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USMCA REPLACES NAFTA STARTING JULY 1

Summary

On Friday, April 24, the U.S. Trade Representative announced the readiness of the United States to participate in the revised United States Mexico Canada Agreement (USMCA). Finally, with the agreement of all the participants, the implementation of the new agreement is slated to take effect on July 1, 2020.

Background

Signed in 1992, the stated purpose of the North American Free Trade Agreement (NAFTA) was to eliminate barriers to trade, promote fair competition, increase investment opportunities, protect intellectual property rights, and provide a framework for the resolution of disputes.

Critics of NAFTA claim unintended consequences, including the loss of jobs in both the U.S. and Mexico, the suppression of U.S. wages, and the lack of environmental protections in Mexico. Similar criticisms were levied at the USMCA when the final version was presented in November 2018. Since then, Congress has been negotiating to address the weaknesses they saw in the agreement: The need for greater enforcement provisions, stronger labor and environmental protections, and a change to pharmaceutical protections. Because NAFTA had already eliminated duties on most qualifying goods and significantly reduced non-tariff measures, the USMCA emphasized reducing remaining non-tariff measures on trade and the U.S. economy.

Current Status

For imports to the United States, NAFTA rules will remain in effect until the USMCA enters into force. Enforcement of the automotive provisions include a transition period for up to three years and alternative staging regime options (coordinated by the U.S. Trade Representative) for up to five years. Additional compliance guidance for the USMCA's automotive rules of origin is pending.

The rules of origin for such goods include the new criterion of Labor Value Content, which requires that a specified percentage of a vehicle's value be derived from manufacturing facilities that pay an average wage of at least $16 USD per hour. U.S. Customs and Border Protection (CBP) is coordinating with the U.S. Department of Labor on the verification process for qualifying claims. The U.S. Department of Labor will assess the wage practices of the manufacturing facilities involved in the production of such vehicles and their components. This information will be used in the CBP's calculation of Labor Value Content. For all other commodities, USMCA rules will replace NAFTA rules on the date the agreement enters into force. The USMCA contains new provisions to combat antidumping and countervailing duty (AD/CVD) evasion, commitments to interdict transshipped intellectual property rights (IPR) infringing goods, prohibitions on the importation of goods sourced from forced labor, and requirements to prevent illegal taking of wild flora and fauna (including timber).

New enforcement tools will expand confidential trade data sharing, increase joint analysis, investigations and operations, and facilitate facility verification visits to assess production capacity. The USMCA requires a Joint Review of the Agreement six years after entry-into-force.

Impact

When fully implemented and enforced, the United States International Trade Commission estimates that the agreement will have a positive, if modest, impact on U.S. real GDP ($68.2 billion) and employment (176,000 jobs). The provisions that would have the most significant effects on the U.S. economy are those that reduce uncertainty about digital trade, including prohibitions on forced localization of computing facilities and new intellectual property rights protections, as well as new rules of origin applicable to the automotive sector, increasing the required percentage of regional value content and harmonizing regulations across member states. A number of members of the Senate Finance Committee told U.S. Trade Representative Robert Lighthizer in a March 30 letter that the USMCA should not enter into force until "all necessary regulations are in place and our industries have had an opportunity to understand and implement them effectively." Among other things, the senators noted that the COVID-19 pandemic has caused a public health crisis and supply chain disruptions that have left businesses and governments "little, if any, time and resources to prepare for a smooth transition to USMCA."

RESOURCES:

United States-Mexico-Canada Agreement (U.S. Trade Representative)
USMCA: Impact on U.S. Economy (International Trade Commission)