

Review of the USMCA Under Trump's Second Presidency – Potential Impacts for Japanese (and Other) Companies –

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Words have power, especially when said by the president-elect of the world's largest economy. On November 5, Donald Trump was elected to become the next president of the United States, defeating Vice-President Kamala Harris. During his campaign, Trump announced that he intends to renegotiate certain aspects of the United States-Mexico-Canada Agreement ("USMCA" or "Agreement"). The USMCA, which entered into force on July 1, 2020 and was considered an achievement of the first Trump presidency, in that it created a "more balanced, reciprocal trade supporting high-paying jobs for the Americans and grow the North American economy,"¹ contains a unique review clause that mandates the three parties to the Agreement ("Parties") to review both its continuation and also any recommendations made by the Parties; this is precisely the provision the President-elect intends to invoke to require renegotiation of the Agreement. This will impact not only the relationships between the United States, Mexico, and Canada, but also other countries' business activities in the region.

In the field of international trade, the first Trump administration was known for its emphasis on protection of the United States' domestic industries and willingness to impose hefty tariffs on imported goods. President-elect Trump's statements indicate this trend is unlikely to change. Trump's second term will start on January 20, 2025 and last four years; countries around the globe are preparing, with hope or with despair, for the potential impact of the new Trump presidency.

This newsletter will discuss the USMCA review clause and its potential legal effects, explain how Trump has stated a review of the USMCA will be performed, and describe some of the topics the United States may raise for discussion, before reviewing some of the potential impacts a review of the USMCA may have on Japanese (and other) companies, and issues to keep in mind as negotiations progress.

1. The Review Clause

Like other international agreements, the USMCA contains amendment and withdrawal clauses, which allow the Parties to update the content of the Agreement, or unilaterally walk away, if the Agreement is no longer consistent with a Party's objectives. However, the USMCA also contains a unique review clause, Article 34.7, which reads as follows:

¹ Office of the United States Trade Representative, "United States-Mexico-Canada Agreement", at <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>.

Article 34.7: Review and Term Extension

1. This Agreement shall terminate 16 years after the date of its entry into force, unless each Party confirms it wishes to continue this Agreement for a new 16-year term, in accordance with the procedures set forth in paragraphs 2 through 6.

2. On the sixth anniversary of the entry into force of this Agreement, the Commission shall meet to conduct a “joint review” of the operation of this Agreement, review any recommendations for action submitted by a Party, and decide on any appropriate actions. Each Party may provide recommendations for the Commission to take action at least one month before the Commission’s joint review meeting takes place.

3. As part of the Commission’s joint review, each Party shall confirm, in writing, through its head of government, if it wishes to extend the term of this Agreement for another 16-year period. If each Party confirms its desire to extend this Agreement, the term of this Agreement shall be automatically extended for another 16 years and the Commission shall conduct a joint review and consider extension of this Agreement term no later than at the end of the next six-year period.


4. If, as part of a six-year review, a Party does not confirm its wish to extend the term of this Agreement for another 16-year period, the Commission shall meet to conduct a joint review every year for the remainder of the term of this Agreement. If one or more Parties did not confirm their desire to extend this Agreement for another 16-year term at the conclusion of a given joint review, at any time between the conclusion of that review and expiry of this Agreement, the Parties may automatically extend the term of this Agreement for another 16 years by confirming in writing, through their respective head of government, their wish to extend this Agreement for another 16-year period.

5. At any point when the Parties decide to extend the term of this Agreement for another 16-year period, the Commission shall conduct joint reviews every six years thereafter, and the Parties shall have the ability to extend this Agreement after each joint review pursuant to the procedures set forth in paragraphs 3 and 4.

6. At any point in which the Parties do not all confirm their wish to extend the term of this Agreement, paragraph 4 shall apply.

This singular article was introduced at the request of the United States, which in the beginning advocated for the Agreement to have a fixed duration; however, this approach was criticized by Canada and Mexico as increasing uncertainty and hindering the stability necessary for economic actors to develop their businesses under the USMCA. After negotiations, the Parties agreed on a middle-ground solution that obligated them to reevaluate, periodically, whether they wish to continue their relationship under the USMCA.²

² Joshua P. Meltzer and Steve Verheul, “USMCA review: Upcoming elections and a path forward” in: USMCA Forward 2024, March 6, 2024, at <https://www.brookings.edu/articles/usmca-review-upcoming-elections-and-a-path-forward/>.



