SFIA THOUGHT LEADERSHIP WEBINAR

January 29, 2020

USMCA 2020: Insight Into Its Impact on Trade

Featured Speaker:
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President, International Trade & Government Relations
Sandler, Travis & Rosenberg, P.A.

Webinar Host:
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Coordinator, Communications & Marketing
SFIA

Questions can be submitted to the GoToWebinar toolbar
SFIA Needs YOU to Participate in the 2020 State of the Industry Survey

You will receive a link in the follow-up email to this webinar, allowing you to participate in the State of the Industry survey. Completing the survey will take approximately 10 minutes, and your responses will greatly benefit the industry’s understanding of the marketplace and corporate environment.

Based on survey responses, SFIA will be even better suited to provide more adequate and in-depth analysis and insight regarding the current state of the industry in future reports, webinars and presentations. We are constantly looking for new ways to better serve the industry, and our membership, and we rely on your input to do so. Please contribute, and you will quickly see how advantageous it is to propelling your own business.
NATIONAL HEALTH THROUGH FITNESS DAY
MARCH 10-11, 2020

SUPPORT
SPORTS PARTICIPATION & HEALTHY LIFESTYLES

One-on-one time with your congressmen & senators to talk about the importance of sports & fitness for American families & the impact participation has on health care spending

Network with industry peers, lawmakers and athletes, brought together by the same passion to increase participation in America & pass the PHIT Act

Meet with celebrity athletes who join SFIA on the Hill each year to advocate for legislation promoting active lifestyles & youth participation in sports

PREVIOUS ATTENDEES
HERICHEL WALKER
REGGIE TROPHY WINNER

ALEXANDER OVECHKIN
STANLEY CUP CHAMPION

MIA HAMM
5X WORLD CUP CHAMPION

CARL LEWIS
9X OLYMPIC GOLD MEDALIST

PEYTON MANNING
2X SUPER BOWL WINNER

THE COST TO PARTICIPATE IS INCREASING
YOUTH SPORTS PARTICIPATION IS SUFFERING

JOIN SFIA FOR NATIONAL HEALTH THROUGH FITNESS DAY AS WE PROMOTE THE PHIT ACT ON CAPITOL HILL

VISIT PASSPHIT.ORG TO REGISTER & LEARN MORE
The SFIA, NFHS & NCAA host the annual Team Sports Rules Conference to discuss changes in team sports rules, standards and regulations. Following presentations from the governing bodies and other industry leaders, attendees will breakout into sport-specific committee meetings where committee leaders will address changes and issues at a more in-depth level, providing the opportunity for individuals to raise questions, ideas and concerns.

TOPICS OF DISCUSSION
• Rule Changes
• Impact of Governing Bodies
• Product Standards
• Health & Safety in Sports
• Future of Sport
• Industry Trends & Insights
• And much, much more!
Join 250 of the most accomplished, respected and influential executives in the sports & fitness industry this September at SFIA's annual Industry Leaders Summit.

**What to Expect**

- **250+** C-Level Executives
- **175+** Brands/Companies
- **15+** Eye-Opening Speakers
- **48** Hours of Networking
- **1,000+** Connections Made
- **$150MM+** Raised by SFIA Start-Up Challenge Finalists
Disclaimer

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Topics

• USMCA Timeline
• Changes Impacting How Goods Are Imported
• New Provisions Impacting Imports
• IPR Protections
NAFTA Renegotiations

- President Trump threatens to withdraw US from NAFTA
- August 16, 2017 renegotiations begin
- September 30, 2018 agreement in principle reached
- November 30, 2018 agreement signed
- December 11, 2019 amended agreement signed
Stage 2: Ratification
Implementing Bill - H.R. 5430

- New forced labor provisions
  - Establish a Forced Labor Enforcement Task Force w/in 90 days of enactment: interagency DHS, USTR, DOL others
  - Appears to expand ban on forced labor to include “child labor”
  - Biannual report to Congress
  - For Mexico – task force to develop enforcement plan for forced labor produced goods
  - Funding for ILAB; allow DOL to “detail or assign” up to 5 employees to US embassy in Mexico or other consulates
House of Representatives H.R. 5430

- December 17, 2019 – House Ways and Means committee votes on bill
- December 19, 2019 – Full House votes on bill
- Vote: 385 – 41
- House sends agreement to Senate
- Congressional recess December 20, 2019
House Vote: 385 - 41

- 38 Democrats voted NO
- 2 Republicans voted NO
- 1 independent voted NO

Not voting:
- 2 Democrats: Rep. Nadler (NY) Rep. Serrano (NY) and
Senate Vote on January 16
89 – 10 with 1 not voting
No votes included:
Booker (D-NJ) Sanders (I-VT)
Gillibrand (D-NY) Schatz (D-HI)
Harris (D-CA) Schumer (D-NY)
Markey (D-MA) Toomey (R-PA)
Reed (D-RI) Whitehouse (D-RI)
Inhofe (R-OK) no vote
President

• Received from Senate January 22
• Expected to be signed January 29
Stage 1:
Text published for 11/29 signature
September 30, 2018

Stage 2:
November 29, 2018
When finalized, Cabinet authorizes FM Freeland to sign agreement

Stage 3:
Signed agreement is tabled in the House of Commons for debate

Stage 4:
Motion in the House of Commons may recommend action, including treaty ratification
Vote not required and does not have legal effect

Stage 5:
Possible ratification of treaty; Cabinet authorizes FM Freeland to sign an Instrument of Ratification

Stage 6:
Implementing bill is tabled in the House of Commons for debate
MPs cannot change substance of the treaty

Stage 7:
Implementing bill sent to Senate for debate

Stage 8:
Provincial/territorial implementing legislation, regulatory changes may be required

Stage 9:
Agreement enters into force
When will the USMCA be implemented?

