Die USA ratifizieren das USMCA-Abkommen / Die USA und China unterzeichnen das Phase-1-Abkommen

In Kürze

Der US-Senat billigte am 16. Januar 2020 mit großer Mehrheit das Abkommen zwischen den Vereinigten Staaten, Mexiko und Kanada (USMCA); am 27.01.2019 wurde das Abkommen von dem US-Präsidenten Donald Trump unterzeichnet.

Überdies unterzeichneten die Vereinigten Staaten und China am 15. Januar 2020 das Phase-1-Handelsabkommen.

USMCA-Abkommen

Nachdem die Ratifizierung des Abkommens auf Seiten der USA und Mexikos erfolgt ist, muss es nunmehr noch von dem kanadischen Parlament genehmigt werden bevor es in Kraft treten kann. Durch dieses Abkommen wird sodann das Nordamerikanische Freihandelsabkommen (NAFTA) ersetzt.

Durch die Ratifizierung des USMCA, insbesondere durch die Vereinigten Staaten, wurde die Unsicherheit beseitigt, dass sich die USA aus dem NAFTA zurückzieht. Zudem wird das neue Abkommen in vielerlei Hinsicht als eine Verbesserung gegenüber dem früheren Standard angesehen.

Während die zollpräferenzrechtlichen Regelungen in dem NAFTA weitgehend gleichbleibend übernommen werden, nimmt das USMCA erhebliche Änderungen an nichttarifären Maßnahmen in den Bereichen Arbeitsnormen, Umweltstandards, Rechte an geistigem Eigentum und deren Durchsetzung, Automobil, Transport/Logistik und Arzneimittel vor. Dies kann in diesen Bereichen für Unternehmen, die in allen drei Ländern tätig sind, zusätzliche Kosten verursachen, da die Umsetzung aller Änderungen zur Erhaltung der neuen Regeln und strengeren Normen einen großen Aufwand erfordern kann.

Fazit

Unternehmen, welche planen, die Vorteile des USMCA zu nutzen, sollten schnell handeln, um ihre Lieferkette sowie ihre betrieblichen Prozesse und Verfahren im Hinblick auf diese neuen Bestimmungen zu überprüfen und - soweit erforderlich – am effektivsten umstellen zu können.

Phase-1-Handelsabkommen

Die Vereinigten Staaten und China unterzeichneten am 15. Januar 2020 das Phase-1-Handelsabkommen.

Das Phase-1-Handelsabkommen stellt einen wichtigen Schritt in den Wirtschafts- und Handelsbeziehungen zwischen den USA und China dar.

Das Abkommen beinhaltet insbesondere

- eine Zusage Chinas, in den kommenden Jahren erhebliche zusätzliche Käufe von US-Waren und -Dienstleistungen zu tätigen,
- Verpflichtungen im Bereich „Geistiges Eigentum“,
- verbindliche und durchsetzbare Verpflichtungen, um im Bereich Technologietransfer einige der unlauteren Technologien zu bekämpfen,
- die Einrichtung eines starken Streitbeteiligungssystems, welches eine schnelle und wirksame

Umsetzung und Durchsetzung erreichen soll, und
- eine Vereinbarung der Vereinigten Staaten, ihre Zollmaßnahmen nach Abschnitt 301 erheblich zu ändern.

Zollsätze auf chinesische Waren der Listen 1-3 werden gleichbleibend beibehalten (25% Zolltarif), der Zollsatz der Liste 4A wird reduziert (15% -> 7,5%).

Fazit

Es bleibt abzuwarten, inwieweit China seine neuen Verpflichtungen aus dem Phase-1-Abkommen erfüllt.

Die neuen Rahmenbedingungen erfordern insbesondere auf US-Seite eine Überprüfung der durch China verlaufenden Lieferketten sowie diesbezüglicher Importe und Beschaffungsstrukturen.

Wann ein Phase-2-Handelsabkommen vereinbart werden wird, ist derzeit mehr als unklar.

