

What You Need To Know Now About NAFTA 2.0

After a year of renegotiation, a revised text of the North American Free Trade Act (NAFTA) was signed by North American leaders in November of 2018. The Trump administration said numerous times that the goal of the agreement was to get rid of NAFTA and make a better deal for working people. Though rebranded as the United States-Mexico-Canada Agreement, the agreement is essentially NAFTA 2.0. As AFL-CIO President Richard Trumka wrote in his [letter](#) to members of Congress, “While the new NAFTA...makes progress in some areas, the labor movement is united in our judgment that it does not yet meaningfully address what is wrong with the original agreement.”

After years of unfair trade deals that have contributed to the outsourcing of good jobs and wage stagnation, NAFTA 2.0 is not the agreement working families demanded. Though progress has been made on some fronts, the agreement still fails to pass muster in several crucial ways described below.

Labor standards must be strengthened with swift and certain enforcement ensured. The NAFTA 2.0 text includes modest but meaningful labor standards gains, but further improvements are needed. The deal has one outstanding feature: rules to end wage-suppressing “protection contracts” in Mexico. If enforced, this could make a real difference over time to raising Mexican wages, which would also cut incentives to outsource jobs to Mexico. But the NAFTA 2.0 text does not have the monitoring or enforcement terms necessary for the rules to make a difference for workers. Unless strong labor terms are subject to swift and certain enforcement, U.S. firms will keep outsourcing jobs to pay Mexican workers poverty wages.

New powers for Big Pharma undermine access to affordable medicines. The NAFTA 2.0 text grants pharmaceutical corporations new monopoly powers to block generic competition. This would lock in high prescription drug prices, denying people access to lifesaving medicines. Among dangerous terms that extend pharmaceutical firms’ monopoly powers, NAFTA 2.0 requires governments to guarantee 10 years of marketing exclusivity for biologic drugs. This would lock the United States into our bad policies that keep these medicines, including critical cancer treatments, outrageously expensive. Moreover, it would export our failed system to Mexico and Canada. We must eliminate these special protections for Big Pharma from the deal.

Powers preserved for oil and gas companies to attack Mexican environmental protections. The NAFTA 2.0 text eliminates the infamous investor-state dispute settlement (ISDS) system between the U.S. and Canada. Between the U.S. and Mexico, ISDS is replaced with a new process that eliminates almost all substantive and procedural ISDS problems. But the old ISDS rights are preserved for seven U.S. oil and gas companies with nine extraction contracts with Mexico’s Hydrocarbons Authority. The only basis for compensation must be limited to getting money back for cancellation of contracts without cause and without

compensation. These terms must be amended so Big Oil cannot attack Mexican environmental and health laws.

Environmental standards must be strengthened with swift and certain enforcement ensured. NAFTA 2.0 fails to require countries to adopt, implement and enforce domestic laws that achieve the goals of six core multilateral environmental agreements included in past U.S. trade pacts. Like the Trans-Pacific Partnership (TPP), NAFTA 2.0 fails to mention the words “climate change,” much less address the social, economic and national security challenges presented by climate change. And, except for fisheries terms, the conservation provisions in the NAFTA 2.0 text impose few obligations. Environmental terms must be strengthened and subject to swift and certain enforcement, or NAFTA 2.0 will cause more outsourcing of pollution and jobs.

NAFTA 2.0 lacks public support. When these shortcomings are brought to light, public support for NAFTA 2.0 plummets. Nearly [three-fourths of voters](#) found the provisions around prescription drugs troubling, [including white working-class voters](#) who switched from Obama to Trump in the 2016 election. The [same polling](#) found, “Overall, 42 percent of registered voters and almost 60 percent of Democrats said Congress should demand major changes” before the agreement is passed.

The Administration would likely counter these concerns by touting the recent [US International Trade Commission \(USITC\) analysis](#) of NAFTA 2.0. However, this analysis, too, is flawed.

The official assessment of NAFTA 2.0 is misleading. The USITC is the body tasked with providing the President, U.S. Trade Representative (USTR), and Congress with independent analysis of trade agreements. The agency’s assessment of the economic impacts of NAFTA is far too rosy and it is often misleading.

The USITC projects a 0.35-percent increase in GDP but does so without stating an end year to the period analyzed. Given that the underlying model uses 6-year windows, this would be an increase in GDP of just 0.058 percent a year.

The report states that NAFTA 2.0 will reduce uncertainty -- particularly around digital products such as internet content -- by locking in current rules, which would lead to a 0.47-percent boost to GDP due to increased investment. However, the United States and Mexico have been in a trade agreement since the original NAFTA was signed 25 years ago. The United States and Canada have been in a bilateral trade agreement for the last 30 years. It is unclear how NAFTA 2.0 would further reduce uncertainty around trade between these three countries.

The reductions in uncertainty are based on the idea that NAFTA 2.0 locks in current rules. This is a particularly difficult claim to make around digital products. It is hard to believe that the rules currently governing Facebook, Google and the rest of Big Tech are optimal. Similarly, and as noted above, the rules around pharmaceuticals and drug pricing lock in patent protections that do not serve the public good.



Now that the USITC has completed its required economic assessment, flawed though it may be, the next step for congressional consideration of NAFTA 2.0 is for the Administration to submit the text of implementing legislation and a draft Statement of Administration to Congress.

While the “fast track” procedures of [Trade Promotion Authority](#) may appear to block amendments to the Administration’s proposal, the House can still weigh in on draft implementing legislation through committee action. In addition, the House could adopt a special rule allowing for floor amendments or adopt a resolution blocking consideration of implementing legislation altogether.