Public Hearing on the First Joint Review of the USMCA
Follow-up / Rebuttal Comments of the

National Foreign Trade Council

Docket: USTR-2025-0004 | December 12, 2025

Summary:

This submission is in follow-up and response to the testimony of Brad Wood, the National Foreign Trade Council's (NFTC) Senior Director for Trade and Innovation, on December 4, 2025, at the USTR hearings on the First Review of the United States-Mexico Canada Agreement (USMCA).

At the outset, NFTC would like to commend USTR and its inter-agency partners for convening and managing an extremely smooth hearing process, and for providing a platform to highlight the universal support within our membership for USMCA. Our testimony underscored the critical importance of the integrated manufacturing framework, which distinguishes the relationship with our two largest trading partners. This review provides a critical opportunity to ensure each party is living up to the agreement, to resolve irritants and restore predictability to the market by renewing the agreement at the first Joint Review.

The nearly 150 stakeholders that also shared their perspectives throughout the three-day hearings are a testament to the importance of the USMCA to American competitiveness. Stakeholders shared a range of views as to how the United States should approach the review, but our takeaway was the unanimity on the importance of USMCA and the desire to see the trilateral agreement continued.

NFTC received a follow-up question in the hearing on one of the barriers Brad highlighted in his testimony: Mexico's failure to meet the obligations it agreed to in USMCA that enable electronic payment services to compete on a level playing field in the Mexican market, and what more the U.S. Government can do to address these concerns.

The following overview will respond to this question, as well as take the opportunity to build off our testimony on two separate issues: the gravity of our concerns around recent taxation measures

passed into law by Mexico, and to reiterate our concerns that changes to rules of origin hold significant risks which could greatly harm and undermine U.S. competitiveness, especially without significant accommodations and, therefore, should be avoided.

Overview:

1. **Electronic Payment Services – Mexican market access:**

NFTC has repeatedly raised concerns, including in this review and its 2026 National Trade Estimates submission, that Mexico is failing to abide by the financial services commitments they agreed to in USMCA. NFTC appreciates the U.S. Government's continued engagement on this file.

Since the Agreement's entering into force, however, Mexico has maintained significant barriers for U.S. electronic payment service (EPS) suppliers that effectively prevent them from fully participating in Mexico's domestic payments market. The absence of effective competition restricts U.S. commerce in the digital services sector, as U.S. EPS providers are unable to expand their operations in Mexico unless they adapt their services to rules established by local participants, including potential competitors. The existing regulatory framework in Mexico gives preferential treatment to domestic companies, establishing obstacles that hinder fair competition for new market entrants.

Following years of non-compliance, in October 2025, Mexico's National Banking and Securities Commission (CNBV) and Central Bank (Banxico) released a draft regulation on card payment networks for public consultation.[1] The draft regulation currently contains ambiguities and presents conflicting proposals regarding interoperability among EPS networks. If not addressed during the consultation process, these issues will reinforce the existing market structure and fail to create effective competition among card payment networks. As written, the draft regulation does not effectively address the barriers that prevent U.S. EPS providers from processing domestic transactions using their own attributes or from differentiating their value propositions. While the draft acknowledges that multiple card payment networks may operate in the Mexican market and establishes a key requirement that issuers must not refuse transactions initiated on payment networks other than the one they operate, it does not offer clear guidance on implementing interoperability between the sole local network and U.S. EPS providers. Moreover, the draft regulation introduces new concepts such as price caps and requirements to share business sensitive information that may further limit the ability of U.S. suppliers to compete fairly.

To directly address the question NFTC received in the hearing of requested U.S. actions:

NFTC urges the U.S. Government—particularly Treasury and USTR—to engage Mexico at the highest levels to ensure its consultation process results in regulations that bring Mexico into full, good-faith compliance with its USMCA obligations ahead of the July 2026 review. The essential outcome is that U.S. payments companies must be able to operate in Mexico on a fair and nondiscriminatory basis.

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[1] General Provisions Applicable to Disposal Media – Government of Mexico Consultation Draft, October 2025 - https://www.cofemersimir.gob.mx/portales/resumen/59676#

This requires Mexico to take all necessary steps to finalize, publish, and implement regulations that enable U.S. EPS suppliers to process domestic transactions using their own attributes to differentiate their value proposition and compete fairly, in accordance with USMCA's commitments. To achieve this, the draft card payment networks regulation must be amended to explicitly permit and authorize the entry and operation of multiple EPS networks. It is important that the final regulation clearly defines and separates the roles of a network operator and a clearinghouse, thereby avoiding potential conflicts of interest whereby rule-making and rule-following participants overlap. Such conflicts have contributed to the slow progress in Mexico's card payments ecosystem compared to other countries in Latin America and the Caribbean. Finally, it is important that any costs associated with potential interoperability among networks be shared among all the participants involved and not placed solely on U.S. EPS providers as an undue burden on pushing for changes to the status quo.

