

Alert | Environmental



May 2020

Changes to Environmental Provisions of the USMCA Trade Agreement

The original text of the United States-Mexico – Canada Trade Agreement (“USMCA”) was amended by the Parties to the Agreement to clarify certain commitments made with respect to environmental and trade matters. These amendments sought to clarify that the Agreements listed below could not be used to impair, modify or reduce the rights of investors and their investments made in accordance with the provisions of USMCA:

- Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), done at Washington, March 3, 1973.
- Montreal Protocol on Substances that Deplete the Ozone Layer, agreed in Montreal, September 16, 1987.
- Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, done at London, February 17, 1978.
- Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat, signed at Ramsar, Feb. 2, 1971.
- Convention on Antarctic Marine Living Resources, formed in Canberra, May 20, 1980.
- International Whaling Convention, signed in Washington, Dec. 2, 1946.
- Inter-American Tropical Tuna Convention, signed in Washington, May 31, 1949.

In the event that one of the Parties to the USMCA believes that an investment made by one of its nationals has been impaired, modified or reduced because of one of the above-named Agreements, it must follow the procedures set out in Article 31.4 of the USMCA, which requires the Parties to make an effort to resolve the issues in question. If the Parties are unable to reach a resolution on their own, the matter will be submitted to a Panel. The Party which has implemented the measure allegedly impairing, modifying or reducing rights under the USMCA has the burden of proof to demonstrate there is no such effect.

Authors

This GT Alert was prepared by:

- [Erick Hernández Gallego](mailto:ehernandez@gtlaw.com) | +52 55.5029.0060 | ehernandez@gtlaw.com
- [Rubén Alejandro Ortiz Cervera](mailto:ortizru@gtlaw.com) | +52 55.5029.0059 | ortizru@gtlaw.com

Albany. Amsterdam. Atlanta. Austin. Boca Raton. Boston. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Germany.† Houston. Las Vegas. London.* Los Angeles. Mexico City.+ Miami. Milan.* Minneapolis. Nashville. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Sacramento. San Francisco. Seoul.∞ Shanghai. Silicon Valley. Tallahassee. Tampa. Tel Aviv.^ Tokyo.* Warsaw.~ Washington, D.C.. West Palm Beach. Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. †Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Operates as a separate UK registered legal entity. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. »Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ‡Greenberg Traurig Tokyo Law Offices are operated by GT Tokyo Horitsu Jimusho, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ~Greenberg Traurig's Warsaw office is operated by Greenberg Traurig Grzesiak sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in Greenberg Traurig Grzesiak sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2020 Greenberg Traurig, LLP. All rights reserved.*