

CLIENT ALERTS

The USMCA to Enter Into Force on July 1, 2020

4.27.2020

On Friday, April 24, 2020, the U.S. Trade Representative, Robert Lighthizer, issued a statement informing that it had notified Congress that Canada and Mexico have taken measures necessary to comply with their commitments under the United States Mexico Canada Agreement ("USMCA") and that the USMCA will enter into force on July 1, 2020. This notification, as requested under section 106(a)(1)(G) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4205(a)(1)(G)), was the final statutory step necessary for the USMCA to enter into force. Canada and Mexico had already sent their corresponding notifications in early April.

However, work on the USMCA is far from done. According to the U.S. implementing legislation and the text of the USMCA agreement (Chapter 5, Article 5.16), USMCA's uniform regulations must be issued by the date that USMCA enters into force. The uniform regulations will provide further detail and additional guidance as to the application of the complex origination requirements certain goods must meet to receive preferential duty treatment. For example, the uniform regulations will set forth the intricate complexities of calculating the regional value content, including the amounts of non-allowable interest costs that may be subtracted from the net cost of good calculations. The uniform regulations may also provide for additional description or other classifications to the list of parts or components that are considered "core" and "super-core". Suffice to say, that the uniform regulations are the small print to the USMCA.

United States, Canada, and Mexico have been negotiating the uniform regulations for many months. Very little public verifiable information is known on the progress they made so far, or whether the three countries will be able to conclude the regulations before the USMCA enters into force. The latest reports suggest that the three countries will be making a draft

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available a month before entry into force. That would tentatively take us to a June 1, 2020 deadline when we could expect a “first look” at the uniform regulations.

By any measure, complying with the new and enhanced requirements of the USMCA rules of origin by the July 1, 2020 entry into force date will be problematic for most of the manufacturing industry. This was true even before the COVID-19 outbreak. Particularly, the auto industry has been the hardest hit, it's been dealing with reduced product demand, and factory stops due to stay at home orders issued in the U.S., Canada, and Mexico. In light of the outbreak, Mexico (and other stakeholders) including MEMA and some members of Congress requested to have a longer transition period for the implementations of the uniform regulations for the auto industry, presumably until Jan 2021. No official response yet on that. See MEMA press release [here](#).

As a brief recap, the USMCA now provides for (i) tougher tariff shift rules; (ii) increased regional value content requirements, (iii) part-specific (core, principal, and complementary) regional value requirements; (iv) labor value content requirements; and (v) steel and aluminum minimum purchase requirements for vehicles. For more detailed information on the USMCA please refer to our December 11, 2019 alert [here](#) and October 5, 2018 alert [here](#).

Moreover, the Ambassador's statement added the following language:

“The crisis and recovery from the Covid-19 pandemic demonstrates that now, more than ever, the United States should strive to increase manufacturing capacity and investment in North America. The USMCA's entry into force is a landmark achievement in that effort. Under President Trump's leadership, USTR will continue working to ensure a smooth implementation of the USMCA so that American workers and businesses can enjoy the benefits of the new agreement,”

The foregoing statements could be the precursor of a U.S. push to start near-shoring certain operations to the North American continent.

Butzel Long will be providing further Client Alerts and other updates as the uniform regulations become publically available and other events impact the USMCA's entry into force, specifically tailored to global supply chains and the auto industry.

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