Concurrently, Mexico must also publish and advance the complementing draft clearinghouse regulation led by Banxico. NFTC's expectation is for the U.S. to set the expectation that Mexico will promptly publish the clearinghouse regulation, solicit public comments in accordance with Mexican law, and implement the regulatory amendments in a manner that effectively resolve U.S. EPS competition concerns without further delay. The draft clearinghouses regulation should avoid a requirement for payment networks and clearinghouses, including new entrants like U.S. EPS suppliers, to process (authorizing, clearing and settlement) domestic transactions of competing brands (brand-agnostic processing), something that could put U.S. EPS suppliers at a disadvantage and at risk of being forced to share proprietary information with their competitors. This is contrary to standard practice around the world, where U.S. EPS suppliers routinely process transactions from their respective cards. Banxico's goal to foster interoperability among participants operating with card payment clearinghouses may be couched in terms of ensuring a level playing field and opening the market to new entrants, as this new regulation may well require each network to process transactions from other brands, undercutting its ability to offer distinguishing features and services to its clients and thereby inhibiting rather than promoting competition.

As part of this process, we request Treasury and USTR's support to stay in close contact with NFTC and its member companies to ensure Mexico not only resolves ambiguities in its current proposals and implements a policy framework that levels the playing field for U.S. EPS providers, but to ensure Mexico does so in a manner that will not perpetuate continued technical and disguised barriers hindering full market access.

2. Discriminatory Taxation Policies – Rapidly Emerging Taxation Threats in Mexico

In NFTC's November 3 USMCA submission we highlighted several extremely troubling and onerous taxation proposals that Mexico was advancing in its 2026 Economic Package ("Paquete económico"). This package subsequently passed into law on November 7, 2025.

These new authorities by the Servicio de Administración Tributaria (SAT – Mexico's tax administration) have created material risks that impact a number of NFTC members. For impacted companies, the SAT changes have leapfrogged other irritants and require urgent prioritization and engagement by the U.S. Government.

a) **Article 30-B / Mexico Platform "Kill Switch"**

Measure Article 30-B of Mexico's Federal Tax Code, effective April 1, 2026, requires foreign online platforms and e-commerce companies to grant the Servicio de Administración Tributaria (SAT), Mexico's tax administration, permanent, real-time online access to their systems and records related to their Mexican operations. Information such as user activity, platform usage, and transactions.

Impact This level of access creates significant security, privacy, competitiveness, and trade secret risks, for which companies have stated they cannot comply. Non-compliance can trigger the "kill switch" provision in the value-added tax law, allowing the government to temporarily block digital platforms' ability to operate in Mexico.

Concerns Conflict with USMCA: The measure threatens trade secrets and intellectual property by exposing internal operational logic, algorithms, and databases to a foreign agency (SAT). Chapter 19's digital trade protections include rules that prohibit forced data localization and protect source code and algorithms, which this measure is widely seen as violating. Data Privacy: Granting unrestricted, real-time access to user data, including sensitive consumption habits, places U.S. firms in a direct conflict with privacy laws (e.g., Mexico's own Federal Law on Protection of Personal Data Held by Private Parties, and potentially the EU's GDPR or U.S. state laws if cross-border data is involved). Discrimination & Due Process: While authorities have stated the intent is to target non-compliant foreign firms (e.g., Chinese e-commerce), the language is broad and captures all platforms. The blocking mechanism acts as an extreme, extrajudicial punishment that creates severe economic and operational risks.

b) **Pay-to-Play Dispute Resolutions**

Measure Proposed reforms to the Código Fiscal de la Federación (CFF) eliminate the exemption from guaranteeing tax interest when filing an administrative appeal. This means U.S. and multinational companies must now post a deposit note or surety bond equivalent to the full amount of the disputed tax assessment, plus surcharges and fines, to pursue an appeal.

Impact This is a "pay-to-play" change to the dispute resolution process, making it significantly more costly and financially prohibitive for companies to challenge unreasonable tax assessments by the SAT.

Concerns Requiring a deposit of up to 100% of the disputed tax assessment before an appeal can be heard imposes immediate financial risks, irrespective of the claim's merits. American firms are facing audits with billions that will be tied up under this measure. This change is an attempt by SAT to compel companies to settle quickly rather than endure a lengthy, costly legal battle. The measure thus weakens the independence of the judiciary in tax matters and compromises the company's right to due process. This is particularly troubling when coupled with Mexico's judicial reforms.

c) Retroactive VAT Clawback

Measure SAT has reinterpreted its value-added tax, retroactively denying tax credits for VAT paid to third-party suppliers (a long-accepted practice since 2015). This is creating a tax liability and direct double taxation concerns that undermines fundamental international tax principles and law and undermines the Industria Manufacturera, Maquiladora y de Servicios de Exportación (IMMEX)-based "duty drawback" like flexibilities, which risks undermining supply chain cooperation.