Article 34.7 states that the Parties to the USMCA shall conduct a “joint review” of the Agreement on the sixth anniversary of its entry into force (July 1, 2026). At that time, the Parties must consider two different but interconnected issues, which we examine below in turn: (i) whether or not to confirm their intent to continue the Agreement for a second period of 16 years, and (ii) to review recommendations submitted by a Party. This obligation does not negate the Parties’ ability to amend or withdraw from the USMCA according to general rules, as can be done with other international agreements, but imposes an additional layer of mandatory negotiations in an attempt to keep the Agreement alive.

(1) Extension of the Term of the USMCA

At the joint review that will take place on July 1, 2026, the Parties are obligated to consider and confirm whether or not they want to extend the term of the Agreement, which otherwise expires on July 1, 2036. If all Parties confirm their wishes to extend the Agreement, the USMCA will extend automatically for an additional term of 16 years, and the Parties must perform a similar joint review no later than six years thereafter.

However, if the Parties do not confirm their intent to extend the term of the USMCA during the first joint review, they shall perform additional joint reviews every year for the remainder of the Agreement’s term, and can decide at any point to extend the term of the USMCA. If this occurs, the Agreement then will be extended for 16 years, and the Parties will conduct the next joint review within six years after the extension. If one or more Parties do not confirm their wish to extend the term of the Agreement at any of the joint reviews, the USMCA will expire on July 1, 2036 (or at the end of any subsequent 16-year period, if the Agreement has been extended previously).

Article 34.7 of the USMCA thus provides for a cyclical term of up to 16 years each time the Agreement is renewed. On the sixth anniversary of each term of renewal, the Parties must reconsider whether or not they want to extend the USMCA for an additional term. If they do not confirm their intent to renew, the Agreement provides for a 10-year buffer to continue to negotiate an extension. The Parties can repeat this cycle as many times as necessary, as long as they intend to continue the Agreement. This does not mean that the Parties cannot exercise their rights under the general withdrawal clause and walk away from the USMCA unilaterally; however, they cannot escape the periodic negotiations unless they amend Article 34.7.

(2) Review of Recommendations

The second main role of the joint reviews is to examine “any recommendations for action submitted by a Party.” The text of Article 34.7.2 of the USMCA does not prejudice the scope or type of recommendations that Parties can submit, and can be interpreted to give the Parties wide discretion; therefore, a Party can propose anything, from policy determinations to clarifications or even amendments to the text of the USMCA.

The review of recommendations for action is separate from the obligation for the Parties to confirm their respective wishes to extend the duration of the Agreement, in the sense that the Parties may agree to extend the Agreement without agreeing on any specific recommendations for action, agree on certain actions recommended by a Party but delay the decision whether or not to extend the Agreement, or let the first joint review pass without agreeing on any matters whatsoever. However, since both issues need to be considered on the same occasion, the limited opportunities to confirm the Parties’ intent to extend the duration of the USMCA may be used as leverage by Parties seeking to introduce recommendations for action, for example, by

withholding confirmation of the intent to extend until the other Parties agree to implement certain measures. This possibility should be kept in mind when considering President-elect Trump's announcement that recommendations will be made at the first joint review of the Agreement.

2. Trump's Announcement About Recommendations

During his presidential campaign, Trump pledged he would renegotiate some aspects of the USMCA, stating "upon taking office, I will formally notify Mexico and Canada of my intention to invoke the six-year renegotiation provision of the USMCA that I put in."³

"Oh, I'm going to have a lot of fun," he said, with reference to the upcoming negotiations.⁴

While the details of what the new government may request at the time of the USMCA joint review remain uncertain, Trump announced that one of the issues will be promotion of the U.S. automotive industry. Trump also indicated that transshipment, in particular of Chinese products through Mexico, must be addressed: "I'll also seek strong new protections against transshipment, so that China and other countries cannot smuggle their products and auto parts into the United States tax free through Mexico to the detriment of our workers and our supply chains."⁵

According to some sources, the automotive industry, the recovery of which was among the objectives of the USMCA, is one cause of the increasing U.S. trade deficit with Mexico and Canada. Even though the USMCA raised the level of regional content required to qualify for a lower tariff rate, it appears the trade deficit in vehicles and auto parts has increased considerably after the USMCA entered into force, particularly with regard to Mexico, possibly due to increased investment in Mexico by Chinese companies.⁶ While some question the effectiveness of trade measures as a means to address trade imbalances, the automotive industry and transshipment through Mexico certainly will be among the issues discussed at the first USMCA joint review.

In addition, although not necessarily in the context of the upcoming USMCA review, President-elect Trump announced that he intends to impose a general 10% tariff on all imports, a 100% tariff on Chinese imports,⁷ and a 100% tariff on cars imported from Mexico.⁸ It is not clear how these tariffs will be reconciled with the USMCA free trade rules but, if implemented, these restrictions also may be integrated into the recommendations

³ CNN, "Trump wants to renegotiate his own trade deal with Mexico and Canada", October 14, 2024, at <https://edition.cnn.com/2024/10/14/politics/usmca-trump-renegotiate/index.html>.