Weitere englischsprachige Informationen aus unserem PwC-Netzwerk zu den beiden Themen können Sie den angefügten Newslettern von PwC USA entnehmen.

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Welche Anforderungen bestehen an den Export in andere Länder oder Regionen? Wie können Sie sicherstellen, dass Sie alle neuen Zollvorschriften zeitgerecht umsetzen? Wie lassen sich die Prozesse schlanker gestalten oder komplett automatisieren? Die Anforderungen an den internationalen Handel wachsen stetig. Für Unternehmen ist es nicht leicht, in diesem Dschungel an Vorschriften den Überblick zu behalten. PwC ist Ihr Ansprechpartner für diese Themen. Wir bieten einen ganzheitlichen Beratungsansatz zu allen Aspekten des Zoll und Außenhandels – von der Strategie bis zur Umsetzung: **SAP GTS - einfach und günstig**.

US Senate approves USMCA; President Trump says he will sign next week

January 16, 2020

In brief

The US Senate, by a vote of 89-10 on January 16, approved the United States-Mexico-Canada Agreement (USMCA) -- the replacement for the North American Free Trade Agreement (NAFTA). President Donald Trump has announced he will sign the agreement during the week of January 20.

For prior coverage of USMCA, see PwC Insights, USMCA takes major steps toward completion, December 13, 2019; and USMCA moves toward entry into force: Key changes and next steps, December 20, 2019.

Timing

Mexico has ratified USMCA as well as parallel agreements between Mexico and the United States regarding environmental cooperation and customs verification.

Canada's Prime Minister has stated that the government will ratify the agreement. Note: Since there no longer is a majority government following the October 21, 2019 election, the current Liberal government will need the support of the opposition in order to complete the ratification process when ready. The Canadian Parliament reconvenes to review Parliamentary business at the end of January 2020.

The takeaway

Ratification of USMCA, especially by the United States, eliminates one of the most significant areas of uncertainty from the past three years — the possibility of complete US withdrawal from NAFTA. Not only is that threat now gone, but the replacement agreement is considered an improvement in many ways over the prior standard. Businesses will face a transition as they acquaint themselves with new policies and procedures, but a period of new certainty lies ahead for the foreseeable future with regard to North American trade.

Further, the overwhelming bipartisan vote from both the House and Senate, as well as widespread support among a variety of constituencies from big business to big labor, suggest that USMCA may enjoy a level of stability going forward that NAFTA lacked.

That is, USMCA is less likely to become a target for political attacks, at least in the near term, which should give USMCA's provisions time to come into effect and mature. Continued bipartisan support will be critical as the deal contains a sunset provision that takes effect in 16 years.

Substantively, while the preferential tariff provisions in NAFTA remain largely intact, USMCA makes significant changes to non-tariff measures in the areas of labor standards, environmental standards, intellectual property rights and enforcement, automotive, transportation/logistics, and pharmaceuticals. The modifications in these areas may impose additional costs for companies operating in all three countries due to the implementation of any changes needed to comply with the new rules and stricter standards.

Companies planning to take advantage of USMCA should act quickly to examine their supply chain and operational processes and procedures in light of these new provisions in seeking to meet the new requirements and to identify what changes may be necessary for compliance.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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United States, China sign ‘Phase One’ trade deal

January 17, 2020

In brief

The United States and China on January 15 signed a ‘Phase One’ trade deal. According to a Fact Sheet released by the United States Trade Representative (USTR), the deal “requires structural reforms and other changes to China’s economic and trade regime in the areas of intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange.”

The deal also includes a commitment by China that it will make substantial additional purchases of US goods and services in the coming years; establishment of a strong dispute resolution system intended to achieve prompt and effective implementation and enforcement; and an agreement by the United States to modify its Section 301 tariff actions in a significant way.

Also on January 15, the USTR released a Federal Register notice that the 15% tariffs imposed on about $120 billion of Chinese goods (List 4A) that took effect on September 1 as a result of the USTR’s Section 301 investigation will be reduced to 7.5% on February 14, the date the ‘Phase One’ agreement is scheduled to enter into force.