Impact U.S. companies are being hit with demands for repayment of tax credits, which are being accompanied with fines, on taxes paid over the last decade.

Concerns When combined with the deposit requirement, firms must post a guarantee to dispute the demand, effectively forcing them to pay a potentially illegal tax twice (once in the form of the deposit, once in the form of the original payment). The assertion that companies must pay both import VAT (under the IMMEX program) and input VAT on the same transaction creates an unacceptable and significant cost burden on foreign companies.

d) Mexico's 8% Excise Tax on Violent Video Games

Measure The 2026 Economic Package imposes an 8% special tax on video games determined to have "violent content."

Impact The tax covers both paid and free-to-play games and is assessed on the game's value or 70% of the total subscription price in Mexico. The burden of collection and remittance falls on the foreign-based provider or platform.

Concerns De Facto Discrimination & USMCA Violation: The global video game industry is dominated by U.S. and Canadian publishers and platforms. Policymakers' signaled intent to focus the measure on foreign-based providers, combined with the fact that the tax is levied on global services, makes it de facto discriminatory against U.S. and Canadian digital services. This is seen as likely counter to Chapter 19's National Treatment and Non-Discrimination obligations.
Unreasonable Compliance Burden: The requirement to determine the "violent content" classification and assess 70% of a subscription price as taxable is an unworkable and arbitrary compliance standard. Given the potential broad application, the proposal in many ways mirrors the problematic digital services taxes which the U.S. Government continues to oppose in other jurisdictions.

These actions come at a time when the SAT has been aggressively targeting U.S. companies with unreasonable tax audits and assessments. The targeting of U.S. companies, along with the "pay-to-play" rules described above, suggests that some of these tax assessments are not based on a principled application of Mexican accounting or tax rules, but instead are an attempt to extract additional corporate tax revenue from American companies. Unfortunately, these tax disputes are difficult to resolve, given the opaque and costly appeals process and the weakening of judicial independence.

Since the USMCA entered into force, there has been insufficient monitoring or engagement to protect American firms from being discriminatorily targeted by tax authorities. This administration has an imperative to investigate such discriminatory actions, and a unique opportunity ahead of the review to address the significant targeting by Mexico's tax authorities.

3. **Rules of Origin – Accommodations**

In our testimony we articulate the importance of keeping USMCA trilateral, restoring duty-free USMCA trade and MFN treatment, and maintaining USMCA's current rules of origin.

Sourcing and supply chains decisions are highly complex, with a myriad of competing factors driving decisions of which meeting USMCA's rules of origin is one. We urge against any changes to tariff-shift rules or adding additional criteria to rules of origin as the risk of unintended consequences and the costs of compliance risks being significant, potentially undermining America's manufacturing objectives.

In the case of significant increases to the automotive rules of origin in USMCA, including not only increases to the regional content but also core parts, labor and steel and aluminum requirements. These changes were extremely ambitious and out of reach for U.S. vehicles to qualify. For this reason, USMCA authorized original equipment manufacturers (OEMs) to enter into alternative staging regimes with the United States government affording them sufficient time to meet the more stringent rules, which are not yet fully in place.[2] NFTC's automotive members have risen to the challenge by making significant investments and adjusted sourcing patterns, with significant costs to their supply base. Combined with the supply shocks of Covid-19, and the evolving emissions and electrification agendas, the automotive sector is extremely strained in absorbing significant costs which have required interventions to support their supply base.

Due to these competing pressures, it is imperative that parties not further alter USMCA automotive rules or production requirements. Should there be concerns with secure sources of supply, there are mechanisms to manage those concerns outside of USMCA, including on an investment basis through the Committee on Foreign Investment in the United States or through the Department of Commerce's Information and Communications Technology and Services Program.

While we urge against any changes, should they be considered it is critical that the parties utilize alternative staging regimes, and that the parties engage with the automotive industry to assess the required lead time necessary to maintain USMCA conformity until compliance can realistically be achieved. With OEMs working on model year vehicles 5-plus years ahead of release, any changes

[2] USMCA's requirement that all steel be melt and poured in North America does not take effect until July 1, 2027.

will add cost pressures. This must be avoided at a time when affordability is on the mind of every American.

For these exact same reasons, we must avoid altering complex rules of origin in other manufacturing sectors. While the automotive chapter affords the ability to utilize ASR's, these are specialized rules authorized for the automotive sector. Given this authority is set out in the USMCA Act and given the significant costs and risks of significant harm through rules of origin changes, we request that the administration achieve stability by maintaining the current rules and restoring duty-free USMCA and MFN trade.

Conclusion:

NFTC appreciates USTR and the inter-agency attention in prioritizing the upcoming USMCA review, and for your consideration of these additional points in supplementing our testimony and submission. Ensuring the review restores stability, trade barriers are resolved, and a high-standard USMCA that delivers for business necessitates close industry coordination with the U.S. negotiating team, and we stand ready to support the achievement of these objectives.