCA
Incomplete national treatment for copyright and related rights.	 Full national treatment for copyright and related rights.
Copyright term of life of author+ 50 years or publication +50 years.	 Copyright term of life of author +70 years or publication +75 years.
No copyright safe harbor system to deter online piracy.	 Establishes appropriate copyright safe harbors to deter online piracy.
No explicit requirement to apply enforcement obligations to the digital environment.	 Requires application of enforcement measures to the digital environment.
Minimum 10 year protection for industrial designs.	 Minimum 15 year protection for industrial designs.
No patent term extension for unreasonable patent office and regulatory delays.	 Mandates patent term extension for unreasonable patent office and regulatory delays.
Does not require criminal procedures and penalties for camcording.	 Requires criminal procedures and penalties for camcording.
Weaker and general trade secret protection.	 Strong civil and criminal trade secret protections, including against misappropriation by state-owned enterprises.
5 years of data protection for ag. chemicals.	 10 years of data protection for agricultural chemicals.
Minimal protections against nontransparent GI systems.	 Strongest due process and transparency requirements for GI protection systems in any FTA.
No explicit protections against circumvention of technological protection measures.	 Requires protection against circumvention of technological protection measures.
No mandatory ex officio authority for customs officials to stop suspected counterfeit goods.	 Requires ex officio authority for customs officials to stop suspected counterfeit goods.
Does not require criminal penalties and civil remedies for cable theft.	 Requires criminal penalties and civil remedies be available for both satellite and cable theft.
No detailed provisions expressing a shared understanding on IP Chapter and public health.	 Reaffirms Doha Declaration on TRIPS and Public Health.
No explicit data protection for biologic medicines.	 Provides for 10 years of data protection for biologic medicines. This will require NO CHANGES to U.S. law and Congress retains its discretion to legislate; however, Mexico and Canada will need to come into closer alignment with current U.S. law.
No data protection for new indications or new combinations for pharmaceutical products.	 3 years of data protection for new indications; or 5 years for new combinations for pharmaceutical products.