

Canada's Implementation of the Regulatory Infrastructure for the New North American Free Trade Agreement (USMCA/CUSMA/T-MEC)

On July 1st, 2020, the new North American free trade agreement will enter into force. The new agreement is referred to as the "USMCA" in the United States (i.e., the *United States-Canada-Mexico Agreement*), the "CUSMA" in Canada (i.e., *Canada, United States and Mexico Agreement*), and the "T-MEC" in Mexico (i.e., *Tratado entre México, Estados Unidos y Canadá*).

In accordance with the Protocol replacing the NAFTA with the USMCA (which functions as described), the new agreement will supersede the *North American Free Trade Agreement (NAFTA)* upon entering into force (except to the extent that provisions in the new agreement refer back to provisions in the NAFTA).

Implementation of the provisions of the new agreement into domestic laws, regulations and administrative policies has been an ongoing process. For example, the Government of Canada published over twenty new regulations and regulatory amendments in the *Canada Gazette, Part II (Volume 154, number 9)* on 29 April 2020. These instruments serve to incorporate the CUSMA/USMCA/T-MEC into Canada's regulatory regimes while removing references to the NAFTA, effective July 1st.

More recently, the Uniform Regulations covering trade in goods under the new agreement were issued. The provisions of the Uniform Regulations elaborate upon the rights and obligations set forth in Chapters Four through Seven of the trade agreement, specifying the requirements and conditions that must be met for cross-border shipments of goods to receive preferential market access. For the most part, the Uniform Regulations are devoted to the interpretation, application and administration of the rules of origin, and the text helpfully includes extensive examples and explanations (*provided in italics*) to illustrate how the rules actually work in different factual scenarios.

For companies who currently participate in North American value chains under the NAFTA rules, examination of the Uniform Regulations is essential to understand what has changed and what has remained the same. There may be new opportunities to re-optimize value in production processes (e.g., under the new cumulation rules). Conversely, there may be new restrictions or thresholds on regional value content that need to be taken into account in order to ensure that shipments continue to qualify for preferential treatment. These assessments must be undertaken on a product-by-product basis because the rules apply differently to different goods and under different circumstances.

Tereposky & DeRose regularly provides advice on the interpretation, application, and implementation of international trade agreements. Should you have any questions regarding the CUSMA/USMCA/T-MEC or any other trade matter, we are at your disposal.

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