In detail

Key provisions of the ‘Phase One’ agreement are as follows.

Trade

Under the agreement, China has committed that over the next two years it will import no less than $200 billion of US goods and services on top of the amounts that it imported in 2017, in four broad categories:

- US manufactured goods (at least $120.0 billion in 2020 and at least $131.9 billion in 2021);
- US agricultural products (at least $80 billion in 2020-2021);
- US energy products (at least $30.1 billion in 2020 and at least $45.5 billion in 2021); and
- US services (at least $99.9 billion in 2020 and at least $112.2 billion in 2021).

Intellectual property

The Intellectual Property (IP) chapter of the agreement addresses numerous long-standing concerns in the areas of trade secrets, pharmaceutical-related IP, geographical indications, trademarks, and enforcement against pirated and counterfeit goods.

The IP chapter also requires the United States and China to address additional IP issues in future negotiations, including data protection for pharmaceuticals, unauthorized camcording of motion pictures, and copyright protection for sporting event broadcasts. The IP chapter further requires China to promulgate an action plan outlining the structural changes that China will take to implement its obligations under the agreement and to provide a public comment period of at least 45 days for all proposed implementation measures.

Technology transfer

The Technology Transfer chapter sets out binding and enforceable obligations to address several of the unfair technology transfer practices of China that were identified in the USTR's Section 301 investigation.

For the first time in any trade agreement, China has agreed to end its long-standing practice of forcing or pressuring foreign companies to transfer their technology to Chinese companies as a condition for obtaining market access, administrative approvals, or receiving advantages from the government. China further commits to (1) provide transparency, fairness, and due process in administrative proceedings and to have technology transfer and licensing take place on market terms; and (2) refrain from directing or supporting outbound investments aimed at acquiring foreign technology pursuant to industrial plans that create distortion.

Agriculture

According to the USTR fact sheet, "the Agriculture chapter addresses structural barriers to trade and will support a dramatic expansion of U.S. food, agriculture and seafood product exports, increasing American farm and fishery income, generating more rural economic activity, and promoting job growth."

Financial services

Similarly, the Financial Services chapter addresses a number of long-standing trade and investment barriers to US providers of a wide range of financial services — such as banking, insurance, securities, and credit-rating services — that include foreign equity limitations and discriminatory regulatory requirements.

Dispute resolution

The Dispute Resolution chapter creates an arrangement intended to achieve effective implementation of the agreement and to allow the parties to resolve disputes in a fair and expeditious manner. The arrangement includes regular bilateral consultations at both the principal level and the working level, establishes strong procedures for addressing disputes related to the agreement, and allows each party to take proportionate responsive actions that it deems appropriate.

See also

For prior coverage of the US-China 'Phase One' trade deal, see PwC Tax Insight, US, China agree to 'Phase One' trade deal, December 13, 2019.

For additional USTR fact sheets on the 'Phase One' deal, go here. For the full text of the agreement, go here.

The takeaway

The 'Phase One' deal represents an important step in US-China economic and trade relations. However, the Lists 1-3 and 4A tariffs on Chinese goods remain in place, albeit at lower rates with respect to List 4A. Significantly, 'Phase One' now establishes the 'new normal' for relations with China; that is, US businesses subject to tariffs before will continue to face tariff pressures, but the risk of future tariff increases and the problem of uncertainty in general have diminished. The risk instead relates to the extent to which China meets, or is viewed as meeting, its new commitments as memorialized in the 'Phase One' document.

While this new level of certainty, especially after a long period of business-worrying uncertainty, is a welcome change, US companies whose supply chains flow through China still must continue to scrutinize their imports, supply chains, and sourcing patterns. Businesses must determine the impact of the various tariffs, particularly now that it seems clear that the tariffs will be in place through 2020 and quite probably beyond. The prospects of a 'Phase Two' deal remain unclear and far off at best, potentially not materializing until after the November 2020 US elections. Affected companies therefore should engage in possible mitigation strategies via the use of available analytical tools.

Let's talk

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