• All three countries must meet their obligations in the Agreement;
• Each Party notifies the others it has met obligations;
• Countries must have uniform rules on autos in effect first;
• Labor panelists lists must be prepared;
• After notification, agreement can enter into force about 60 days later or “on the first day of the third month following ratification”;
• However, TPA states that EIF cannot happen until 30 days AFTER the President notifies Congress that the parties have taken necessary measures to comply with agreement provisions.
When will the FTA take effect?

Days Between Signature and Entry Into Force
of U.S. Free Trade Agreements

Average Two Years From Signature to Entry into Force
Last Five: Average is Four Years.
Possible Effective dates for USMCA?

- Earliest date: July 1, 2020
- More likely date: January 2021
How different is the USMCA from NAFTA?

• Many specific rules of origin remain unchanged
• New Provisions similar to those in the TPP added
• Separated SPS and Agriculture chapters
• Added specific chapters on: textiles and apparel, sectoral, digital trade, state owned enterprises, labor, environment, small and medium enterprises, competitiveness, anticorruption, good regulatory practices, administrative & institutional provisions, macroeconomic policies and exchange rate matters
Differences in the USMCA

• Automobile ROO RVC increased from 62.5% to up to 75% depending on type of vehicle
• Some access in agricultural products changed
• Importers to take responsibility for preference claims
• Forms no longer dictated
• NAFTA marking rules appear to disappear
• Additional agencies added to non-conforming measures
USMCA changes

- Low Value Shipments
- De Minimis Rule
- Sets Rule
- Direct Shipment
- Documentation
- Post Entry Claims
- Labor
- Environment
- IPR
- Duration
Low Value Shipments

- New duty-free express shipments
- United States $800 (section 321 one shipment one day)
- Mexico $117 for duties, $50 for taxes
- Canada CA$150 for duties, CA$40 for taxes
- Original USMCA text permits a Party to lower the value at which duties are assessed to match a lower value followed by another Party
  - ✓ Not in current US implementing legislation
  - ✓ Question as to status of this language and whether any change could be done by unilateral US Congressional action or if it would also require USMCA consultations
De Minimis Rule

• Increased to 10% of FOB value or of total cost
• Non-originating material that does not undergo required tariff shift
• Like TPP
GRI 3(b) Set rule

- Each item in the set must originate
- No more than 10% of value of entire set may be foreign
- Like TPP
Direct Shipment

• Direct shipment between Parties still required
• Originating good can leave territory, but must remain under customs control in any non-Party
• Specifies ok:
  ✓ Separation from a bulk shipment
  ✓ Storing
  ✓ Labeling or marking required by the importing Party
  ✓ Preservation
Documentation

• Eliminated requirement that NAFTA Certificate be executed by exporting party
• Free-form certification can be issued by importer*, exporter or producer
• Must be in importer’s possession at time claim is made
• Information fields similar to other recent US FTAs – listed as minimum data criteria, each country may add requirements.

*Mexico has 3.5 years after entry into force to implement importer certifications
Post Entry Claims

• Importers maintain ability to make post entry claims for originating goods no later than 1 year after date of import
  ✓ NEW - OR a longer period if specified in the importing Party’s law

• Clearly enumerates that an importer may make a TPL claim for AT LEAST one year after importation
Labor

- USMCA added more enforceable labor provisions and an annex with MX commitments to reform labor laws and practices
- Presumption that labor violation affects trade and investment
- Parties can prevent import of goods produced by forced labor (instead of simply adopting measures it “considered appropriate”)
- Includes rapid response mechanism that provides for an independent panel investigation (instead of government review)
- Creates new interagency committee and reporting requirements to Congress on MX’s implementation of labor reforms
Environment

- Presumption that an environmental dispute affects trade and investment
- Require each party to adopt and implement rules to fulfill Multilateral Environmental Agreements (MEAs), including Convention on International Trade of Wild Flora and Fauna (CITES), among others
- Creates an Interagency Monitoring Committee for Monitoring and Enforcement and establishes environment-focused attaches in Mexico City to monitor compliance with agreement
IPR

- Enforced through government-to-government dispute settlement
- Protects patents on new inventions (e.g. software, business technologies)
- Requires reviews of patent examinations or approvals within 5 years from date of filing or 3 years after request for examination of application whichever is later
- Includes notification system and procedures to assert patent rights or challenge patent validity
- Copyright terms of life plus 70 years or 70 years from publication
- Civil and criminal penalties for circumventing technological protection measures
IPR

• Safe harbors for developing online businesses
• Notice and takedown systems to protect rights holders if online service providers are infringing with their content
• Criminal procedures/penalties for trade secret theft
• 15 years protection for industrial designs
• Civil, criminal and other national enforcement for IPR violations such as copyright enforcement in digital environment; criminal penalties for camcording
• Ex-officio authority for customs officials to seize counterfeit trademark and pirated copyright goods
Duration of Agreement

• NAFTA – no expiration date
• USMCA – automatically terminates 16 years after entry into force unless intervening action
• Year 6 begin reviewing and discussion extension
Other NAFTA Provisions Unchanged in USMCA

- Repairs / Alterations duty-free
- No MPF on originating goods
- Full accumulation between Parties for originating goods, although uses TPP language
  ✓ Incentivizes companies to integrate production and supply chains within USMCA region
- No penalties with prior disclosure
- No change to duty deferral/drawback restrictions
Questions?
Nicole Bivens Collinson
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Thank you to all of our participants!