⁴ CTV News, "Trump vows to renegotiate USMCA free trade agreement with Canada and Mexico", October 11, 2024, at <https://www.ctvnews.ca/politics/trump-vows-to-renegotiate-usmca-free-trade-agreement-with-canada-and-mexico-1.7070224>.

⁵ CTV News, "Trump vows to renegotiate USMCA free trade agreement with Canada and Mexico", October 11, 2024, at <https://www.ctvnews.ca/politics/trump-vows-to-renegotiate-usmca-free-trade-agreement-with-canada-and-mexico-1.7070224>.

⁶ POLITICO, "Trump promised to rebalance trade in North America. The US trade deficit keeps climbing.", February 7, 2024, at <https://www.politico.com/news/2024/02/07/donald-trump-trade-deficits-00140101>.

⁷ TIME, "How Trump 2.0 Would Remake Washington", November 4, 2024, at <https://time.com/7172137/how-trump-would-change-washington-if-elected-president-second-term/>.

⁸ The Mainichi, "Trump calls for 100% tariffs on cars made in Mexico as part of US manufacturing plan", September 25, 2024, at <https://mainichi.jp/english/articles/20240925/p2q/00m/0in/027000c>.

for action to be considered at the joint review between the United States, Mexico, and Canada.

3. Potential Impact on Japanese (and Other) Companies

Based on Trump's statements, it is clear that one of the focal points of the USMCA review recommendations by his government will be the protection of U.S. industry against Chinese (or Chinese-invested Mexican) imports; however, the measures adopted may impact not only those imports but also trade in goods produced by other foreign-invested companies in Mexico or Canada, including, Japanese car makers that have production facilities in those countries. Since the scope of the measures to be implemented by the next Trump administration, and the recommendations for actions to be reviewed by the Parties to the USMCA, remain unclear, it is difficult to foresee the concrete impact on companies established in Mexico or Canada. Nonetheless, ongoing developments in U.S. trade policy should be watched closely and carefully.

After Trump won the election on November 5, some Mexican experts expressed concerns about the possibility that the USMCA review may become a full renegotiation and the actual power Mexico has (or may not have) to counterbalance the United States's protectionist actions.⁹ However, the new Mexican government, led by Claudia Sheinbaum, seems confident that continuity of the Agreement is not at risk and that Mexico is well-prepared to face a review of the USMCA. The Mexican Minister of Economy has indicated that the Agreement will be safe, since the results for the United States have been positive, both economies are currently integrated, and the USMCA has been "the best deal the United States has made."¹⁰

To the north of the United States, Canadian Prime Minister Trudeau is said to be ready for renegotiation of the USMCA.¹¹ However, Canadian federal elections should take place on or before October 20, 2025, and current polls indicate that the opposition Conservative party will take the lead. If that occurs, the first joint review of the USMCA will be in the hands of three new governments, none of which has yet made its approach to trade policy clear.


Against this backdrop, a sensible approach for Japanese and other foreign companies that invest in Mexico and Canada is to approach the governments of these countries in advance of the negotiations, and educate them on the concerns that various industries have about potential modifications to the USMCA, as well as ways in which the Agreement can be improved. This way, the representatives of Mexico and Canada can incorporate these concerns and recommendations into the points to be discussed with the other Parties in appropriate ways.

We will continue to monitor developments in the negotiations that will occur at the USMCA joint negotiation closely, and to evaluate the potential impact those negotiations may have on Japanese and other companies that invest in the USMCA trade region.

⁹ EXPANSION, "Trump comes with renegotiation of the USMCA and turbulence for the peso; remittances, safe", November 7, 2024, at <https://expansion.mx/economia/2024/11/07/trump-con-renegociacion-t-mec-turbulencia-peso-remesas-salvo> (in Spanish).

¹⁰ EL FINANCIERO, "'USMCA, the best business that the United States has made': Ebrard assures that the agreement is not 'at risk' with Trump", November 7, 2024, at <https://www.elfinanciero.com.mx/nacional/2024/11/07/t-mec-el-mejor-negocio-que-ha-hecho-eu-ebrard-asegura-que-el-tratado-no-corre-peligro-con-trump/> (in Spanish).

¹¹ Global NEWS, "Trudeau says 'we're ready' for CUSMA review after Trump vows to reopen it", October 11, 2024, at <https://globalnews.ca/news/10807500/usmca-cusma-trump-trudeau-review/>.



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