

Canada US Mexico-Agreement (CUSMA) – Looks Like It’s Going to Happen

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Much to the surprise of many trade aficionados, over the past few months, it became increasingly clear that the CUSMA agreement would be successful in climbing the sometimes seemingly insurmountable hurdles to full blown implementation among the three amigos. With that, there are some good, bad and ugly changes in the “new deal.”

Implementation of the trilateral agreement has been an ongoing drama since the three countries signed it on November 30, 2018 – with each country assigning its own name to first place in its title – according to the US, it is the **USCMA**, to Canada it is **CUSMA**, and to Mexico, the **MUSCA**. Nonetheless, over the past two years, the tri-titled has struggled from a “no way” to full-fledged implementation in 2020.

The CUSMA will come into effect on the first day of the third month after the last country signs off on its approval. Mexico ratified the MUSCA in June 2019, and in December 2019, ratified an amendment to its labor, environmental, pharmaceutical and dispute settlement provisions.¹ On January 29, 2020, POTUS stepped up to the plate and signed the USCMA, implementing bill into law.² On the same day Canada introduced implementation legislation into the House of Commons.³ How long it will take for Canada, the last hold-out, to pass the bill remains to be seen with Canadian opposition parties and the Senate vowing to subject it to “vigorous” and “thorough” debate. Nonetheless, once Canada implements, the CUSMA takes effect in approximately 90 days.⁴ Some are predicting that could be in the third quarter of 2020. In the interim, the “old” NAFTA prevails.

In the next series of articles, we will discuss the more controversial changes and their consequences to Canadian stakeholders. These will include:

- The Rules of Origin and North American versus country-specific content requirements.
- The new rules on investment in the partner countries. The loss of the right of companies to sue the three governments for unfair, discriminatory and inequitable treatment of their investments and investors.
- The new provisions on anti-corruption and what they mean for companies doing business in Canada.
- Food and agricultural goods and the enhanced access of US dairy, cheese and poultry products into the Canadian market – and what this means for producers and importers and retailers.
- The new Labour rules pitched to avoid a “race to the bottom” and preserve the right of local

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authorities to impose minimum standards.

- The fallout out of the trade remedies and dispute resolution discussions. Are the NAFTA rights of the Canadian producers/manufacturers and Canadian importers preserved? Will the new rules help or hinder the Canadian softwood lumber, steel, aluminum and other industries?
- Canada's export controls and restrictions on such items as logs, bitumen, US origin goods, software and technology. Has anything changed?
- Government procurement rules – do Canadian companies have greater access to the US market and do they have to worry about American enterprise encroaching on the lucrative provincial procurement market?
- And more...

¹ Mexico's ratification procedure was completed when the President announced ratification in the *Diario Oficial de la Federacion* (the Federal Official Gazette) on January 21, 2020.

² H.R. 5430, the *United States-Mexico-Canada Agreement Implementation Act*.

³ Bill C-4: *An Act to Implement the Agreement between Canada, the United States and the United Mexican States*.

⁴ According to protocol, the CUSMA, will enter into effect on the first day of the third month after the last country signs off on its approval.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.